

## Calendar No. 359

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### PASCUA YAQUI TRIBE TRUST LAND ACT

APRIL 10, 2014.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 507]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 507) to provide for the conveyance of certain land inholdings owned by the United States to the Pascua Yaqui Tribe of Arizona, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of H.R. 507 is to provide for two parcels of land totaling approximately 20 acres in southern Arizona to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe.

#### BACKGROUND AND NEED

The Pascua Yaqui Indian Reservation is located near Tucson, Arizona. H.R. 507 would provide for two small parcels, together totaling approximately 20 acres, to be held in trust by the United States for the benefit of the Tribe, and added to the approximately 1,200-acre reservation.

One of the parcels to be conveyed to the Tribe is a 10-acre parcel that was conveyed to the Tucson Unified School District by the Bureau of Land Management in 1981 under the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.), to be used for a school site. However, the property was never developed and remains unused. The school district supports relinquishing its patent so that the lands can be conveyed to the Tribe.

The second parcel to be conveyed is a 10-acre parcel of undeveloped Federal land administered by the Bureau of Land Management that is surrounded by reservation lands. The Department of the Interior supports both parcels being held in trust for the benefit of the Tribe.

#### LEGISLATIVE HISTORY

H.R. 507, sponsored by Representative Grijalva, was ordered reported by the Committee on Natural Resources on March 20, 2013 (H. Rept. 113–27), and passed the House of Representatives by a vote of 401–2 on May 6, 2013.

The Subcommittee on Public Lands, Forests, and Mining held a hearing on H.R. 507 on July 30, 2013. The bill was ordered reported at its business meeting on November 21, 2013.

Representative Grijalva sponsored similar legislation, H.R. 4222, during the 112th Congress, which passed the House of Representatives by a voice vote on June 5, 2012.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 21, 2013 by a voice vote of a quorum present, recommends that the Senate pass H.R. 507.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “Pascua Yaqui Tribe Trust Land Act.”

*Section 2* defines key terms used in the bill.

*Section 3(a)* directs the Secretary of the Interior (Secretary) to take a 10-acre parcel of land depicted on the referenced map as Parcel (A) into trust for the benefit of the Pascua Yaqui Tribe of Arizona (Tribe), subject to valid existing rights.

Subsection (b) provides identical authority for the Secretary to take a separate 10-acre parcel into trust for the benefit of the Tribe.

Subsection (c) provides that the provisions in subsections (a) and (b) shall take effect on the day after the date the Tucson Unified School District relinquishes all right, title, and interest in the parcel described in subsection (b), and upon the approval by the Secretary of the Interior of the lease agreement between the Tribe and the Tucson Unified School District for the construction and operation of a regional transportation facility located on restricted Indian Land of the Tribe.

*Section 4* prohibits the Tribe from conducting gaming activities on the lands held in trust under this Act.

*Section 5(a)* provides that there shall not be Federal reserved rights to surface water or groundwater for land taken into trust under this Act.

Subsection (b) provides that the Tribe retain any right or claim to water under State law for land taken into trust by this Act.

Subsection (c) states that any water rights that are appurtenant to land taken into trust under this Act for the benefit of the Tribe may not be forfeited or abandoned.

Subsection (d) provides that nothing in this Act affects or modifies any right of the Tribe or obligation of the United States under

Public Law 95–375 (25 U.S.C. 1300f et seq.; “An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.”)

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *H.R. 507—Pascua Yaqui Tribe Trust Land Act*

H.R. 507 would require the Secretary of the Interior to place 20 acres of land into trust for the benefit of the Pascua Yaqui Tribe of Arizona. Based on information provided by the Department of the Interior (DOI), CBO estimates that implementing the act would have no significant impact on the federal budget. Enacting H.R. 507 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under the act, the Bureau of Land Management (BLM) would be required to place 10 acres of land that is currently administered by the agency into trust for the benefit of the Pascua Yaqui Tribe. In addition, if the Tucson Unified School District elects to relinquish its interest in 10 acres of land that it acquired from the federal government under the Recreation and Public Purposes Act, management of those lands would revert back to BLM, and the Secretary would be required to place them into trust for the tribe.

