

CLOTURE MOTION

Mr. WHITEHOUSE. I move to concur in the House amendment to the Senate amendment to H.R. 2638 and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to H.R. 2638, the Department of Homeland Security Appropriations Act/Continuing Resolution for fiscal year 2009.

Evan Bayh, Debbie Stabenow, Benjamin L. Cardin, Byron L. Dorgan, Barbara A. Mikulski, Jeff Bingaman, John F. Kerry, Herb Kohl, Sherrod Brown, Jon Tester, E. Benjamin Nelson, Richard Durbin, Patrick J. Leahy, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Bernard Sanders.

Mr. WHITEHOUSE: I ask unanimous consent that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5670

Mr. WHITEHOUSE. I now move to concur in the House amendment to the Senate amendment to H.R. 2638 with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] moves to concur in the House amendment to the Senate amendment to H.R. 2638, with an amendment numbered 5670.

Mr. WHITEHOUSE. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

The provisions of this Act shall become effective 2 days after enactment.

Mr. WHITEHOUSE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5671

Mr. WHITEHOUSE. I have a second-degree amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for Mr. REID, proposes an amendment numbered 5671 to amendment No. 5670.

Mr. WHITEHOUSE. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

floor consideration of H.R. 2638 that Arex Avanni, a detailee to the Committee on Appropriations, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

INTERNATIONAL CONVENTION ON CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS, 2001

CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the Calendar Nos. 24 and 30, and that the treaties be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee understandings, declarations, and conditions, if applicable, be agreed to; that any statements be printed in the RECORD as if read; and that the Senate take one vote on the resolution of ratification; further, that when the resolutions of ratification are voted on, the motions to reconsider be considered made and laid on the table; the President be immediately notified of the Senate's action, and the Senate resume legislative session, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote was been requested. Senators in favor of ratification of these treaties will rise and remain standing until counted.

Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

TREATY DOC. 109-10(C) CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR (PROTOCOL V)

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to an understanding and a declaration

The Senate advises and consents to the ratification of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), adopted at Geneva on November 28, 2003 (Treaty Doc. 109-10(C)), subject to the understanding of section 2 and the declaration of section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

It is the understanding of the United States of America that nothing in Protocol V would preclude future arrangements in connection with the settlement of armed conflicts, or assistance connected thereto, to allocate responsibilities under Article 3 in a manner that respects the essential spirit and purpose of Protocol V.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of Articles 7 and 8, this Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

TREATY DOC. 110-13 INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to two declarations.

The Senate advises and consents to the ratification of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, adopted on October 5, 2001 (Treaty Doc. 110-13), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

The United States of America declares that, pursuant to Article 16(2)(f)(ii)(3) of the Convention, amendments to Annex 1 of the Convention shall enter into force for the United States of America only after notification to the Secretary-General of its acceptance with respect to such amendments.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is not self-executing.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

LEGISLATIVE SESSION

ACTION VITIATED—H.R. 2638

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the previous action with respect to the House Message to H.R. 2638 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSOLIDATED SECURITY, DISASTER ASSISTANCE, AND CONTINUING APPROPRIATIONS ACT, 2009

Mr. WHITEHOUSE. I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 2638.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved that the House agree to the amendment of the Senate, to the bill, H.R. 2638, an act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, do pass with a House amendment to the Senate amendment.

The amendment is as follows:

In the amendment, strike “2” and insert “1”.

Mr. WHITEHOUSE. I ask unanimous consent ask that no motion to refer be in order during the pendency of the message.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I ask unanimous consent that the cloture vote occur at 10 a.m. Saturday, September 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOAA LAND TRANSFER

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5350 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5350) to authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. I ask unanimous consent that the Shelby amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5663) was agreed to, as follows:

(Purpose: provide authority to NOAA to enter a no cost land lease for a NOAA facility)

Notwithstanding any other provision of law, the Secretary of Commerce, through the Under Secretary and Administrator of the National Oceanic and Atmospheric Administration (NOAA), is authorized to enter into a land lease with Mobile County, Alabama for a period of not less than 40 years, on such terms and conditions as NOAA deems appropriate, for purposes of construction of a Gulf of Mexico Disaster Response Center facility, provided that the lease is at no cost to the government. NOAA may enter into agreements with state, local, or county governments for purposes of joint use, operations and occupancy of such facility.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5350), as amended, was read the third time, and passed.

PECHANGA BAND OF LUISENO MISSION INDIANS LAND TRANSFER ACT OF 2007

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1081, H.R. 2963.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2963) to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments, as follows:

[Omit the part within boldface brackets and insert the part printed in italic]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2007”.

