

## Calendar No. 468

107TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
107-191

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### WASHOE INDIAN TRIBE LAND CONVEYANCE

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JUNE 28, 2002.—Ordered to be printed

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Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 691]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 691) to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 691 is to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit to the Secretary of the Interior to be held in trust for the Washoe Indian Tribe.

#### BACKGROUND AND NEED

S. 691 is intended to provide the Washoe Tribe of Nevada and California access to the shore of Lake Tahoe to support traditional and cultural uses. The Washoe Tribe's ancestral homeland includes over 5,000 square miles in the vicinity of the Lake Tahoe basin. The Tribe historically gathered along the shore of Lake Tahoe for activities such as spiritual renewal, land stewardship, traditional learning, and reunification of tribal and family bonds.

The concept of providing the Washoe Tribe with access to the shore of Lake Tahoe was ratified by a group of Federal, State and local government leaders who gathered at a 1997 Presidential Forum to discuss the future of Lake Tahoe. Goals and an action plan developed during the Lake Tahoe Forum became "Presidential Forum Deliverables." These Deliverables include a commitment to

provide the Washoe Tribe access to the shore of Lake Tahoe for traditional and cultural purposes.

#### LEGISLATIVE HISTORY

S. 691 was introduced by Senators Reid and Ensign on April 4, 2001. During the 106th Congress, a similar bill (S. 2751) passed the Senate. The Subcommittee on Public Lands and Forests held a hearing on S. 691 on November 27, 2001. The Committee on Energy and Natural Resources ordered the bill favorably reported at its business meeting on June 5, 2002.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass S. 691.

#### SECTION-BY-SECTION ANALYSIS

Section 1(a) contains congressional findings.

Subsection (b) lists the purposes of the Act.

Subsection (c) directs the Secretary of Agriculture, subject to valid existing rights, an access easement and other use limitations, to transfer 24.3 acres of lands administered by the Forest Service within the Lake Tahoe Basin Management unit to the Washoe Tribe.

Subsection (d) describes the access easement reserved in subsection (c).

Subsection (e) requires the Tribe to limit the use of the land to traditional and customary uses and to prohibit development or commercial use of the site, including gaming. The Tribe is also required to comply with environmental requirements that are no less protective than those which apply under the Tahoe Regional Plan. Finally, the subsection includes a reversal to the Secretary of Agriculture if the Tribe has used the land in violation of the restrictions listed in this Act.

The bill provides an easement to the United States over a portion of the conveyed land for public and nonexclusive access over a Forest Development Road. The bill also grants a reciprocal easement to the Tribe for vehicular access along the road for administration and safety purposes.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 11, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 691, a bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe

Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California.

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

Sincerely,

STEVEN M. LIEBERMAN  
(For Dan L. Crippen, Director).

Enclosures.

*S. 691—A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California*

Based on information from the Forest service, CBO estimates that implementing S. 691 would have no significant impact on the federal budget. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 691 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.

S. 691 would direct the Secretary of the Agriculture to convey, without consideration, about 24 acres of national forest system land within the Lake Tahoe Basin Management Unit to the Secretary of the Interior, to be taken into trust on behalf of the Washoe Indian Tribe of Nevada and California. According to the Forest Service, the lands to be conveyed currently generate no receipts and are not expected to over the next 10 years. The Secretary of Agriculture would retain an easement to provide for access to federal lands adjacent to those that would be conveyed. The bill outlines conditions for the tribe's use of the conveyed lands and specifies that ownership of the lands would revert back to the Secretary of Agriculture if the tribe violates those conditions.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, 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 S. 691. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant 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 S. 691.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF ABIGAIL KIMBELL, ACTING ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am Abigail Kimbell, Acting Associate Deputy Chief for the National Forest System, USDA Forest Service. I am testifying today on S. 691, a bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California.

The Department supports and is facilitating the use by the Washoe Tribe of their historical lands for the purposes identified in S. 691. However, the Administration has not completed its review of the bill. Once this review is completed, we will provide the Committee with a formal position on the bill. Until that time, we strongly urge deferral on further action.

S. 691 directs the Secretary of Agriculture to convey 24.3 acres of national forest system land within the Lake Tahoe Basin Management Unit to the Secretary of the Interior to be held in trust for the Washoe Indian Tribe of Nevada and California. The conveyance would be subject to a reservation of a non-exclusive easement on a forest road to continue public and administrative access to adjacent national forest system land. In addition, the bill would grant vehicular access over a forest road to the parcel by tribal members under certain circumstances. The transfer would occur without consideration.

S. 691 limits the use of the land by the Washoe Tribe to traditional and customary uses, prohibits permanent residential or recreational development, prohibits commercial development, and requires compliance with environmental standards. The bill provides for reversion of the interest to the Secretary of Agriculture should the tribe violate the use restrictions.

The Administration has not completed its review of S. 691. We recognize that American Indians have special religious and cultural ties to large areas of the Federal lands, and we recognize moral and legal responsibilities to provide access and use for religious and cultural purposes. These responsibilities are addressed in several Federal laws including the American Indian Religious Freedom Act, the Archaeological Resources Protection Act and others.

At present, the Washoe Tribe holds a special use permit with the Forest Service for the uses described in Section 1(b)(2). These uses have been analyzed and approved through our special use permitting process and appear to meet the needs of the Tribe. In addition, consideration of fair market value for the conveyance and reversionary interests are concerns identified by the Department in its preliminary review of this bill. We plan to conduct a more

thorough review of the language over the next few weeks, to consult with the Department of the Interior, and explore additional options. Once that review is completed, we would like to work with the Committee and the bill's sponsors to resolve concerns that our review might identify.

Mr. Chairman, we look forward to working with you and other members of the Committee on these important issues. This concludes my testimony. I would be happy to answer any questions that you may have.

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 S. 691, as ordered reported.

