

TO PROVIDE FOR ACQUISITION OF SUBSURFACE MINERAL RIGHTS TO  
LAND OWNED BY THE PASCUA YAQUI TRIBE AND LAND HELD IN TRUST  
FOR THE TRIBE, AND FOR OTHER PURPOSES

SEPTEMBER 6, 2006.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 631]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 631) to provide for acquisition of subsurface mineral rights to land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 631 is to provide for the acquisition of subsurface mineral rights to land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 631 directs the Secretary of the Interior to acquire, through the process of eminent domain and only with the consent of the State of Arizona, the subsurface mineral estate beneath the fee lands owned by the Pascua Yaqui Indian Tribe of Arizona. The purpose for condemnation is to consolidate ownership of the subsurface and surface estates to complete the Tribe's fee-to-trust application, currently pending at the Department of the Interior. Unlike the surface estate which can be sold to private interests, condemnation is necessary for the mineral estate as subsurface rights currently owned by the State of Arizona are unable to be sold by the authority of the State's constitution. The State of Arizona has given its consent to the condemnation.

In 1910, the United States Congress enacted the Arizona-New Mexico Enabling Act, allowing the State of Arizona admission into

the United States. That act provided the State of Arizona with thousands of acres of land commonly referred to as “state trust land.” These lands were intended to produce revenue for various public institutions such as schools and libraries. In addition to the surface land, the State of Arizona also owned the subsurface mineral rights which were governed by the same guidelines as its surface counterpart.

Several years ago, the Pascua Yaqui Indian tribe of Arizona purchased four parcels of land, totaling approximately 436.18 acres, from the State of Arizona at fair market value. These parcels are adjacent to the Pascua Yaqui tribe’s reservation near Tucson, Arizona. The Tribe subsequently applied to the Department of Interior to take this new acreage into trust. The Department objected to the Tribe’s application because the State of Arizona still owned the subsurface mineral estate beneath the Tribe’s newly acquired parcels. In order for the Tribe to acquire the relevant mineral estate, the United States government is required to obtain the subsurface estate as the State cannot sell its own lands under State law. Once the subsurface estate is owned by the Tribe, the Interior Department may move forward with the Tribe’s fee-to-trust application for the relevant surface lands. The acquisition in this legislation is by the consent of the State of Arizona and will be paid for at fair market value by the Pascua Yaqui Indian Tribe.

#### COMMITTEE ACTION

H.R. 631 was introduced on February 8, 2005, by Congressman Raul M. Grijalva (D–AZ). The bill was referred to the Committee on Resources. On July 19, 2006, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources’ oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, clause 3, and Article IV, section 3, clause 2 of the Constitution of the United States grant Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section

308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office has concluded that enactment of this bill would have “no significant effect” on direct spending.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 631—A bill to provide for acquisition of subsurface mineral rights to land owned by the Pascua Yaqui Tribe and land held in trust for the tribe, and for other purposes*

H.R. 631 would direct the Department of the Interior (DOI) to acquire all subsurface rights and interests to certain lands in Arizona by eminent domain. Once acquired, these interests would be put into trust for the Pascua Yaqui Tribe. The tribe, which already owns the related surface estate, would reimburse the department for any transaction and appraisal costs.

Based on information provided by DOI, and assuming the availability of appropriated funds, CBO estimates that acquiring the affected property rights for the Pascua Yaqui Tribe would cost less than \$500,000 over the next year. We expect that reimbursement by the tribe for associated transaction costs would sum to a few thousand dollars; therefore, we estimate that enacting this legislation would have no significant effect on direct spending. Enacting H.R. 631 would not affect revenues.

H.R. 631 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The acquisitions authorized by the bill would be voluntary on the part of the tribe and the state of Arizona; any costs they would incur as a result of these acquisitions would be incurred voluntarily.

On July 21, 2006, CBO transmitted a cost estimate for S. 1291, the Pascua Yaqui Mineral Rights Act of 2005, as ordered reported by the Senate Committee on Indian Affairs on June 29, 2005. The two bills are similar, and our cost estimates are the same.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

