Calendar No. 895

106TH CONGRESS, 2d Session | SENATE | REPORT 106–449

TO PROVIDE FOR THE TRANSFER OF PUBLIC LANDS TO CERTAIN CALIFORNIA INDIAN TRIBES

OCTOBER 2 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1840]

The Committee on Indian Affairs, to which was referred the bill (S. 1840) to provide for the transfer of public lands to certain California Indian tribes, having considered same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1840, introduced by Senator Boxer, is to add a total of 3,525.8 acres of public land to the existing reservations of eight small tribes of Indians in the State of California for use primarily for non-gaming economic development purposes and for housing. Pursuant to the Indian Reorganization Act of 1934 (25 U.S.C. 461), the authority to create Indian country is reserved to the Congress; thus, the addition of land to the subject reservations in California must be accomplished through legislation.

BACKGROUND AND LEGISLATIVE HISTORY

At a "Western Listening Conference" in December, 1994, the Secretary of the Interior met with more than sixty California tribal representatives and discussed, among other subjects, the tribes' land base and economic development needs, and pledged to help the tribes identify means to secure additional lands for their use. Subsequently, a draft bill was developed through the collective efforts of several agencies of the Department of the Interior and numerous Indian tribes in California. Rep. Elton Gallegly (R–CA) introduced this legislation in the 104th Congress as H.R. 3642. On June 13, 1996, the Committee on Resources of the House of Representatives reported H.R. 3642 favorably (H. Rept. 104–767) and

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the House passed it by voice vote on September 10, 1996. The bill had been cleared for Senate floor action when the 104th Congress adjourned sine die.

In the 105th Congress, Rep. Don Young (R–AK) introduced a similar bill, H.R. 2742, which was the subject of a hearing before the House Resources Committee on March 17, 1998. Testimony from the Administration and the affected tribes, like that provided in the previous Congress, strongly supported the legislation and emphasized the needs of the particular tribes for additional lands. The testimony emphasized findings of the congressionally established Advisory Council on California Indian Policy, in its final report to the Congress in the fall of 1997, which documented the acute needs of California tribes for land on which to conduct economic activities and to provide for housing for their members. On June 10, 1998, the Committee on Resources reported H.R. 2742 favorably (H. Rept. 105–575) and the House passed the bill on October 5th, 1998. As was the case with H.R. 3642 in the previous Congress, however, H.R. 2742 had been cleared for Senate floor action but has not been acted upon when the 105th Congress adjourned sine die.

On November 2, 1999, again at the request of the Administration, Senator Boxer introduced S. 1840, which would transfer parcels of public land to eight small tribes in California. All of the subject lands are adjacent to or are surrounded by existing reservation lands and have been formerly classified as suitable for disposal through the Bureau of Land Management's land use planning process. All of the lands have been subject to environmental reviews that concluded that these lands are suitable for transfer, have no potentially protected habitat as defined in section 7 of the Endangered Species Act (16 U.S.C. 1536), and will create no significant impacts to the environment. Pursuant to the National Environmental Quality Act (42 U.S.C. 4332(2)(c), additional environmental analysis will be performed by the Bureau of Indian Affairs prior to authorization of any development.

The Department of the Interior and the involved tribes consulted with local governments on the proposed transfers through the planning process, and with the State of California. In all cases local governments either expressed no concerns with the proposed transfer or adopted formal positions supporting the proposed action, and the California State Lands Commission notified the BLM that there is no state interest barring the transfers. On September 12, 2000, Chairman Campbell received a letter from Kevin Gover, Assistant Secretary for Indian Affairs, Department of the Interior, iterating the Department's strong support for enactment of S. 1840.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Committee on Indian Affairs, in an open business session on September 27, 2000, by voice vote ordered S. 1840 reported with the recommendation that the Senate pass it as reported.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill states the short title as the "California Indian Land Transfer Act".

