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APPROVED
SEP 28 1976

89/28/76

THE WHITE HOUSE
WASHINGTON
September 28, 1976

ACTION
Last Day: October 4

MEMORANDUM FOR
FROM:
SUBJECT:

THE PRESIDENT
JIM CANNON *[Signature]*
S. 2004 - Land Conveyance,
Oklahoma

Posted
9/29/76

Attached for your consideration is S. 2004, sponsored by Senator Bellmon.

Archives
9/29/76

The enrolled bill would eliminate a restriction on the use of certain lands patented to the City of Hobart, Oklahoma.

A detailed description of the enrolled bill is provided in OMB's bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2004 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 23 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2004 - Land conveyance,
Oklahoma
Sponsor - Sen. Bellmon (R) Oklahoma

Last Day for Action

October 4, 1976 - Monday

Purpose

Eliminates a restriction on the use of certain lands patented to the city of Hobart, Oklahoma.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval

Discussion

On January 23, 1929, the United States issued a patent to the city of Hobart, Oklahoma, for two tracts of land containing 5.88 acres, identified as Blocks 10 and 52 on the plat of the Hobart Townsite, subject to the condition that such property be reserved for school purposes.

Subsequently, the city of Hobart notified the Department of the Interior that Block 10 is no longer being used for educational purposes, and that a school formerly located on the property was torn down in 1966 leaving the area vacant. The local Board of Education has indicated an interest in building a new high school on a tract of equal value and size owned by the city. The

city is willing to transfer this land to the Board of Education if it can obtain a new patent free of restrictions for Block 10.

The enrolled bill would enable the Board of Education to obtain an alternative school site by authorizing and directing the Secretary of the Interior to convey to the city of Hobart, all remaining right, title, and interest of the United States in Block 10 (as described above). The conveyance would be subject to the following conditions:

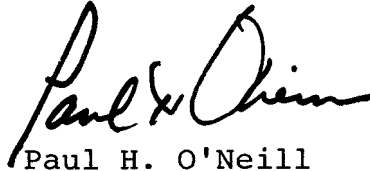
- that all lands so conveyed will be sold by the city at fair market value;
- that lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education; and
- that any amount by which the proceeds from the sale of lands comprising Block 10 exceeds the fair market value of property transferred to the Board of Education will be paid to the United States.

The bill further provides that lands transferred to the Board of Education under this authorization will revert to the United States if ever used for other than educational purposes.

The enrolled bill is identical to a substitute draft bill which Interior recommended to the Congress in lieu of the version that was initially considered in committee. Accordingly, in recommending approval in its attached enrolled bill letter, Interior concludes that:

" ... S. 2004 would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands

in Hobart. The bill insures that certain additional conditions are met and assurances given before the reservation is removed."

A handwritten signature in black ink, appearing to read "Paul H. O'Neill". The signature is written in a cursive style with a large initial "P" and "O".

Paul H. O'Neill
Acting Director

Enclosure



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 23 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill S. 2004, "To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma."

We recommend that the President approve the enrolled bill.

Under S. 2004 as enrolled, notwithstanding the Act of May 2, 1890, the Secretary of the Interior will convey to the City of Hobart, Oklahoma, all remaining right, title and interest of the U.S. in Block 10 and issue a new patent thereto when the City has shown to the satisfaction of the Secretary that: (a) the lands so conveyed will be sold by the City for fair market value; (b) lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education for use for school purposes in perpetuity; and (c) any amount by which the proceeds from any sale of Block 10 exceed the fair market value of property transferred to the Board for school purposes will be paid to the United States. Upon the determination of the Secretary that these requirements are satisfied, the City of Hobart, in consideration for the conveyance and new patent, will agree that any alternate property acquired for school purposes will vest in the United States if use thereof for school purposes ceases. The City will include this provision in any document of transfer or conveyance to the Board of Education, and execute a deed to this effect and deliver such deed to the Secretary.

Section 22 of the Act of May 2, 1890 (26 Stat. 91), provides that certain laws pertaining to reservation and sale of townsites on the public lands "shall apply to the lands open to settlement in the Territory of Oklahoma," with certain exceptions. The first proviso of that section requires that all surveys for townsites in the former Territory of Oklahoma shall contain reservations for parks and schools and other public purposes. It further provides that



patents for such reservations, "to be maintained for such purposes," shall be issued to the towns respectively when organized as municipalities.

