

IVANPAH VALLEY AIRPORT PUBLIC LANDS TRANSFER ACT

NOVEMBER 16, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1695]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1695) to provide for the conveyance of certain Federal public lands in the Ivanpah Valley, Nevada, to Clark County, Nevada, for the development of an airport facility, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ivanpah Valley Airport Public Lands Transfer Act".

SEC. 2. CONVEYANCE OF LANDS TO CLARK COUNTY, NEVADA.

(a) **IN GENERAL.**—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1713), but subject to subsection (b) of this section, the Secretary shall convey to the County all right, title, and interest of the United States in and to the Federal public lands identified for disposition on the map entitled "Ivanpah Valley, Nevada-Airport Selections" numbered 01, and dated April 1999, for the purpose of developing an airport facility and related infrastructure. The Secretary shall keep such map on file and available for public inspection in the offices of the Director of the Bureau of Land Management and in the district office of the Bureau located in Las Vegas, Nevada.

(b) **CONDITIONS.**—The Secretary shall make no conveyance under subsection (a) until each of the following conditions are fulfilled:

(1) The County has conducted an airspace assessment to identify any potential adverse effects on access to the Las Vegas Basin under visual flight rules that would result from the construction and operation of a commercial or primary airport, or both, on the land to be conveyed.

(2) The Federal Aviation Administration has made a certification under section 4(b).

(3) The County has entered into an agreement with the Secretary to retain ownership of Jean Airport, located at Jean, Nevada, and to maintain and operate such airport for general aviation purposes.

(c) PAYMENT.—

(1) **IN GENERAL.**—As consideration for the conveyance of each parcel, the County shall pay to the United States an amount equal to the fair market value of the parcel.

(2) **DEPOSIT IN SPECIAL ACCOUNT.**—The Secretary shall deposit the payments received under paragraph (1) in the special account described in section 4(e)(1)(C) of the Southern Nevada Public Land Management Act (31 U.S.C. 6901 note).

(d) REVERSION AND REENTRY.—

(1) **IN GENERAL.**—During the 5-year period beginning 20 years after the date on which the Secretary conveys the lands under subsection (a), if the Secretary determines that the County is not developing or progressing toward the development of the conveyed lands as an airport facility, all right, title, and interest in those lands shall revert to the United States, and the Secretary may reenter such lands.

(2) **PROCEDURE.**—Any determination of the Secretary under paragraph (1) shall be made only on the record after an opportunity for a hearing.

(3) **REFUND.**—If any right, title, and interest in lands revert to the United States under this subsection, the Secretary shall refund to the County all payments made to the United States for such lands under subsection (c).

SEC. 3. MINERAL ENTRY FOR LANDS ELIGIBLE FOR CONVEYANCE.

The public lands referred to in section 2(a) are withdrawn from mineral entry under the Act of May 10, 1872 (30 U.S.C. 22 et seq.; popularly known as the Mining Law of 1872) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

SEC. 4. ACTIONS BY THE DEPARTMENT OF TRANSPORTATION.

(a) **DEVELOPMENT OF AIRSPACE MANAGEMENT PLAN.**—The Secretary of Transportation shall, in consultation with the Secretary, develop an airspace management plan for the Ivanpah Valley Airport that shall, to the maximum extent practicable and without adversely impacting safety considerations, restrict aircraft arrivals and departures over the Mojave Desert Preserve in California.

(b) **CERTIFICATION OF ASSESSMENT.**—The Administrator of the Federal Aviation Administration shall certify to the Secretary that the assessment made by the County under section 2(b)(1) is thorough and that alternatives have been developed to address each adverse effect identified in the assessment, including alternatives that ensure access to the Las Vegas Basin under visual flight rules at a level that is equal to or better than existing access.

SEC. 5. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 REQUIRED.

Prior to operation of an airport facility on lands conveyed under section 2, all actions required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to that operation shall be completed.

SEC. 6. DEFINITIONS.

In this Act—

- (1) the term “County” means Clark County, Nevada; and
- (2) the term “Secretary” means the Secretary of the Interior.

PURPOSE OF THE BILL

The purpose of H.R. 1695 is to provide for the sale of certain public lands in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation.

