

## Calendar No. 286

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SENATE

REPORT  
111-136

### SOUTHERN NEVADA HIGHER EDUCATION LAND ACT

MARCH 2, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 940]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 940) to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Southern Nevada Higher Education Land Act of 2009”.

#### SEC. 2. DEFINITIONS.

In this Act:

- (1) BOARD OF REGENTS.—The term “Board of Regents” means the Board of Regents of the Nevada System of Higher Education.
- (2) CAMPUSES.—The term “Campuses” means the Great Basin College, College of Southern Nevada, and University of Las Vegas, Nevada, campuses.
- (3) FEDERAL LAND.—The term “Federal land” means each of the 3 parcels of Bureau of Land Management land identified on the maps as “Parcel to be Conveyed”, of which—
  - (A) approximately 40 acres is to be conveyed for the College of Southern Nevada;
  - (B) approximately 2,085 acres is to be conveyed for the University of Nevada, Las Vegas; and
  - (C) approximately 285 acres is to be conveyed for the Great Basin College.
- (4) MAP.—The term “Map” means each of the 3 maps entitled “Southern Nevada Higher Education Land Act”, dated July 11, 2008, and on file and available for public inspection in the appropriate offices of the Bureau of Land Management.
- (5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (6) STATE.—The term “State” means the State of Nevada.

(7) SYSTEM.—The term “System” means the Nevada System of Higher Education.

**SEC. 3. CONVEYANCES OF FEDERAL LAND TO THE SYSTEM.**

(a) CONVEYANCES.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and section 1(c) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869(c)), and subject to all valid existing rights, the Secretary shall—

(A) not later than 180 days after the date of enactment of this Act, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the Great Basin College and the College of Southern Nevada; and

(B) on the receipt of certification of acceptable remediation of environmental conditions existing on the parcel to be conveyed for the University of Nevada, Las Vegas, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the University of Nevada, Las Vegas.

(2) PHASES.—The Secretary may phase the conveyance of the Federal land under paragraph (1)(B) as remediation is completed.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a)(1), the Board of Regents shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities that may arise from uses carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a)(1), to erect at each of the Campuses an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of the citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the System and the citizens of the State on—

(i) public land (including the management of public land) in the Nation; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land in the State.

(2) NELLIS AIR FORCE BASE.—

(A) IN GENERAL.—The Federal land conveyed to the System under this Act shall be used in accordance with the agreement entitled the “Cooperative Interlocal Agreement between the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas, and the 99th Air Base Wing, Nellis Air Force Base, Nevada” and dated June 19, 2009.

(B) MODIFICATIONS.—Any modifications to the interlocal agreement described in subparagraph (A) and any related master plan shall require the mutual assent of the parties to the agreement.

(C) LIMITATION.—In no case shall the use of the Federal land conveyed under subsection (a)(1)(B) compromise the national security mission or aviation rights of Nellis Air Force Base.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The System may use the Federal land conveyed under subsection (a)(1) for—

(A) any educational or public purpose relating to the establishment, operation, growth, and maintenance of the System, including—

(i) educational facilities;

(ii) housing for students, employees of the System, and educators;

(iii) student life and recreational facilities, public parks, and open space;

(iv) university and college medical and health facilities; and

(v) research facilities; and

(B) any other public purpose that would generally be associated with an institution of higher education, consistent with the Act of June 14, 1926

(commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(2) OTHER ENTITIES.—The System may—

(A) consistent with Federal and State law, lease, or otherwise provide property or space at, the Campuses, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the System or to any community located in southern Nevada;

(B) allow any other communities in southern Nevada to use facilities of the Campuses for educational and recreational programs of the community; and

(C) in conjunction with the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County plan, finance (including through the provision of cost-share assistance), construct, and operate facilities for the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County on the Federal land conveyed for educational or recreational purposes consistent with this section.

(d) REVERSION.—If the Federal land or any portion of the Federal land conveyed under subsection (a)(1) ceases to be used for the System in accordance with the Act, the Federal land, or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**PURPOSE**

The purpose of S. 940 is to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada.

**BACKGROUND AND NEED**

In 1968, the Nevada System of Higher Education (System) was formed. It encompasses eight institutions: two research universities, one state college, one research institution, and four community colleges. The System serves approximately 98,000 degree-seeking students.

Over the past decade, Southern Nevada has been one of the fastest growing regions in the country and the System is expected to grow by 21 percent over the next ten years. The System needs additional land to accommodate future growth, particularly for the University of Nevada, Las Vegas, the College of Southern Nevada, and the Pahrump campus of Great Basin College.

