

ADVANCING TRIBAL PARITY ON PUBLIC LANDS ACT

SECTION BY SECTION SUMMARY

Bill Summary: The primary federal land management laws were enacted more than 50 years ago, with little thought or acknowledgment of the cultural and legal connections of Indian Tribes to these lands. The Advancing Tribal Parity on Public Land Act amends several major federal land management laws to: (1) improve protection to Native sacred places and tribal interests on federal lands; (2) acknowledge tribal government connections to these lands, providing tribes with a right of first refusal if/when federal lands are listed for transfer or disposal; (3) increase consultation requirements with tribal governments before federal agency take action on federal lands; (4) include tribal representatives to federal lands advisory councils; and (5) update public land laws to include Indian Tribes where the law acknowledges participation by “state or local governments”. Below is a brief section-by-section analysis of the Advancing Tribal Parity of Public Land Act.

Section 1. Short Title of the bill is the “Advancing Tribal Parity on Public Land Act”

Section 2. Preventing Disposal of Cultural Sites.

Section 2(a)(1). Definitions. This subsection defines various terms used throughout the bill.

Section 2(a)(2). Consideration of Tribal Interests. This subsection updates the Federal Land Policy and Management Act (FLPMA), the Forest Service Facility Realignment and Enhancement Act and the Small Tracts Act to also require federal land agencies to consult with any interested Indian Tribe to ensure that disposal of the tract would not impact the rights and interests of any interested Indian Tribe or impair access to a reservation.

Section 2(a)(3). Right of First Refusal. Where a federal agency determines, after consultation with interested tribes, that disposal of a tract of federal land will not impact tribal rights, the agency is required to notify, in accordance with applicable law, an interested tribe of availability of the tract for sale, and must provide the tribe with a right of first refusal to bid on the land. Land grants are offered the second right of refusal if no tribes are interested. If multiple tribes are interested in a parcel, the Secretary is authorized to attempt to reach an agreeable sale; if no agreement is reached, the parcel will not be sold.

Section 2(b). FLPMA Amendments. This subsection amends FLPMA, by adding the term “Indian Tribe” where “state and local government” is included. This provision will require agencies to notify tribes with connections to federal land at least 60 days prior to putting such lands up for auction or sale. Current law only requires notice to state and local governments.

Section 2(c). FLTFPA Amendments. This subsection amends and updates the Federal Land Transaction Facilitation Act, which seeks to consolidate public lands, by adding the term “Indian Tribe” where “state and local government” is included. The provision adds the phrase “sacred sites and land that affect the exercise of treaty or other reserved rights” to the definition of the term “exceptional resource” on federal land, which will provide added protection federal lands of importance to Indian Tribes.

This paragraph also requires agencies to provide notice to “interested Indian Tribes” when owners of federal inholdings wish to sell the land. Current law only requires notice to state and local governments.

Finally, the provision requires agencies to consider “the extent to which the acquisition of the land ... will uphold the United States treaty and trust obligations to Indian Tribes and the preservation of Native American culture and religion” when considering consolidating inholdings on federal land.

Section 2(d). Recreation and Public Purposes Act Amendments.

The Recreation and Public Purposes Act of 1926 (RPPA) authorizes agencies to dispose of public lands to other Federal agencies and State and local governments for public purposes, and non-profit entities for recreational or public purposes. The current law completely ignores the rights and interests of Indian Tribes in federal lands that are transferred under this provision.

This subsection would update the RPPA to: (1) prevent the transfer of federal lands of cultural and legal importance to Indian Tribes; (2) make tribal governments eligible to receive federal lands designated for transfer or disposal by federal agencies. The provision also inserts definitions into the nearly 100-year-old law to acknowledge and protect tribal cultural sites and sacred places on federal lands.

Section 2(e). Small Tracts Act Amendments.

The purpose of the Small Tracts Act of 1983 is to help the Forest Service resolve land and boundary disputes for parcels under 10 acres with land values under \$150,000. Eligible lands for transfer under the Act include National Forest System lands encumbered by roads, rights of way, and permanent structures with a goal to consolidating the management of these lands. Current law only permits small tract transfers to states or political subdivisions of states.

Subsection (e) amends the Small Tracts Act to include Indian Tribes in the list of entities eligible to acquire national forest tracts under the Act.

Subsection (f). Education Land Grant Act Amendments. This subsection ensures that schools operated or controlled by the Bureau of Indian Education are covered by the Act, which currently applies to “a public school district.”

Subsection (g). Miscellaneous Provisions. This subsection repeals two antiquated laws that allow states to acquire land within reservations for public education purposes, and authorize litigation over such lands to proceed without the involvement of the affected Indian Tribe. Subsection (g) also amends the Townsites Act to include Indian Tribes in the list of entities, which currently includes county, city, and other local governments, eligible to acquire national forest tracts under the Act and includes more standard language requiring a demonstration of public interest prior to the disposal of national forest land under the Act.

Section 3. Increased Consultation

Section 3 updates FLPMA and the Forest and Rangeland Renewable Resources Planning Act of 1974. Subsections (a)-(c) modify FLPMA to: (1) require the Secretary to consult with Indian Tribes—in addition to the currently required State and local governments—when conducting inventories or planning on public lands; (2) require that land management plans on public land be consistent with Tribal plans to the maximum extent practicable (in addition to the current requirement to be consistent with State and local plans), and; (3) require that advisory councils established under FLPMA include at least one member of an interested Indian Tribe.

Subsections (d)-(g) modify the Multiple Use Sustained Yield Act and Forest and Rangeland Renewable Resources Planning Act to authorize the Secretary of Agriculture to cooperate with Indian Tribes, coordinate with Tribal planning processes, utilize Tribal data, and notify Indian Tribes of planning processes in the same manner the Secretary coordinates with and notifies State and local governments.

Subsection (h) modifies the Multiple Use Sustained Yield Act to require that advisory boards established under the Act require at least one member of an interested Indian Tribe.