BACKGROUND AND NEED FOR LEGISLATION

The Las Vegas Valley is the fastest growing metropolitan area in the country. About 50 percent of the annual visitors to Las Vegas

arrive in the area as passengers at McCarran Airport. As the resorts in Las Vegas increasingly become international travel destinations, this percentage will continue to climb. Consequently, McCarran Airport is quickly reaching capacity.

H.R. 1695 would designate approximately 6,395 acres of Bureau of Land Management land in the Ivanpah Valley for gradual sale to the Clark County Department of Transportation at fair market value. This land would eventually become a new airport facility and surrounding infrastructure.

There are a number of reasons why the Ivanpah Valley is an ideal place to build a new airport. The location has favorable topography and orientation. The airport is far enough away from McCarran Airport and Nellis Air Force Base to avoid the airspace capacity constraints that would face a new airport in the Las Vegas Valley and yet is close enough to serve the metropolitan area. The area is right next to I-15 and the Union Pacific Railroad, providing good transportation connections. There are also minimal environmental problems with the site.

COMMITTEE ACTION

H.R. 1695 was introduced on May 5, 1999, by Congressman Jim Gibbons (R-NV). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On July 13, 1999, the Subcommittee held a hearing on the bill. On September 23, 1999, the Subcommittee met to mark up the bill. No amendments were offered and the bill was ordered favorably reported to the Full Committee on a voice vote. On October 20, 1999, the Full Resources Committee met to consider the bill. Congressman Gibbons offered an en bloc amendment which eliminated the phased conveyance language in the bill. Congressman Bruce Vento (D-MN) offered a substitute amendment which placed additional conditions on the conveyance. The Vento substitute was defeated by a roll call vote of 12-22, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 10-20-99Roll No. 1

Bill No. H.R. 1695 Short Title "Ivanpah Valley Airport Public Lands Transfer Act."

Amendment or matter voted on: Vento Substitute to the Gibbons Amendment

Member	Yea	Nay	Pres.	Member	Yea	Nay	Pres.
Mr. Young (Chairman)		X		Mr. Miller	X		
Mr. Tauzin		X		Mr. Rahall			
Mr. Hansen		X		Mr. Vento	X		
Mr. Saxton				Mr. Kildee			
Mr. Gallegly				Mr. DeFazio	X		
Mr. Duncan				Mr. Faleomavaega			
Mr. Hefley		X		Mr. Abercrombie			
Mr. Doolittle		X		Mr. Ortiz			
Mr. Gilchrest		X		Mr. Pickett			
Mr. Calvert				Mr. Pallone			
Mr. Pombo		X		Mr. Dooley			
Mrs. Cubin		X		Mr. Romero-Barcelo	X		
Mrs. Chenoweth-Hage		X		Mr. Underwood			
Mr. Radanovich		X		Mr. Kennedy			
Mr. Jones		X		Mr. Smith	X		
Mr. Thornberry				Mr. John			
Mr. Cannon		X		Mrs. Christensen			
Mr. Brady				Mr. Kind	X		
Mr. Peterson		X		Mr. Inslee	X		
Mr. Hill		X		Mrs. Napolitano	X		
Mr. Schaffer		X		Mr. Tom Udall	X		
Mr. Gibbons		X		Mr. Mark Udall	X		
Mr. Souder		X		Mr. Crowley	X		
Mr. Walden		X		Mr. Holt	X		
Mr. Sherwood		X					
Mr. Hayes		X					
Mr. Simpson		X					
Mr. Tancredo		X		TOTAL	12	22	

The Gibbons en bloc amendment was then adopted by voice vote. Congressman Vento offered another amendment to require a special analysis of the proposed airport's effect on natural resources and provided that if any part of the airport project is found to have an adverse effect, no conveyance can be made unless there is no feasible alternative. Congressman Jim Hansen (R-UT) offered a substitute amendment to the Vento amendment that required National Environmental Policy Act compliance prior to the operation of an airport in the area. Congressman Hansen's substitute was adopted by a voice vote, and the Vento amendment, as amended, was then adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **Government Reform Oversight Findings.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 4, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1695, the Ivanpah Valley Airport Public Lands Transfer Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria Heid Hall (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

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

Enclosure.