On January 23, 1929, pursuant to the 1890 Act, the United States issued patent numbered 1022741 to the City of Hobart, Oklahoma, for Blocks 10 and 52 "each designated Reserved for School Purposes on the Plat of the Hobart Townsite, approved July 26, 1901," containing 5.88 acres.

The City has indicated to this Department that Block 10 is no longer used for school purposes, that the school on Block 10 was torn down in 1966 and that the property is currently vacant. We have been advised that the Board of Education desires to construct a new high school on a tract of equal value and size owned by the City.

The City, a municipal corporation, is willing to transfer that land to the Board if a new patent free of restrictions could be obtained for Block 10. It appears that the City wishes to use Block 10 for other public purposes.

Although neither the 1890 Act nor the patent contain any language of reverter to the United States for failure to use the property for educational purposes, in our judgment the intent of Congress was clearly implicit that such use be the only one. This Department generally opposes the removal of reverters or restrictive clauses such as those contained in the 1890 Act and the patent because such removal tends to defeat the purposes of the original grant of lands and encourages local governments to acquire nearby Federal lands and then sell them for a source of revenue. Furthermore, we are not in favor of relinquishing an interest in Federal land without fair consideration.

At the same time, however, we recognize that changing times and conditions may necessitate changes in appropriate land uses. Optimum land use may well be hindered by requiring the continued use of the subject land for educational purposes. The optimum benefit from educational lands may best be accomplished by allowing lands presently required for such use to be utilized for other public purposes in order to acquire more suitable school land elsewhere. The bill requires that alternate lands must be used for school purposes.

As enrolled, S. 2004 would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands in Hobart. The bill insures that certain additional conditions are met and assurances given before the reservation is removed.

Sincerely yours,


Under Secretary of the Interior

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

To -
J. Johnson
9-24-76
8:30 P.M.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 23 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2004 - Land conveyance,
Oklahoma
Sponsor - Sen. Bellmon (R) Oklahoma

Last Day for Action

October 4, 1976 - Monday

Purpose

Eliminates a restriction on the use of certain lands patented to the city of Hobart, Oklahoma.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval

Discussion

On January 23, 1929, the United States issued a patent to the city of Hobart, Oklahoma, for two tracts of land containing 5.88 acres, identified as Blocks 10 and 52 on the plat of the Hobart Townsite, subject to the condition that such property be reserved for school purposes.

Subsequently, the city of Hobart notified the Department of the Interior that Block 10 is no longer being used for educational purposes, and that a school formerly located on the property was torn down in 1966 leaving the area vacant. The local Board of Education has indicated an interest in building a new high school on a tract of equal value and size owned by the city. The



city is willing to transfer this land to the Board of Education if it can obtain a new patent free of restrictions for Block 10.

The enrolled bill would enable the Board of Education to obtain an alternative school site by authorizing and directing the Secretary of the Interior to convey to the city of Hobart, all remaining right, title, and interest of the United States in Block 10 (as described above). The conveyance would be subject to the following conditions:

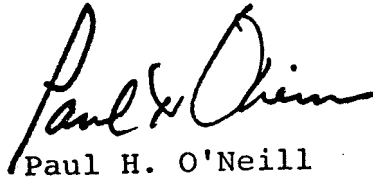
- that all lands so conveyed will be sold by the city at fair market value;
- that lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education; and
- that any amount by which the proceeds from the sale of lands comprising Block 10 exceeds the fair market value of property transferred to the Board of Education will be paid to the United States.

The bill further provides that lands transferred to the Board of Education under this authorization will revert to the United States if ever used for other than educational purposes.

The enrolled bill is identical to a substitute draft bill which Interior recommended to the Congress in lieu of the version that was initially considered in committee. Accordingly, in recommending approval in its attached enrolled bill letter, Interior concludes that:

" ... S. 2004 would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands

in Hobart. The bill insures that certain additional conditions are met and assurances given before the reservation is removed."

A handwritten signature in cursive script, appearing to read "Paul H. O'Neill".

