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SENATE

REPORT
110–434

TO DIRECT THE SECRETARY OF THE INTERIOR TO TAKE INTO TRUST 2 PARCELS OF FEDERAL LAND FOR THE BENEFIT OF CERTAIN INDIAN PUEBLOS IN THE STATE OF NEW MEXICO

JULY 31, 2008.—Ordered to be printed

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

REPORT

[To accompany S. 1193]

The Committee on Indian Affairs, to which was referred the bill, S. 1193, to direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 1193 would direct the Secretary of the Interior to place into trust two parcels totaling 18.3 acres of Federal land for the educational, health, cultural, and economic benefit of the 19 Indian Pueblos in the State of New Mexico (Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia, and Zuni—all federally recognized Indian Tribes). The 19 Pueblos will manage the land through the All Indian Pueblo Council and the Indian Pueblos Federal Development Corporation. One parcel is located adjacent to two existing tracts of land held in trust by the United States for the Pueblos, and the other parcel is located across a highway from the first parcel.

BACKGROUND

The Albuquerque Indian School was established in 1881 as part of the Federal Government's policy on Indian affairs at the time that encouraged the assimilation of Native Americans, promoted placing American Indian children in off-reservation boarding schools, and suppressed tribal culture, language, and religion.

69–010

Federal policies shifted over the following century from Indian Reorganization (1928–1942) (which sought to strengthen tribal governments and restore tribal land bases) to Termination (1943–1961) (which sought to extinguish the government-to-government relationship with Indian Tribes, extinguish their land base, and delegate Federal responsibilities to State governments). However, on July 8, 1970, President Nixon, in a Special Message to Congress, formally repudiated the Termination policy and announced a new federal policy that supports Indian self-determination and economic self-sufficiency. Support of Indian self-determination remains the Indian affairs policy of the United States.

Soon after Congress enacted the Indian Self-Determination and Education Assistance Act, (Public Law 93–638, Jan. 4, 1975), the All Indian Pueblo Council, contracted with the Bureau of Indian Affairs for the operation of the Albuquerque Indian School campus pursuant to that Act. The Albuquerque school program was moved to Santa Fe, New Mexico in July of 1979.

In 1981, the New Mexico Pueblos petitioned the United States for the transfer of approximately 44 acres of land located on the former Albuquerque Indian school site for the purpose of economic development. In 1984, the Department of the Interior's Assistant Secretary for Indian Affairs approved the request and conveyed the 44 acres of Federal land to the 19 pueblos for their use and benefit pursuant to regulations in effect at the time.

The Pueblos have used the land to erect and establish the Indian Pueblo Cultural Center, and government and business office centers, which have been a proven economic success. The Pueblos have also formed the Indian Pueblos Federal Development Corporation, which operates as a business council for the 19 pueblos.

The Department of the Interior has since revised its fee-to-trust regulations. The current regulations, revised in 1995, are located at 25 CFR Part 151. They do not contemplate a trust acquisition for the benefit of multiple Indian Tribes, and that is the reason for this legislation.

In 2003, the 19 Pueblos requested conveyance of two additional tracts of land from the former Albuquerque Indian School site, which total approximately 18.3 acres. The land contains various metal buildings that have deteriorated to the point that they have no usable value.

The transfer is supported by the southwestern regional office of the Bureau of Indian Affairs, and the local community. With the addition of the two tracts, the 19 pueblos plan to expand into other economic development projects for the benefit of their citizens and the neighboring community.

SECTION-BY-SECTION ANALYSIS

Section 1

The short title of the Act is the "Albuquerque Indian School Act".

Section 2. Definitions

Section 2 defines the "19 Pueblos" to mean the New Mexico Indian Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh (San Juan), Picuris, Pojoaque, San Felipe, San

Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia, and Zuni.

Section 3. Land taken into trust for benefit of 19 Pueblos

Section 3 directs the Secretary of the Interior to place into trust all right, title, and interest of the United States in and to the two parcels of land (including any improvements and appurtenances to the land) for the educational, health, cultural, business, and economic development of the 19 Pueblos. Section 3(b) describes the land as Tracts B and D of a Bureau of Indian Affairs survey. Section 3(e) provides that the land shall remain subject to any private or municipal encumbrance, right-of-way, restriction, easement of record, or utility service agreement in effect on the date of enactment of this Act.

Section 4. Effect of other laws

Section 4 makes clear that the land shall be subject to other Federal laws relating to Indian land. However, this section prohibits gaming activity (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) from being carried out on the lands placed in trust pursuant to the Act.

LEGISLATIVE HISTORY

In the 109th Congress, S. 3635 was introduced by Senator Domenici on July 11, 2006. The bill was referred to the Committee on Indian Affairs. No further action was taken on this measure.

S. 1193 was introduced in the 110th Congress on April 24, 2007, by Senators Domenici and Bingaman and was referred to the Committee on Indian Affairs.

The following letter was submitted by the President of the Indian Pueblos Federal Development Corporation to Senator Bingaman:

I.P.F.D.C.
INDIAN PUEBLOS FEDERAL DEVELOPMENT CORP.

Indian Pueblos Federal Development Corporation
2412 Comanche Rd. NE
Albuquerque, NM 87107
Phone: (505)881-2273
Fax : (505)341-4467

June 11, 2008

Senator Jeff Bingaman
625 Silver Ave. SW
Albuquerque, NM 87102

Dear Senator Bingaman:

Thank you for your favorable consideration of the Senate bill considering the transfer of a portion of the Old Albuquerque Indian School property to the Indian Pueblos Federal Development Corporation (IPFDC).

I understand that you have concerns about the installation of a smoke shop on the transferred property; however, I want to dispel your unease by explaining to you that IPFDC does not intend to ever include such an enterprise on the property. Our main focus is on expanding into other economic development projects that benefit the 19 Pueblos of New Mexico and, to the extent possible, the neighborhood in which we live and work.

Our primary concern is with the time factor for moving the bill through the Congress for final approval.

Thank you again for your support.

Bruce Sanchez

President/IPFDC

COMMITTEE RECOMMENDATION

On April 24, 2008, the Committee on Indian Affairs convened a business meeting to consider S. 1193, and other measures. During the meeting, the Committee voted, by voice vote, to report S. 1193 favorably to the full Senate with the recommendation that it do pass.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated April 29, 2008, was prepared for S. 1193:

S. 1193—Albuquerque Indian Schools Act

CBO estimates that implementing S. 1193 would have no significant impact on the federal budget. The bill 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. 1193 would authorize the Secretary of the Interior to take a total of 18 acres of federal land in Albuquerque, New Mexico, into trust for the benefit of 19 Indian Pueblos in the state. The land is part of the former site of the Albuquerque Indian School, which provided training for Indians until 1982. The Pueblos acquired a 44-acre portion of that site in 1984 for economic development purposes. Under the bill, the newly acquired land would be used for similar activities; gaming activities would be prohibited.

According to the Bureau of Indian Affairs, the federal land currently generates no receipts and is not expected to do so during the next 10 years. Therefore, CBO estimates that transferring the lands into trust for the Pueblos would not affect offsetting receipts (a credit against direct spending). In addition, we estimate that the administrative costs of the transfer would be negligible.

The CBO staff contact for this estimate is Leigh Angres. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee has concluded that the regulatory and paperwork impacts of S. 1193 should be de minimis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1193.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law were made by S. 1193.

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