H.R. 1695—Ivanpah Valley Airport Public Lands Transfer Act

Summary: H.R. 1695 would direct the Secretary of the Interior to convey to Clark County, Nevada, about 6,400 acres of public land for the purpose of developing an airport facility and related infrastructure. The county would pay fair market value for the land. The bill would authorize the secretary to spend the proceeds of the land sale. Because the Secretary could also spend interest earnings on the sale proceeds, CBO estimates that implementing H.R. 1695 would result in a net increase in direct spending of about \$1 million over the 2001–2004 period. Because H.R. 1695 would affect direct spending (including offsetting receipts), pay-as-you-go procedures would apply. Implementing the bill also could increase spending subject to appropriation, but CBO estimates that any additional discretionary spending would be less than \$500,000 a year.

H.R. 1695 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Clark County would probably incur some costs as a result of this bill's enactment, but these costs would be voluntary.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 1695 is shown in the following table. The bill also could affect spending subject to appropriation, but CBO estimates that any changes in discretionary spending would be less than \$500,000 a year. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By fiscal years, in million of dollars—				
	2000	2001	2002	2003	2004
CHANGES IN DIRECT SPENDING					
Asset Sale Proceeds:					
Estimated Budget Authority	0	–6	0	0	0
Estimated Outlays	0	–6	0	0	0
Spending of Proceeds and Interest:					
Estimated Budget Authority	0	6	(1)	(1)	0
Estimated Outlays	0	2	2	2	1
Net Changes:					
Estimated Budget Authority	0	0	(1)	(1)	0

	By fiscal years, in million of dollars—				
	2000	2001	2002	2003	2004
Estimated Outlays	0	-4	2	2	1

¹ Less than \$500,000.

Basis of estimate: CBO estimates that implementing H.R. 1695 would result in a net increase in direct spending of about \$1 million over the 2001–2004 period.

Direct spending (including offsetting receipts)

H.R. 1695 would direct the Secretary of the Interior to convey about 6,400 acres of public land to Clark County, Nevada, at fair market value. Under current law, the Bureau of Land Management (BLM) has no plans to sell the land, and the land does not generate any receipts for the federal government. According to BLM, the proceeds from sale of the land are highly uncertain since an appraisal has not been conducted and there are virtually no other comparable land sales in that area. Based on information from the local airport authority and BLM, CBO estimates that sale proceeds would total about \$6 million in fiscal year 2001.

Current law provides that states receive 5 percent of the net proceeds of sales of public lands within their limits. Thus, we estimate that payments to the state of Nevada would total about \$300,000 in fiscal year 2001 as a result of implementing H.R. 1695.

H.R. 1695 provides that proceeds from sale of the land shall be deposited in a special account in the Treasury created by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act (Public Law 105–263). We assume that such deposits will be net of the payments to Nevada discussed above. Under current law, interest is added to the principal deposited in that special account; such interest payments do not affect receipts to the Treasury, but they do increase the funds available to be spent from the account. The principal and interest in this account would be available to the Secretary of the Interior, without further appropriation, to purchase environmentally sensitive land in Nevada, reimburse agency costs incurred in arranging the land disposal, and certain other purposes. CBO estimates that under H.R. 1695 the Secretary would spend about \$2 million of the sale proceeds in fiscal year 2001, and about \$7 million over the 2001–2004 period, including interest earnings on the sale proceeds.

Spending subject to appropriation

H.R. 1695 would make the land conveyance contingent on Clark County conducting an airspace assessment to identify any potential adverse effects on access to the Las Vegas Basin resulting from the construction and operation of an airport on the land to be conveyed. Further, the conveyance would be contingent on the Federal Aviation Administration certifying that the county's assessment is thorough and considers alternatives to any adverse effects identified in the assessment. The bill would direct the Secretary of Transportation to develop an airspace management plan for the Ivanpah Valley Airport that restricts arrivals and departures over the Mojave Desert Preserve in California. We estimate that the Department of Transportation's cost to certify the county's assessment

and to develop an airspace management plan would total less than \$500,000 each year over the 2000–2004 period, assuming appropriation of the necessary amounts.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted. Under the Balanced Budget Act, proceeds from nonroutine asset sales (sales that are not authorized under current law) may be counted for pay-as-you-go purposes only if the sale would entail no financial cost to the government. Based on information provided by BLM, CBO estimates that the sale of the public land specified in H.R. 1695 would result in a net savings to the government, and therefore, the proceeds would count for pay-as-you-go purposes.