S. 940 would convey, without consideration, land administered to meet the future needs of the System. Approximately 2,085 acres of land would be conveyed to the University of Nevada, Las Vegas; approximately 40 acres to the College of Southern Nevada, Las Vegas; and approximately 285 acres to the Great Basin College in Pahrump.

**LEGISLATIVE HISTORY**

S. 940 was introduced by Senators Reid and Ensign on April 30, 2009. The Subcommittee on Public Lands and Forests held a hearing on the bill on October 8, 2009. At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered S. 940 favorably reported with an amendment in the nature of a substitute.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass S. 940, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 940, the Committee adopted an amendment in the nature of a substitute. In addition to making several technical, clarifying, and conforming edits, the amendment deletes the finding and purposes section; modifies provisions relating to land conveyances near Nellis Air Force Base to clarify that any conveyances should be in accordance with a 2009 cooperative agreement entered into between the Air Force and the Nevada Board of Regents; and further clarifies the educational and public purposes for which conveyances can be made. The amendment is explained in detail in the section-by-section analysis.

## SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title for the bill, the "Southern Nevada Higher Education Land Act of 2009".

*Section 2* defines key terms used in the legislation.

*Section 3(a)* directs the Secretary of the Interior to convey, subject to valid existing rights, three parcels of land administered by the Bureau of Land Management to the University of Nevada, Las Vegas; the College of Southern Nevada; and the Great Basin College in Pahrump. The conveyances to the Great Basin College and the College of Southern Nevada are to take place not later than 180 days after the date of enactment of the Act and the conveyance to the University of Nevada, Las Vegas, shall happen upon receipt of certification of acceptable remediation of environmental conditions.

Subsection (b) provides that as a condition of the land conveyances, the Nevada Board of Regents shall pay all administrative costs associated with the conveyances, use the Federal land conveyed only for educational and recreational purposes, release and indemnify the United States from any claims or liabilities that may arise from uses of the conveyed lands, and assist the BLM in providing information about public lands to State residents.

Paragraph (2) requires that the conveyances be in accordance with the June 19, 2009 cooperative agreement between the Air Force and the Nevada Board of Regents.

Subsection (c) authorizes the System to use the conveyed land for any educational or public purpose relating to the establishment, operation, growth, and maintenance of the Nevada System of Higher Education, or any other public purpose that would generally be associated with an institution of higher education, consistent with the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.).

Subsection (d) states that if the land conveyed ceases to be used for the System in accordance with the Act, the land shall, at the discretion of the Secretary, revert to the United States.

*Section 4* authorizes the appropriation of such sums as are necessary to carry out the Act.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

*S. 940—Southern Nevada Higher Education Land Act of 2009*

S. 940 would direct the Bureau of Land Management (BLM) to convey, without consideration, about 2,400 acres of land in Nevada to the Nevada System of Higher Education. Based on information provided by BLM, CBO estimates that implementing S. 940 would have no significant effect on discretionary spending. Enacting the bill would have no net effect on direct spending and would not affect revenues.

Under S. 940, BLM would convey three parcels of land in Southern Nevada to nearby colleges or universities for educational purposes. The Nevada System of Higher Education would be responsible for administrative costs associated with the conveyance, including environmental, cultural, or historical studies.

Because the properties to be conveyed under S. 940 have already been identified by BLM for potential sale at fair market value, CBO estimates that enacting the bill would reduce offsetting receipts (a credit against direct spending) by around \$170 million over the next five years. However, because the loss of those receipts would be offset by a corresponding reduction in direct spending, the legislation would have no net effect on direct spending. We further estimate that any discretionary costs of the conveyances would be negligible.

S. 940 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. The land conveyance authorized in the bill would benefit the Nevada System of Higher Education. Any costs to the system would be incurred voluntarily.

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

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 940.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 940, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 940, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management at the October 8, 2009, Subcommittee hearing on S. 940 follows:

STATEMENT OF MARCILYNN A. BURKE, DEPUTY DIRECTOR,  
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE  
INTERIOR

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on S. 940, the Southern Nevada Higher Education Lands Act of 2009. S. 940 would convey, without consideration, three parcels totaling 2,410 acres to the Nevada System of Higher Education (NSHE) to meet the needs of southern Nevada's rapidly growing college and university system. The BLM supports the goals of S. 940, but would like to work with Senator Reid, the bill's sponsor, on amendments to ensure the conveyances are consistent with the Recreation and Public Purposes Act (R&PP), and to address certain parcel-specific management needs associated with the conveyances.