Paul H. O'Neill
Acting Director

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 25

Time: 1000am

FOUR ACTION: George Humphreys ✓ cc (for information): Jack Marsh
 Max Friedersdorf Jim Connor
 Bobbie Kilberg Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 28

Time: 500pm

SUBJECT:

S. 2004-Land Conveyance, Oklahoma

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

I recommend approval



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

MEMORANDUM

WASHINGTON

LOG NO.:

September 25

Time: 1000am

TO: George Humphreys
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 28

Time: 500pm

SUBJECT:

S. 2004-Land Conveyance, Oklahoma

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

approved Kilberg 9/27/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

September 27, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M. L.*
SUBJECT: S.2004 - Land Conveyance, Oklahoma

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

ELIMINATING A RESTRICTION ON THE USE OF CERTAIN LANDS PATENTED TO THE CITY OF HOBART, KIOWA COUNTY, OKLA.

APRIL 23, 1976.—Ordered to be printed

Filed under authority of the order of the Senate of April 14, 1976

Mr. HASKELL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 2004]

The Committee on Interior and Insular Affairs, to which was referred the bill, S. 2004, to eliminate a restriction on the use of certain lands patented to the city of Hobart, Kiowa County, Okla., having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill as amended do pass.

The amendment is as follows:

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

That, notwithstanding the provisions of the first proviso of section 22 of the Act of May 2, 1890 (26 Stat. 91, 43, U.S.C. 1094), requiring that lands patented thereunder be maintained for certain purposes for which they were granted, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the city of Hobart, Oklahoma, all right, title, and interest remaining in the United States in block 10 of the Original Townsite of the City of Hobart and to issue a new patent, without restriction, upon relinquishment of Patent No. 1022741 by the city, to carry out the purposes of this Act: *Provided*, That the requirements of sections 2 and 3 of this Act have been met.

Sec. 2. No conveyance may be made and no new patent issued pursuant to this Act unless the city of Hobart has shown to the satisfaction of the Secretary that: (1) the lands described in section 1 of this Act shall not be sold for less than fair market value; (2) other lands of at least comparable value to block 10 and more appropriate for school purposes than Block 10 will be transferred to the board of education to be used for school purposes in perpetuity; and (3) any amount by which proceeds of any sale of block 10 exceed the fair market value of other property transferred to the board of education in accordance with clause (2) of this section will be paid to the United States.

Sec. 3. The Secretary, upon his determination that the requirements of section 2 of this Act are satisfied is authorized and directed to enter into an agreement or

agreements with the city of Hobart, Oklahoma, whereby, in consideration of a conveyance of the remaining right, title, and interest of the United States in block 10 and issuance of a new patent, the city of Hobart agrees that: (1) title to any property acquired or dedicated for school purposes pursuant to clause 2 of section 2 of this Act will vest in the United States if such property ever ceases to be used for school purposes; and (2) the city of Hobart will include provisions to this effect in any document of transfer or conveyance to the board of education, execute a deed to this effect, and deliver said deed to the Secretary.

PURPOSE

S. 2004, as amended, would eliminate a restriction on use of certain lands patented to the city of Hobart, Oklahoma.

BACKGROUND AND NEED

Section 22 of the Act of May 2, 1890 (26 Stat. 91), provides that certain laws pertaining to reservation and sale of townsites on the public lands "shall apply to the lands open to settlement in the Territory of Oklahoma", with certain exceptions. The first proviso of that section requires that all surveys for townsites in the former Territory of Oklahoma shall contain reservations for parks and schools and other public purposes. It further provides that patents for such reservations, "to be maintained for such purposes", shall be issued to the towns respectively when organized as municipalities.

On January 23, 1929, pursuant to the 1890 Act, the United States issued patent numbered 1022741 to the city of Hobart, Oklahoma, for blocks 10 and 52 "each designated Reserved for School Purposes on the Plat of the Hobart Townsite, approved July 26, 1901", containing 5.88 acres. The city has indicated that block 10 is no longer used for school purposes, that the school on block 10 was torn down in 1966, and that the property is currently vacant. The board of education desires to construct a new high school on a tract of equal value and size owned by the city. The city, a municipal corporation, wishes to use block 10 for other public purposes and is willing to transfer the tract for the new high school to the board if a new patent free of restrictions could be obtained for block 10.

