

Calendar No. 432

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-127

OLD PASCUA COMMUNITY LAND ACQUISITION ACT

JUNE 23, 2022.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 4881]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (H.R. 4881) to direct the Secretary of the Interior to take into trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

H.R. 4881 authorizes the Secretary of the Interior to take approximately 30 acres of land within the city of Tucson, Arizona, into trust for the benefit of the Pascua Yaqui Tribe.

BACKGROUND & NEED FOR LEGISLATION

The Pascua Yaqui Tribe of Arizona is one of 22 federally recognized tribes in the state of Arizona.

In 1920, prior to the Tribe's federal recognition, 40-acres of land, then located outside the City of Tucson, were donated to the Yaqui people for the establishment of the Yaqui Nation. Yaqui people then moved to this area, now known as "Old Pascua." In 1952, these lands were annexed by the City of Tucson but many Yaqui families remained. In 1964, Congress transferred 202.76 acres, located approximately 15 miles southwest of Tucson, to the Pascua Yaqui Association.¹ When the Pascua Yaqui Tribe gained federal

¹ Private Law 88-350.

acknowledgment in 1978,² the 202 acres, commonly known as “New Pascua,” were established as the Tribe’s reservation. Since the 1920s “Old Pascua” has remained a ceremonial site and home to the oldest, among several Yaqui communities.

The Pascua Yaqui Tribe engages in Indian gaming. On May 24, 2021, the Department of the Interior (Department) approved the “Pascua Yaqui Tribe—State of Arizona Amended and Restated Gaming Compact” (Compact). The amended compact identifies the specific areas and regions within the state of Arizona wherein the Tribe may conduct gaming activities. Gaming activities taking place in the “Compact Designated Area” are regulated under the *Indian Gaming Regulatory Act*³ and Tribal law. The Old Pascua 40-acre parcel is located in this “Compact Designated Area.” H.R. 4881 recognizes the gaming compact between the Pascua Yaqui Tribe and the state of Arizona, and would allow for gaming activities in the Old Pascua Community once the land is taken into trust for the Tribe.

Taking this land into trust will support the Pascua Yaqui’s goals to improve the housing, health, education, and economic foundations of its citizens.

SUMMARY OF H.R. 4881

H.R. 4881 authorizes the Secretary of the Interior to take into trust approximately 30 acres, cited in the bill as the “Compact Designated Area,” and also known as “Old Pascua,” for the benefit of the Pascua Yaqui Tribe.

SECTION-BY-SECTION ANALYSIS OF H.R. 4881 AS ORDERED REPORTED

Section 1. Short title

This section sets forth the short title as the “Old Pascua Community Land Acquisition Act.”

Section 2. Definitions

This section sets forth the definitions to be used in the bill.

Section 3. Land to be held in trust

This section clarifies that upon request of the Pascua Yaqui Tribe, the Secretary of the Interior will take into trust, lands known as the Compact-Designated Area, or “Old Pascua.”

Section 4. Application of current law

This section clarifies that gaming conducted within the Compact-Designated Area shall be subject to the Indian Gaming and Regulatory Act as well as 18 U.S.C. §§ 1166–1168.

Section 5. Reaffirmation of status and actions

This section provides for the administration of the lands to be taken into trust and the scope of the bill.

Subsection 5(a) provides that lands to be placed into trust will be considered part of the Pascua Yaqui reservation and will be deemed to have been acquired and taken into trust on September 18, 1978.

²Pub. Law 95–375.

³Pub. Law 100–497.

Subsection 5(b) provides that nothing in the bill will enlarge, impair, or otherwise affect any right or claim of the Tribe to any land or interests in existence prior to the date of enactment of the act; affect any water right of the Tribe; terminate or limit any access to any right-of-way issued, granted, or permitted before enactment of the Act; or alter or diminish the right of the Tribe to seek to have additional land taken into trust.

LEGISLATIVE HISTORY

H.R. 4881 was introduced on July 30, 2021, by Representative Grijalva (D–AZ) and co-sponsored by Representatives Leger Fernandez (D–NM), Gosar (R–AZ), Schweikert (R–AZ), Lesko (R–AZ), Garcia (D–IL), Stanton (D–AZ), Kahele (D–HI), Gallego (D–AZ), Kirkpatrick (D–AZ), O’Halloran (D–AZ). The bill was referred to the House Committee on Natural Resources on the same day. H.R. 4881 was further referred to the Subcommittee for Indigenous Peoples of the United States on August 17, 2021. The Committee on Natural Resources discharged the bill by unanimous consent on October 13, 2021. The House passed H.R. 4881 on November 2, 2021 under suspension of the rules.

The bill was received in the Senate on November 3, 2021, and the Committee held a legislative hearing on November 17, 2021. At the hearing the Department testified in support of H.R. 4881. On April 6, 2022, the Committee held a business meeting and ordered the bill to be reported favorably.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 26, 2022.

Hon. BRIAN SCHATZ,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4881, the Old Pascua Community Land Acquisition Act.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 4881, Old Pascua Community Land Acquisition Act			
As ordered reported by the Senate Committee on Indian Affairs on June 23, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 4881 would direct the Department of the Interior (DOI) to take into trust about 30 acres of tribally owned lands in Pima County, Arizona, for the benefit of the Pascua Yaqui Tribe. The legislation also would make gaming activities conducted on that land subject to the Indian Gaming Regulatory Act. Using information provided by DOI, CBO estimates that the administrative costs to implement H.R. 4881 would not be significant.

H.R. 4881 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting state and local governments from taxing land taken into trust for the Pascua Yaqui Tribe. Information reported to the Department of the Interior about taxes associated with the land indicates that those foregone revenues would total less than \$275,000 annually, which is far below the annual threshold established in UMRA (\$85 million in 2021, adjusted annually for inflation).

The bill contains no private-sector mandates as defined in UMRA.

On February 22, 2022, CBO transmitted a cost estimate for H.R. 4881,⁴ the Old Pascua Community Land Acquisition Act, as passed by the House of Representatives on November 2, 2021. The two pieces of legislation and CBO's estimates of their budgetary effects are the same. The CBO staff contacts for this estimate are Madeleine Fox (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY AND PAPERWORK 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. The Committee believes that H.R. 4881 will have minimal impact on regulatory or paperwork requirements.

⁴ Congressional Budget Office, H.R. 4881, Old Pascua Community Land Acquisition Act, <https://www.cbo.gov/publication/57865>.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding H.R. 4881.

CHANGES IN EXISTING LAW

On February 11, 2021 the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