Based on information provided by DOI, CBO estimates that any administrative costs to carry out the legislation, which would be subject to the availability of appropriated funds, would be minimal. In addition, the affected lands do not generate any offsetting receipts for the federal government and are not expected to generate such receipts over the next 10 years.

H.R. 507 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enacting the bill would benefit the Pascua Yaqui tribe.

On April 3, 2013, CBO transmitted a cost estimate for H.R. 507 as ordered reported by the House Committee on Natural Resources on March 20, 2013. The two versions of the legislation are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, 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. 507.

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. 507, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

H.R. 507, as 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 by the Bureau of Land Management at the July 30, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on H.R. 507 follows:

STATEMENT OF NED FARQUHAR, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on H.R. 507, which provides that certain public lands in the Tucson, Arizona, area are declared to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe (Tribe), subject to valid existing rights and to additional restrictions in the legislation. The Department of the Interior (Department) supports holding the lands in trust for the Tribe, but has concerns that the legislation makes the trust declaration subject to an additional, unrelated restriction.

## BACKGROUND

The Tribe's lands are located in Pima County, near Tucson, Arizona, and are a combination of lands held in trust by the United States and lands purchased and held in fee by the Tribe. Some of these fee lands are the subject of pending "fee-land-to-trust-land" applications with the Department. The Tucson Unified School District (District) operates the Hohokam School on private lands adjacent to the tribal lands.

The Tribe is interested in acquiring two parcels of public land totaling approximately 20 acres. One parcel is an undeveloped, isolated 10-acre tract of land administered by the Bureau of Land Management (BLM). The second is a tract of approximately 10 acres that was patented under the Recreation and Public Purposes Act (R&PP) to the District, but never developed.

## H.R. 507

H.R. 507 declares that approximately 20 acres of public land are to be held in trust by the United States for the benefit of the Tribe, subject to valid existing rights, following the approval of a private lease agreement by the Secretary of the Interior (Secretary). The lands include one 10-acre parcel of BLM-managed land (designated in the legislation as "Parcel A") and one 10-acre parcel patented to the District under the R&PP (designated "Parcel B"). Parcel B's trust status is deferred under the bill (Sec. 3(b)) subject to the District relinquishing its R&PP patent. In addition, under the bill (Sec. 3(c)), neither Parcel A nor

Parcel B can be declared held in trust until the Secretary or a delegate approves and records a private lease agreement between the Tribe and the District for the operation of a regional transportation facility serving the Hohokam School located on restricted Indian land of the Tribe. The lease agreement pertains to lands unrelated to Parcel A or Parcel B.

H.R. 507 references a map titled: PYT Land Department and dated Jan. 15, 2013. The BLM would welcome the opportunity to work with the bill sponsor and committee on a new land status map to accompany the legislation.

The Department supports holding these two tracts of public land in trust for the Tribe. The Department has concerns that the additional requirement in Sec. 3(c), that the Secretary approve a private lease, on Tribal lands, for the District and the Tribe, as a precondition to holding in trust Parcel A and Parcel B—unrelated lands—may have implications for the Secretary’s exercise of trust responsibility to the Tribe.

Finally, the Department notes that section 5 of H.R. 507 addresses the treatment of water rights that may be associated with the land to be taken into trust for the benefit of the Tribe. The Department has concerns regarding Section 5’s restriction on its ability to assert reserved water rights that the Tribe may have or claim on the two tracts of public land because it could restrict the ability of the Tribe and of the United States as trustee on behalf of the Tribe from fully asserting and protecting the water rights of the Tribe.

#### CONCLUSION

HR. 507 represents an opportunity to improve land use for both the Tribe and the District on two isolated tracts of public 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 H.R. 507, as ordered reported.