S. 2004, as amended, would assist the city and the board of education in achieving this land use and educational goals while carrying out the purpose of the original grant of land to the city and preserving the Federal interest in insuring the lands in Hobart will be dedicated to public use.

LEGISLATIVE HISTORY

Senator Bellmon introduced S. 2004 on June 24, 1975. The Subcommittee on the Environment and Land Resources held a hearing on this measure on February 26, 1976. The Department of the Interior expressed opposition to the bill as introduced but indicated that the Administration would have no objection to enactment of their substitute draft bill.

COMMITTEE AMENDMENT

The principal difference between the original bill and the bill as amended by the Committee is that the former would allow the release of the reverter on block 10 with the only condition being that if the

second tract of land is ever sold the proceeds must be used for educational purposes, whereas the latter would insure the continuing Federal interest by providing for a reversion of that land if it ever ceases to be used for school purposes.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Interior and Insular Affairs, in open business session on March 23, 1976, by unanimous voice vote of a quorum present recommends that the Senate pass S. 2004 if amended, as described herein.

COST

Enactment of S. 2004, as amended, will not result in any expenditure of Federal funds.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Office of Management and Budget and the Department of the Interior setting forth Executive agency recommendations relating to S. 2004 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 25, 1976.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 2004, a bill "To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma."

We recommend that the Committee not enact S. 2004. We would have no objection to enactment of the enclosed substitute draft bill.

Under S. 2004, notwithstanding the provisions of the Act of May 2, 1890, the reservation for school purposes in patent numbered 1022741 with respect to Block 10, issued by the United States on January 23, 1929 to the City of Hobart, will be released when the City deeds a certain parcel of land to the Board of Education. The deed would provide that in the event that this alternate parcel is sold, the proceeds shall be used for educational purposes.

Section 22 of the Act of May 2, 1890 (26 Stat. 91), provides that certain laws pertaining to reservation and sale of townsites on the public lands "shall apply to the lands open to settlement in the Territory of Oklahoma," with certain exceptions. The first proviso of that section requires that all surveys for townsites in the former Territory of Oklahoma shall contain reservations for parks and schools and other public purposes. It further provides that patents for such reservations, "to be maintained for such purposes," shall be issued to the towns respectively when organized as municipalities.

On January 23, 1929, pursuant to the 1890 Act, the United States issued patent numbered 1022741 to the City of Hobart, Oklahoma,

for Blocks 10 and 52 "each designated Reserved for School Purposes on the Plat of the Hobart Townsite, approved July 26, 1901," containing 5.88 acres.

The City has indicated to this Department that Block 10 is no longer used for school purposes, that the school on Block 10 was torn down in 1966 and that the property is currently vacant. We have been advised that the Board of Education desires to construct a new high school on a tract of equal value and size owned by the City.

The City, a municipal corporation, is willing to transfer that land to the Board if a new patent free of restrictions could be obtained for Block 10. It appears that the City wishes to use Block 10 for other public purposes.

Although neither the 1890 Act nor the patent contain any language of reverter to the United States for failure to use the property for educational purposes, in our judgment the intent of Congress was clearly implicit that such use be the only one. This Department generally opposes the removal of reverters or restrictive clauses such as those contained in the 1890 Act and the patent because such removal tends to defeat the purposes of the original grant of lands and encourages local governments to acquire nearby Federal lands and then sell them for a source of revenue. Furthermore, we are not in favor of relinquishing an interest in Federal land without fair consideration.

At the same time, however, we recognize that changing times and conditions may necessitate changes in appropriate land uses. Optimum land use may well be hindered by requiring the continued use of the subject land for educational purposes. The optimum benefit from educational lands may best be accomplished by allowing lands presently required for such use to be utilized for other public purposes in order to acquire more suitable school land elsewhere. However, it has not been demonstrated in this case that the lands already granted for school purposes are not suitable as such or that the tract which the City would make available is more suitable and in line with changed conditions. Further, there is no requirement in the bill that the alternate lands must be used for school purposes.

Therefore, our substitute draft bill would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands in Hobart. We would have no objection to enactment of this draft bill, which insures that certain additional conditions are met and assurances given before the reservation is removed.

