

## Calendar No. 370

115TH CONGRESS }  
2d Session }

SENATE

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### PASCUA YAQUI TRIBE LAND CONVEYANCE ACT

APRIL 10, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 1404]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 1404) to provide for the conveyance of certain land inholdings owned by the United States to the Tucson Unified School District and to the Pascua Yaqui Tribe of Arizona, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of H.R. 1404 is to provide for the conveyance of certain land inholdings owned by the United States to the Tucson Unified School District (District) and to the Pascua Yaqui Tribe of Arizona.

#### BACKGROUND AND NEED

The Pascua Yaqui Reservation is located in southern Arizona, 15 miles southwest of Tucson. In 1952, the original 40-acre Pascua Village was annexed by the City of Tucson. In 1964, Congressman Morris K. Udall introduced a bill to transfer 202 acres of desert land southwest of Tucson to the Yaquis. The bill was later signed into law (Private Law 88-350) and the deed to the land was transferred to the recently formed Pascua Yaqui Association, a nonprofit Arizona corporation.

The reservation was formally established in 1978 under Public Law 95-375, which also federally recognized the members of the Pascua Yaqui Association as the Pascua Yaqui Tribe. In 1982, the

reservation added an additional 690 acres for improving the socioeconomic environment of tribal members with the enactment of Public Law 97–386. In the 113th Congress, Public Law 113–134 placed two 10-acre parcels into trust for the Tribe.

The Tribe is interested in acquiring 40 acres of land from the Tucson Unified School District through a land exchange with the District. The tribe intends to use the land for flood control development. The bill is needed because some lands exchanged under H.R. 1404 were patented to the District in 1981 pursuant to the Recreation and Public Purposes Act (RPPA, 43 U.S.C. 869 et seq.) and are restricted only for a school site. A change in land use for RPPA-patented land requires an Act of Congress.

#### LEGISLATIVE HISTORY

H.R. 1404 was introduced in the House of Representatives by Representative Grijalva on March 7, 2017. The Committee on Natural Resources ordered H.R. 1404 favorably reported by voice vote on June 27, 2017. The House of Representatives passed H.R. 1404 by voice vote on July 11, 2017.

The Senate Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on February 7, 2018.

In the 114th Congress, similar legislation, H.R. 2009, was introduced by Representative Grijalva in the House of Representatives on April 23, 2015, and referred to the Natural Resources Committee. The Subcommittee on Indian, Insular, and Alaska Native Affairs held a hearing on November 4, 2015. On March 15, 2016, the Natural Resources Committee ordered the bill favorably reported, with amendments, by voice vote. H.R. 2009 was agreed to by voice vote in the House of Representatives on June 7, 2016. The Senate Committee on Energy and Natural Resources held a hearing on H.R. 2009 on September 22, 2016.

The Senate Committee on Energy and Natural Resources met in open business session on March 8, 2018, and ordered H.R. 1404 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on March 8, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 1404.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides the short title.

##### *Section 2. Definitions*

Section 2 provides definitions.

##### *Section 3. Land to be held in trust*

Section 3 declares 39.65 acres of Federal lands (Parcel A) to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe of Arizona, one day after which the District relinquishes all right, title, and interest to the Parcel.

*Section 4. Lands to be conveyed to the District*

Section 4(a) conveys 13.24 acres of Federal lands (Parcel B) from the United States to the District, subject to valid existing rights and payment to the United States of the fair market value. Fair market value must be determined by the Secretary in accordance with certain appraisal standards, and all conveyance-related costs must be paid by the District.

Subsection (b) also directs the Secretary to convey the reversionary 27.5 acres of Federal lands (Parcel C) to the District, subject to a survey and appraisal by the Secretary, and payment by the District of the appraised value and other conveyance-related costs.

*Section 5. Gaming prohibition*

Section 5 prohibits gaming activities on lands taken into trust pursuant to this Act.

*Section 6. Water rights*

Section 6 states that the Federal government shall reserve no rights to surface or groundwater rights for lands taken into trust for the benefit of the Pascua Yaqui Tribe. The Tribe may retain any right or claim to water under Arizona State law for any land taken into trust for the benefit of the Tribe. Any water rights that are appurtenant to land taken into trust by the United States for the benefit of the Tribe under this Act may not be forfeited or abandoned. In addition, nothing in this Act affects or modifies any right of the Tribe or any obligation of the United States under Public Law 95-375.

## COST AND BUDGETARY CONSIDERATIONS

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

H.R. 1404 would authorize exchanges of land and related interests among the Pascua Yaqui Indian Tribe in Pima County, Arizona, the Tucson Unified School District, and the federal government. The proposed transactions involve three parcels of land and would be contingent on the school district relinquishing its interest in nearly 40 acres of land, which the Department of the Interior (DOI) would take into trust on behalf of the tribe. In exchange, DOI would convey to the school district roughly 13 acres of other land and, if requested by the district, the federal government's reversionary interest in nearly 28 acres of additional land, provided that the school district pays DOI the fair market value of such lands and interests.

