



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 31, 2016

S. 1879

Interior Improvement Act

As ordered reported by the Senate Committee on Indian Affairs on December 2, 2015

SUMMARY

S. 1879 would modify the Secretary of the Interior's authority to take certain land into trust on behalf of Indian tribes under the Indian Reorganization Act. Under current law, as established by the Supreme Court's decision in *Carciari v. Salazar* (2009), the Secretary's authority to take land into trust is limited to tribes that were federally recognized prior to the enactment of that act in 1934. S. 1879 would amend that act to allow the Secretary to take land into trust for all federally recognized Indian tribes. The bill also would specify a process—including new requirements and deadlines—for the Secretary to follow in considering applications from tribes or individual Indians to have certain types of land taken into trust on their behalf.

CBO estimates that implementing S. 1879 would increase administrative costs for the Department of the Interior (DOI) by \$30 million over the next five years, assuming appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because enacting it would not affect direct spending or revenues.

CBO estimates that enacting S. 1879 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1879 would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate costs of mandates in the bill on public and private entities would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of S. 1879 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars					2017- 2021
	2017	2018	2019	2020	2021	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	2	5	6	8	9	30
Estimated Outlays	2	5	6	8	9	30

BASIS OF ESTIMATE

CBO assumes S. 1879 will be enacted near the end of fiscal year 2016 and that the necessary amounts will be appropriated each year. The bill would specify a process for taking certain “off-reservation” lands that lie outside of the boundaries of existing Indian reservations into trust for Indian tribes or individual Indians. That process would establish new requirements for both applicants and DOI, expand opportunities for entities that own contiguous lands or other community stakeholders to comment on proposed transactions, and specify timeframes within which DOI must complete certain administrative actions or render decisions on applications. Under certain circumstances, if DOI failed to approve an application within the specified timeframe, it would be deemed approved.

Information from DOI and the Congressional Research Service indicates that the length of time required to process applications to take off-reservation lands into trust under current law varies, but can often take several years. S. 1879 would specify rigorous deadlines that would require the department to complete its review of such applications—including additional materials required under the bill—on an expedited basis. CBO expects those deadlines would require DOI to complete necessary reviews much sooner than under current law. In addition, the bill would impose new administrative requirements related to posting applications and related materials online and expanding efforts to communicate with local communities that could be affected by proposed trust acquisitions. As a result, CBO expects that implementing that new process would increase DOI’s administrative costs.

According to DOI, funding for administrative costs related to acquisitions of trust lands in 2016 totals about \$13 million and covers the costs of roughly 70 full-time equivalent staff with expertise in realty and environmental issues. CBO expects that meeting the bill’s expedited timeframes would require DOI to increase the number of staff devoted to reviewing trust applications and that the department would gradually hire those additional personnel over four years starting in 2018. In total, based on information from DOI about existing costs for personnel and related expenses, CBO estimates that implementing S. 1879 would cost \$30 million over the 2012-2021 period. That amount includes \$2 million

in upfront administrative costs to complete necessary rulemakings; remaining amounts reflect increased costs to hire additional realty and environmental specialists to review trust applications within the accelerated timeframes specified by the bill.

CBO also expects that amending current law to allow DOI to take land into trust for all Indian tribes would simplify the analysis that DOI must currently perform, pursuant to *Carcieri v. Salazar*, and could reduce the workload of DOI staff. Although CBO expects that any reductions on workload would be small those saving are incorporated in the estimated net costs of the bill.

PAY-AS-YOU-GO CONSIDERATIONS: None.

INCREASE IN LONG TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting S. 1879 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1879 would impose both intergovernmental and private-sector mandates as defined in UMRA, but CBO estimates that the aggregate compliance costs on public and private entities would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

S. 1879 could expand an existing intergovernmental mandate that exempts land taken into trust from state and local taxes. State and local governments may have the ability to collect taxes on some lands as a result of the *Carcieri v. Salazar* decision because those lands might no longer be considered Indian lands under current law. Subsequent application of that ruling by DOI appears to limit its scope, however, making fewer lands potentially subject to such taxation. Also, very few state or local governments have asserted taxing authority on those lands. Because any attempt to assert such taxing authority would likely result in litigation, it is unlikely that such governments would collect taxes on those lands in the next five years. Therefore, CBO estimates that enacting S. 1879 would not result in a significant loss of revenue for state or local governments.

S. 1879 also would limit the ability of public and private entities or individuals to file certain claims in court related to land ownership and actions of the Secretary of Interior. Those limits would impose both intergovernmental and private-sector mandates by

restricting the rights of plaintiffs. The costs of the mandates would be the forgone value of compensation and settlements associated with such claims if they would have been successful under current law. Information from the Bureau of Indian Affairs indicates that fewer than 20 such court claims are currently pending. The possibility of a monetary award or settlement under current law would depend on the type of claim. In many cases, particularly those related to administrative procedures and decisions by the federal government, no monetary award is available; in others the amount of such an award or settlement is limited to the value of the land in question. Because of the small number of existing claims and the limited scope of potential awards, CBO expects that the annual number of claims involving such land and the value of the awards and settlements in those claims (and consequently the mandates costs) would be small.

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