Under our substitute bill, the Secretary will convey to the City of Hobart all remaining right, title and interest of the U.S. in Block 10 and issue a new patent thereto when the City has shown to the satisfaction of the Secretary that: (a) the lands so conveyed will be sold by the City for fair market value; (b) lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education for use for school purposes in perpetuity; and (c) any amount by which the proceeds from any sale of Block 10 exceed the fair market value of property transferred to the Board for school purposes will be paid to the United States. Once these requirements are satisfied, the City of Hobart, in consideration for the con-

veyance and new patent, will agree that any alternate property acquired for school purposes will vest in the United States if use thereof for school purposes ceases. The City will include this provision in any document of transfer or conveyance to the Board of Education, and execute a deed to this effect and deliver such deed to the Secretary.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL P. REED,
Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 2004, as reported.

○

**ELIMINATING A RESTRICTION ON USE OF CERTAIN
LANDS PATENTED TO THE CITY OF HOBART, KIOWA,
COUNTY, OKLA.**

SEPTEMBER 14, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 12213]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 12213) to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 12213, introduced by Mr. English, is to eliminate a restriction on the use of certain lands patented to the City of Hobart, Kiowa County, Oklahoma. A similar bill (S. 2004), differing only as to form, was approved by the Senate on April 27, 1976.

The lands involved are described as Block 10 of the original townsite of the City of Hobart, Oklahoma.

EXPLANATION

On January 23, 1929, pursuant to the Act of May 2, 1890, the United States issued a patent to the City of Hobart, Oklahoma, for Blocks 10 and 52 "each designated Reserved for School Purposes on the plat of Hobart townsite, approved July 26, 1901".

The Act of May 2, 1890, provided that all surveys for townsites in the former Territory of Oklahoma contain reservations for parks and school purposes.

Block 10 is no longer used for school purposes and the property is presently vacant.

The Board of Education desires to construct a new school on a tract of equal value and size which is presently owned by the City.

The City, a municipal corporation, is willing to transfer the land desired by the School Board to the Board if a new patent free of restrictions can be obtained for Block 10.

The bill provides that no conveyance shall be made and no new patent issued to Block 10 until the City has shown that Block 10 will not be sold for less than fair market value, that other lands of at least comparable value and more appropriate for school purposes will be transferred to the Board of Education, and that any amount by which the proceeds of any sale of Block 10 exceeds the fair market value of other property transferred to the Board of Education will be paid to the United States.

COST AND BUDGET ACT COMPLIANCE

Enactment of this legislation would have no Federal budget impact.

OVERSIGHT STATEMENT

Pursuant to rule X, clause 2(b)(1), the Committee on Interior and Insular Affairs has oversight responsibility for administration of the legislation if it becomes law. No recommendations have been submitted to the committee pursuant to rule X, clause 2(b)(2).

INFLATIONARY IMPACT

Pursuant to rule XI, clause 2(1)(4) of the House of Representatives, the committee believes that enactment of H.R. 12213 would have no inflationary impact on the national economy.

COMMITTEE RECOMMENDATION

The House Committee on Interior and Insular Affairs on September 8, 1976, by a voice vote, recommended the enactment of H.R. 12213.

DEPARTMENTAL REPORT

The Department of the Interior by letter dated June 14, 1976, which follows, reports no objection to enactment of H.R. 12213.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 14, 1976.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 2004 in the House of Representatives and H.R. 12213, two similar bills "To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma."

We have no objection to enactment of either bill.

Under both bills, notwithstanding the Act of May 2, 1890, the Secretary of the Interior will convey to the City of Hobart, Oklahoma, all remaining right, title and interest of the U.S. in Block 10 and

issue a new patent thereto when the City has shown to the satisfaction of the Secretary that: (a) the lands so conveyed will be sold by the City for fair market value; (b) lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education for use for school purposes in perpetuity; and (c) any amount by which the proceeds from any sale of Block 10 exceed the fair market value of property transferred to the Board for school purposes will be paid to the United States. Once these requirements are satisfied, the City of Hobart, in consideration for the conveyance and new patent, will agree that any alternative property acquired for school purposes will vest in the United States if use thereof for school purposes ceases. The City will include this provision in any document of transfer or conveyance to the Board of Education, and execute a deed to this effect and deliver such deed to the Secretary.