	By fiscal year in millions of dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	-4	2	2	1	0	0	0	0	0
Changes in receipts	Not applicable									

Estimated impact on state, local, and tribal governments: H.R. 1695 contains no intergovernmental mandates as defined in UMRA. The conveyance authorized by this bill would be voluntary on the part of Clark County and any costs they would incur to fulfill the conditions of the conveyance also would be voluntary. This would include paying fair market value for the land and conducting an airspace assessment. The county would benefit from the opportunity to acquire this land, and the state of Nevada would benefit because they would receive a portion of the receipts from the sale.

Estimated impact on the private sector: The bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Victoria Heid Hall. Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

I join with the Administration and a wide array of conservation organizations in opposing H.R. 1695, the "Ivanpah Valley Airport Public Lands Transfer Act," as reported by the Committee on Resources. The bill directs the sale of public lands near the Mojave National Preserve for the development of a large commercial airport and related facilities for the Las Vegas area.

The language of the bill providing for the mandatory conveyance of public lands overrides the Bureau of Land Management's (BLM) local resource management plan that calls for retention of these lands in federal ownership, as well as, negating existing statutory requirements for land use planning and the sale of public lands. In doing so, the bill circumvents the standard public participation and environmental review process required by the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA). It is for those very reasons that the proponents of H.R. 1695 have sought the legislative cover that the bill provides. The Secretary of the Interior already has administrative authority to convey the Ivanpah lands. No further legislation would be needed but for the fact that proponents want to circumvent current law and policy.

What is most disturbing about the bill is that it prevents any meaningful evaluation of the environmental consequences of the land conveyance. This is especially significant because of the potential impacts on the adjacent Mojave National Preserve, which was designated in 1994 to preserve and protect the significant biological diversity of the area's desert ecosystem. The National Park Service testified before the Committee that there were numerous potential environmental impacts and land use conflicts associated with this conveyance. Unfortunately, the Committee chose to ignore those concerns. Instead, as part of this bill, the Committee has provided more protection for an existing small airport in the area, than it does for one of our great national park units.

I offered in Committee an amendment that would have addressed the problems with the bill by requiring a review of the effect that development of the airport facility and related infrastructure may have on the environment. If adverse impact were found, the conveyance could still proceed if there was a finding that no suitable and feasible alternative exists and all possible steps were taken to minimize such adverse effects. This language parallels that found in the Airport and Airway Development Act of 1970 which is still in force and effect today, contrary to certain statements made at Full Committee mark up.

If, as proponents claim, a review of alternatives has already been done and indeed this is the only feasible and prudent airport site, then the requirements of this amendment could have been dealt with quickly. However, the information that was provided to the

Committee suggests that only a cursory review was done of alternatives and no assessment was made of the potential environmental impacts of the proposed use. In fact, out of a 2-inch thick feasibility review done by the entity seeking the conveyance, only four lines mention any study of alternatives and *no* attempt was made to assess the environmental impacts.

Unfortunately, the Committee rejected my amendment and instead substituted language referencing NEPA after the fact. This approach undermines any meaningful review of alternatives and environmental impacts associated with the transfer.

The Committee also failed to adopt language I offered to correct several administrative problems with the bill. The first part of my amendment dealt with protecting valid existing rights, which the bill fails to do. We should not make the United States potentially liable for claims that may arise from a conveyance. The second part of the amendment retained the mineral rights to the 6600 acres to be conveyed for the United States. This is standard policy for land conveyances and eliminates the need for assessment and appraisals of mineral rights. The third part of the amendment required payment of fair market value for the 6600-acre site, including payments of the administrative costs incurred by the United States because of the conveyance. On the payment of administrative costs, I would note that it is Clark County, Nevada that is seeking this conveyance, not the BLM. The BLM should not have to absorb the administrative costs for an action that is clearly designed to benefit the County.

I believe the Committee failed to do its job in dealing with the potential environmental impacts, land use conflicts and administrative problems associated with this proposal. Unless this bill is amended when it is considered by the House to address these concerns, I will strongly urge my colleagues to vote NO on this legislation.