Section 2(a) provides that, subject to valid existing rights, all right, title and interest of the United States in and to the lands,

including improvements and appurtenances, of the lands described in (2)(b) are declared in trust for the benefit of the respective tribe, band, or group named therein, and that none of such lands shall be considered to have been taken into trust for gaming as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

Section 2(b) describes the lands to be transferred, totalling 3,525.8 acres, to the following tribal entities:

(1) Pit River Tribe—561.69 acres;

(2) Fort Independence Community of Paiute Indians—200.6 acres;

(3) Barona Group of Capitan Grande Band of Mission Indians—5.03 acres;

(4) Cuyapaipe Band of Mission Indians—1,360 acres;

(5) Manzanita Band of Mission Indians—1,000.78 acres;

(6) Morongo Band of Mission Indians—40 acres;

(7) Pala Band of Mission Indians—59.2 acres; and,

(8) Fort Bidwell Community of Paiute indians—299.04 acres.

Section 3(a) provides that any amounts that accrue to the United States after the date of enactment of this Act from sales, bonuses, royalties and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the tribe, band or group of Indians for whose benefit such land is taken into trust.

Section 3(b) provides that grazing preferences on lands described in section 2 shall terminate 2 years after the date of enactment of this Act.

Section 3(c) provides that the lands to be held in trust pursuant to this Act shall be added to the existing reservation of the named tribe, band, or group, and the official reservation boundaries shall be modified accordingly. Further, the transferred lands shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as other lands held in trust for such tribe, band or group on the day before the date of enactment of this Act.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 1840, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1840, the California Indian Land Transfer Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Keith.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1840—California Indian Land Transfer Act

CBO estimates that enacting this bill would have no significant impact on the federal budget. Enacting S. 1840 would affect direct spending by resulting in a small loss in offsetting receipts (a credit against direct spending); therefore, pay-as-you-go procedures would apply to the bill.

S. 1840 would transfer a total of 3,526 acres of federal land in California into trust for various Indian tribes. The bill would terminate grazing privileges on that land two years after its enactment. At that time, tribes would be able to renegotiate the grazing permits. The bill stipulates that all receipts collected from use of the land after enactment be made available to the tribes. Based on information from the Bureau of Land Management, CBO estimates that the loss to the federal government of existing grazing receipts would be less than $100 annually. There are no other income-generating activities associated with the land, and the agency does not plan to sell the land. Any discretionary costs associated with the transfer of the land would be minimal.

S. 1840 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on state, local, or tribal governments.

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

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill S. 1840. The Committee finds that the regulatory impact of S. 1840 will be minimal.

EXECUTIVE COMMUNICATIONS

The Committee received a letter dated September 12, 2000, from Kevin Gover, Assistant Secretary for Indian Affairs, United States Department of the Interior, regarding S. 1840.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 12, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to have the opportunity to offer the Department of the Interior's strong support of S. 1840, the "California Indian Land Transfer Act". This legislation, originally offered by the Administration and passed by the House as H.R. 2742 in the 105th Congress, represents the most affirmative, collaborative and extensive effort ever taken by Indian Tribes to work with federal, state and local agencies in seeking to augment their small reservation land base.

The bill would authorize the Bureau of Land Management (BLM) to transfer more than 3,500 acres of public lands to eight tribes in California for non-gaming economic development and housing. The

public lands, which are adjacent to or surrounded by existing reservation lands, have been formally classified as suitable for disposal through the BLM land use planning process.

This transfer authorizes no surface disturbing activity. The Department conducted environmental reviews of the lands to be transferred in conjunction with the preparation of the resource management plans and classification decisions. These environmental reviews concluded that these lands are suitable for transfer. No potentially protected habitat exists pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1536), and the transfers will create no significant impacts to the environment. Pursuant to the National Environmental Quality Act (42 U.S.C. 4332(2)(c)), additional environmental analysis will be performed by the Bureau of Indian Affairs (BIA) prior to authorization of any development.

The BIA will be responsible for compliance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f), to the same extent, in the same manner, and to the same degree as currently applies to BLM.

The Department and the involved tribes consulted with local governments on proposed transfers through the planning process. In all cases local governments either expressed no concerns with the proposed transfer or adopted formal positions supporting the proposed action. Pursuant to Section 707(c) of the California Desert Protection Act of 1994, Pub. L. No. 103–433 (108 Stat. 4471, 4499), the Department consulted with the State of California on this initiative. The California State Lands Commission notified BLM that there is no State interest barring the transfer. This legislation is truly the product of tribal and community collaboration and a model for effective consideration of tribal land needs.

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

Sincerely,

KEVIN GOVER,
Assistant Secretary for Indian Affairs.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of S. 1840 will not result in any changes in existing law.

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