Section 22 of the Act of May 2, 1890 (26 Stat. 91), provides that certain laws pertaining to reservation and sale of townsites on the public lands "shall apply to the lands open to settlement in the Territory of Oklahoma," with certain exceptions. The first proviso of that section requires that all surveys for townsites in the former Territory of Oklahoma shall contain reservations for parks and schools and other public purposes. It further provides that patents for such reservations, "to be maintained for such purposes," shall be issued to the towns respectively when organized as municipalities.

On January 23, 1929, pursuant to the 1890 Act, the United States issued patent numbered 1022741 to the City of Hobart, Oklahoma, for Blocks 10 and 52 "each designated Reserved for School Purposes on the Plat of the Hobart Townsite, approved July 26, 1901," containing 5.88 acres.

The City has indicated to this Department that Block 10 is no longer used for school purposes, that the school on Block 10 was torn down in 1966 and that the property is currently vacant. We have been advised that the Board of Education desires to construct a new high school on a tract of equal value and size owned by the City.

The City, a municipal corporation, is willing to transfer that land to the Board if a new patent free of restrictions could be obtained for Block 10. It appears that the City wishes to use Block 10 for other public purposes.

Although neither the 1890 Act nor the patent contain any language of reverter to the United States for failure to use the property for educational purposes, in our judgment the intent of Congress was clearly implicit that such use be the only one. This Department generally opposes the removal of reverters or restrictive clauses such as those contained in the 1890 Act and the patent because such removal tends to defeat the purposes of the original grant of lands and encourages local governments to acquire nearby Federal lands and then sell them for a source of revenue. Furthermore, we are not in favor of relinquishing an interest in Federal land without fair consideration.

At the same time, however, we recognize that changing times and conditions may necessitate changes in appropriate land uses. Optimum land use may well be hindered by requiring the continued use of the subject land for educational purposes. The optimum benefit from edu-

educational lands may best be accomplished by allowing lands presently required for such use to be utilized for other public purposes in order to acquire more suitable school land elsewhere. The bill requires that alternate lands must be used for school purposes.

Both H.R. 12213 and S. 2004 would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands in Hobart. We would have no objection to enactment of either bill. Both bills insure that certain additional conditions are met and assurances given before the reservation is removed.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.



Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To eliminate a restriction on use of certain lands patented to the city of Hobart,
Klowa County, Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of the first proviso of section 22 of the Act of May 2, 1890 (26 Stat. 91; 43 U.S.C. 1094), requiring that lands patented thereunder be maintained for certain purposes for which they were granted, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the city of Hobart, Oklahoma, all right, title, and interest remaining in the United States in block 10 of the original townsite of the city of Hobart and to issue a new patent, without restriction, upon relinquishment of patent numbered 1022741 by the city, to carry out the purposes of this Act: *Provided*, That the requirements of sections 2 and 3 of this Act have been met.

SEC. 2. No conveyance may be made and no new patent issued pursuant to this Act unless the city of Hobart has shown to the satisfaction of the Secretary that—

(1) the lands described in section 1 of this Act shall not be sold for less than fair market value;

(2) other lands of at least comparable value to block 10 and more appropriate for school purposes than block 10 will be transferred to the board of education to be used for school purposes in perpetuity; and

(3) any amount by which proceeds of any sale of block 10 exceed the fair market value of other property transferred to the board of education in accordance with clause (2) of this section will be paid to the United States.

SEC. 3. The Secretary, upon his determination that the requirements of section 2 of this Act are satisfied is authorized and directed to enter into an agreement or agreements with the city of Hobart, Oklahoma, whereby, in consideration of a conveyance of the remaining right, title, and interest of the United States in block 10 and issuance of a new patent, the city of Hobart agrees that—

(1) title to any property acquired or dedicated for school purposes pursuant to clause (2) of section 2 of this Act will vest in the United States if such property ever ceases to be used for school purposes; and

(2) the city of Hobart will include provisions to this effect in any document of transfer or conveyance to the board of education, execute a deed to this effect, and deliver said deed to the Secretary.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*