CBO estimates that enacting H.R. 1404 would have no significant effect on the federal budget. Information from DOI indicates that any administrative costs incurred under the bill (which would be subject to appropriation) would not exceed \$500,000 in any year. According to DOI, the affected lands currently generate no significant receipts and are not expected to do so over the next 10 years. Using information from the Pima County Assessor's Office about the estimated market value of lands and interests that would be conveyed to the school district under the bill, CBO estimates that any proceeds to the federal government would total less than

\$500,000. Any such amounts would be recorded as offsetting receipts (or a reduction in direct spending); therefore, pay-as-you-go procedures apply. Enacting H.R. 1404 would not affect revenues.

CBO estimates that enacting H.R. 1404 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1404 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On July 5, 2017, CBO transmitted a cost estimate for H.R. 1404, the Pascua Yaqui Tribe Land Conveyance Act, as ordered reported by the House Committee on Natural Resources on June 27, 2017. The two versions of H.R. 1404 are similar and CBO's estimates of their costs are the same.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### 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 H.R. 1404. 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 H.R. 1404, as ordered reported.

#### CONGRESSIONAL DIRECTED SPENDING

H.R. 1404, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided on by the Bureau of Land Management at the hearing before the Subcommittee on Public Lands, Forests and Mining on February 7, 2018, follows:

STATEMENT OF BRIAN STEED, DEPUTY DIRECTOR FOR POLICY & PROGRAMS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 1404, the Pascua Yaqui Tribe Land Conveyance Act. Under H.R. 1404, the United States shall hold in trust approximately 40 acres of land in the Tucson, Arizona area for the benefit of the Pascua Yaqui Tribe (Tribe). The bill also authorizes the United States to convey approximately 13 acres of currently unencumbered public lands and a reversionary interest of approximately 27 acres to the Tucson Unified School District (District) at fair market value.

It should be generally noted that Secretary Zinke is opposed to the wide-scale sale or transfer of Federal lands; however, there are unique situations of this nature where limited land transfers may be appropriate. In this case, the Department supports H.R. 1404 because we recognize the Tribal and local community benefits that may result from the bill. We would, however, like the opportunity to work further with the sponsor and the Subcommittee regarding the survey provision.

#### BACKGROUND

The Pascua Yaqui Tribe's lands are located in Pima County, near Tucson, Arizona, and include a combination of lands held in trust by the United States and lands purchased and held in fee by the Tribe. The District has historically operated the Hohokam School on lands nearby and adjacent to the tribal lands. The District currently holds two parcels of land under separate Recreation and Public Purposes Act (R&PP) patents totaling approximately 67 acres, in which the United States holds reversionary interests enforceable under the R&PP Act. This land consists of a tract of approximately 27 acres on which the Hohokam School currently sits and another tract of approximately 40 acres that is currently undeveloped. The Bureau of Land Management (BLM) also manages an unencumbered tract of approximately 13 acres located between the two parcels patented to the District that have been identified as potentially suitable for disposal in the current Phoenix District Resource Management Plan.

#### H.R. 1404

H.R. 1404 declares that approximately 40 acres of land, designated in the bill as "Parcel A" will be held in trust for the benefit of the Tribe, on the day after the District relinquishes all right, title, and interest in the 40 acres where the United States holds a reversionary interest. In addition, the bill authorizes the United States to convey to the District, at fair market value, approximately 13 unencumbered acres designated in the legislation as "Parcel B." The bill also authorizes the United States to convey to the District, at fair market value, its reversionary interest in approximately 27 acres of land currently patented to the District under the R&PP Act and identified as "Parcel C." The United States could convey the reversionary interest in Parcel C if the District submits an offer to the Department to acquire it within a year after the Department completes its appraisal. Both conveyances to the District are subject to valid existing rights.

Under the bill, the United States will determine fair market value of Parcel B and the Federal reversionary interest in Parcel C in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. The District would pay for all costs associated with the conveyances. The Department supports holding Parcel A in trust

for the benefit of the Tribe, and does not object to the two conveyances authorized by the bill at fair market value. The Department recommends that the Office of Valuation Services manage the appraisal process. The Office of Valuation Services provides credible, timely, and efficient valuation services to ensure public trust in Federal real property transactions.

Finally, the Department notes that Parcel B and C would require surveys prior to conveyance, and would like to work with the Subcommittee on the survey language.

#### CONCLUSION

H.R. 1404 provides an opportunity to improve land use for both the Tribe and the District on three tracts of land. Thank you for the opportunity to testify. I will be glad to answer any questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

