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SENATE

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FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT REVISION ACT OF 2006

JULY 19, 2006.—Ordered to be printed

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

R E P O R T

[To accompany S. 2464]

The Committee on Indian Affairs, to which was referred the bill (S. 2464) to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 2464 revises the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (P.L. 101-628) to implement an agreement between the Fort McDowell Indian Community and the Department of the Interior to cancel or relieve the parties of certain specified obligations arising under the Settlement Act. The effect of the bill would be to fulfill all conditions necessary to accomplish full and final implementation of the Fort McDowell Indian Community Water Rights Settlement Act of 1990.

BACKGROUND

The Fort McDowell Indian Community Water Rights Settlement Act of 1990 ratified a negotiated settlement of the entitlement of the Fort McDowell Indian Community (currently known as the Fort McDowell Yavapai Nation) to flows from the Verde River. Among the terms of the Settlement Act, Congress authorized and directed the Secretary of the Interior to provide the Fort McDowell Yavapai Nation a no-interest loan of \$13 million pursuant to the Small Reclamation Project Act, to construct facilities for the con-

veyance and delivery of water to 1,584 acres on the Fort McDowell reservation. Section 412 of the Settlement Act states that the authorizations in section 409(b) become effective as of the date the Secretary publishes a statement of certain findings (specified in section 412) in the Federal Register. That statement of findings was published on January 31, 1994.

After publication of the Federal Register notice, but prior to construction of the irrigation system, the Department of the Interior conducted its environmental review pursuant to the National Environmental Protection Act. The review revealed that 227 of the 1,584 acres to be irrigated included significant cultural sites. The Secretary subsequently withdrew those acres from development and proposed to acquire replacement lands. Other available land, however, proved to be difficult and expensive to render as productive as the 227 acres originally intended. To date, the replacement lands have not been developed and implementation of the Settlement Act has been left uncompleted.

S. 2464 is intended to allow the tribe and the Department of the Interior to revise their respective responsibilities under the Settlement Act in a mutually acceptable way. The Yavapai Nation and the Department of the Interior proposed that the Department forgive and cancel Yavapai Nation's obligation to repay the mandatory loan in return for the Tribe's forgiving the Department of the Interior's responsibility to develop 227 mitigation acres. S. 2464 cancels the obligation of the Yavapai Nation to repay the \$13 million no-interest loan made under section 408(e) of the Settlement Act, and S. 2464 relieves the Secretary of any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 of the Settlement Act. The Committee has been informed that funds already advanced toward development of the 227 replacement acres would be reprogrammed to fund other water development projects on the Yavapai Nation's reservation.

LEGISLATIVE HISTORY

S. 2464 was introduced on October 20, 2005, by Senator McCain and Senator Kyl, and was referred to the Committee on Indian Affairs. On June 22, 2006, S. 2464 was unanimously passed out of the Committee and ordered reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On June 22, 2006, the Committee, in an open business session, considered S. 2464. By a unanimous voice vote, the Committee ordered the bill reported favorably to the full Senate with a recommendation that the bill do pass.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 of the bill sets forth the short title, Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006.

Section 2. Definitions

Section 2 sets forth the defined terms used in the bill.

Section 3. Cancellation of repayment of obligation

Section 3 of the bill cancels the obligation of the Yavapai Nation to repay the \$13 million loan made under section 408(e) of the Settlement Act. This section also specifies that cancellation of the repayment obligation is considered to fulfill all conditions required to achieve the full and final implementation of the Settlement Act.

This section also relieves the Secretary of the Interior from any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 of the Settlement Act, and states that nothing in this Act alters or affects the eligibility of the Yavapai Nation or any member of the Yavapai Nation for any service or benefit provided by the Federal government.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office cost estimate for S. 2464 is set forth below:

S. 2464—A bill to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes

S. 2464 would cancel the Fort McDowell Yavapai Nation's obligation to repay a loan it received from the Secretary of the Interior to build an irrigation project on the Fort McDowell Indian Reservation. The Fort McDowell Indian Community Water Rights Settlement Act of 1990 provided a \$13 million loan to the Yavapai Nation, to be repaid over a term of 50 years without interest. S. 2464 also would relieve the Secretary of the Interior of the environmental mitigation responsibilities created by the earlier act. The act authorized appropriations of the necessary amounts to complete the environmental mitigation.

Based on information from the department, CBO estimates that forgiving the loan would increase direct spending by almost \$5 million in 2006, assuming enactment by the end of the fiscal year. (The tribe has not yet repaid any of the \$13 million loan.) The increase in direct spending represents the net present value of the expected repayments over the remaining life of the loan. Any savings from relieving the Secretary of the Interior from environmental mitigation costs for the tribe would depend on future appropriation acts. Based on information from the department, such costs could be a few million dollars.

S. 2464 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would benefit Fort McDowell Yavapai Nation by cancelling its loan obligation and would impose no costs on any other state, local, or tribal government.

The CBO staff contacts for this estimate are Gregory Waring (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments). This estimate was approved by Peter H. Fontaine, 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. 2464 should be minimal.

EXECUTIVE COMMUNICATIONS

The Committee has not received official executive communications on S. 2464.

CHANGES IN EXISTING LAW

S. 2464 will not make any changes to existing law.