SEC. 2. TRANSFER OF LAND IN TRUST FOR PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) TRANSFER AND ADMINISTRATION.—

(1) TRANSFER.—Effective on the date of the enactment of this Act and subject to valid existing rights, all right, title, and interest of the United States in and to the Federal lands described in subsection (b) (including all improvements thereon, appurtenances thereto, and rights to all minerals thereon or therein, including oil and gas, water, and related resources) shall be held by the United States in trust for the Pechanga Band of Luiseno Mission Indians, a federally recognized Indian tribe. Such transfer shall not include the 12.82 acres of lands more or less, including the facilities, improvements, and appurtenances associated with the existing 230 kV transmission line in San Diego County and its 300 foot corridor, more particularly described as a portion of sec. 6, T. 9 S., R. 2 W., San Bernardino Base and Meridian, which shall be sold by the Bureau of Land Management for fair market value to San Diego Gas & Electric Company not later than 30 days after the completion of the cadastral survey described in subsection (c) and the appraisal described in subsection (d).

(2) ADMINISTRATION.—The land transferred under paragraph (1) shall be part of the Pechanga Indian Reservation and administered in accordance with—

(A) the laws and regulations generally applicable to property held in trust by the United States for an Indian tribe; and

(B) a memorandum of understanding entered into between the Pechanga Band of Luiseno Mission Indians [and the United States Fish and Wildlife Service,] the Bureau of Land Management, and the United States Fish and Wildlife Service on November 11, 2005, which shall remain in effect until the date on which the Western Riverside County Multiple Species Habitat Conservation Plan expires.

(3) NOTIFICATION.—At least 45 days before terminating the memorandum of understanding entered into under paragraph (2)(B), the Director of the Bureau of Land Management, the Director of the United States Fish and Wildlife Service, or the Pechanga Band of Luiseno Mission Indians, as applicable, shall submit notice of the termination to—

(A) the Committee on Natural Resources of the House of Representatives;

(B) the Committee on Indian Affairs of the Senate;

(C) the Assistant Secretary for Indian Affairs; and

(D) the members of Congress representing the area subject to the memorandum of understanding.

(4) TERMINATION OR VIOLATION OF THE MEMORANDUM OF UNDERSTANDING.—The Director of the Bureau of Land Management and the Pechanga Band of Luiseno Mission Indians

shall submit to Congress notice of the termination or a violation of the memorandum of understanding entered into under paragraph (2)(B) unless the purpose for the termination or violation is the expiration or cancellation of the Western Riverside County Multiple Species Habitat Conservation Plan.

(b) DESCRIPTION OF LAND.—The lands referred to in subsection (a) consist of approximately 1,178 acres in Riverside County, California, and San Diego County, California, as referenced on the map titled, “H.R. 28, the Pechanga Land Transfer Act” and dated [January 12] May 2, 2007, which, before the transfer under such subsection, were administered by the Bureau of Land Management and are more particularly described as follows:

(1) Sections 24, 29, 31, and 32 of township 8 south, range 2 west, San Bernardino base and meridian.

(2) Section 6 of township 9 south, range 2 west, lots 2, 3, 5 and 6, San Bernardino Base and Meridian.

(3) Mineral Survey 3540, section 22 of township 5 south, range 4 west, San Bernardino base and meridian.

(c) SURVEY.—Not later than 180 days after the date of the enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall complete a survey of the lands transferred and to be sold under subsection (a) for the purpose of establishing the boundaries of the lands.

(d) CONVEYANCE OF UTILITY CORRIDOR.—

(1) IN GENERAL.—The Secretary shall convey to the San Diego Gas & Electric Company all right, title, and interest of the United States in and to the utility corridor upon—

(A) the completion of the survey required under subsection (c);

(B) the receipt by the Secretary of all rents and other fees that may be due to the United States for use of the utility corridor, if any; and

(C) the receipt of payment by United States from the San Diego Gas & Electric Company of consideration in an amount equal to the fair market value of the utility corridor, as determined by an appraisal conducted under paragraph (2).

(2) APPRAISAL.—

(A) IN GENERAL.—Not later than 90 days after the date on which the survey of the utility corridor is completed under subsection (c), the Secretary shall complete an appraisal of the utility corridor.

(B) APPLICABLE LAW.—The appraisal under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(3) COSTS.—The San Diego Gas & Electric Company shall pay the costs of carrying out the conveyance of the utility corridor under paragraph (1), including any associated survey and appraisal costs.

(4) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any amounts received under paragraph (1)(C) of this section in the Federal Land Disposal Account established under section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)).

(e) MAP ON FILE.—The map referred to in subsection (b) shall be on file in the appropriate offices of the Bureau of Land Management.

(f) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval of the survey completed under subsection (c) by the duly elected tribal council of the Pechanga Band of Luiseno Mission Indians, the Secretary of the Interior shall publish in the Federal Register—