## BACKGROUND

The Nevada System of Higher Education serves more than 71,000 students in southern Nevada, and its enrollment is expected to grow by more than 20 percent over the next 10 years. Three institutions of higher education serve southern Nevada residents: the University of Nevada, Las Vegas; the College of Southern Nevada, located in Clark County; and Great Basin College, located in Pahrump in rural Nye County. All three of these institutions are operating near capacity. The NSHE is seeking to increase their capacities to provide for future growth and improve access to higher education opportunities in southern Nevada.

The communities of Las Vegas and Pahrump are nearly surrounded by BLM-administered lands. Under the direction of the 1998 Southern Nevada Public Land Management Act (SNPLMA), as amended, and through the BLM's land use planning process, the BLM has identified public lands within and near these communities for potential disposal from public ownership to help meet urban growth needs. The three public land parcels proposed for conveyance by S. 940 have been identified for disposal through these processes.

The R&PP Act authorizes the Secretary of the Interior to lease or convey public lands at nominal cost for recreational and public purposes, including educational facilities, municipal buildings, golf courses, campgrounds, and other facilities benefiting the public. Commercial uses may be allowable under the R&PP Act in limited circumstances, if revenues from concessions go toward site management and use.

## S. 940

S. 940 proposes to convey to the NSHE, without consideration, all right, title, and interest of the United States to

three parcels detailed on the maps prepared at the request of Senator Reid, dated July 11, 2008. The bill requires the NSHE to pay any administrative costs associated with the conveyances.

The bill requires the conveyed lands to be used for educational and recreational purposes related to the NSHE, and it allows residential and commercial development that would generally be associated with an institution of higher education. The bill also contains a reversionary clause that provides for the land to revert to the United States, at the discretion of the Secretary, if it ceases to be used for the higher education system.

As a matter of policy, the BLM supports working with State and local governments to resolve land tenure adjustments that advance worthwhile public policy objectives. In general, the BLM supports conveyances if the lands are to be used for purposes consistent with the R&PP Act and includes a reversionary clause to enforce that requirement. It is not clear, however, if the residential or commercial uses envisioned by the bill would be consistent with the R&PP Act. The BLM recommends that the legislation be clearly amended to ensure consistency with the R&PP Act.

S. 940 would convey two parcels that are located in urban settings near Las Vegas in Clark County. One parcel contains approximately 40 acres and would be utilized to meet the expansion needs of the College of Southern Nevada. This parcel is essentially a vacant, weedy field surrounded by major roads near a freeway entrance. It contains no significant natural resource values.

The second parcel contains approximately 2,085 acres and would be used for the expansion of the University of Nevada, Las Vegas. This parcel is located in a rapidly urbanizing area on the northern edge of Las Vegas. Its eastern boundary abuts Nellis Air Force Base and its northern boundary abuts the Nevada Desert Wildlife Refuge managed by the U.S. Fish and Wildlife Service.

Because of their proximity to Nellis Air Force Base, these lands may have been impacted by past military training activities and may contain hazardous materials. For this reason, S. 940 requires that the Secretary receive a certificate of acceptable remediation of environmental conditions on the parcel before initiating the conveyance, and it releases the United States from any liability arising from prior land uses. The bill also requires, under Sec. 4(2), that the NSHE enter into a binding agreement with Nellis Air Force Base to address any site development issues and to preserve the Base's long-term capability. Because this parcel also borders the Nevada Desert Wildlife Refuge, we would like to work with the sponsor to ensure that site development along the shared boundary would be sensitive to and compatible with refuge values.

S. 940 would also convey a parcel of approximately 285 acres, located just outside of Pahrump in Nye County, Nevada, which would be utilized for the expansion of Great Basin College. This parcel borders an existing BLM fire

station and helipad, and certain types of adjacent development could affect the safe operation of this facility. This parcel also contains Carpenter Canyon Road, which is heavily utilized for recreation activities and provides access to the west side of the Spring Mountain National Recreation Area, which is managed by the U.S. Forest Service. The BLM would like to work with the sponsor to ensure that the bill provides for the continuation of these existing land uses and access to National Forest System land. We also note that this parcel contains desert tortoise habitat. If conveyed, the NSHE would need to prepare a Habitat Conservation Plan, obtain an incidental take permit, and meet other requirements of the U.S. Fish and Wildlife Service before site development could proceed.

Finally, under S. 940, the NSHE will assist the BLM in sharing information with students and Nevada citizens about public land resources and the BLM's role in managing public lands. The BLM looks forward to working with the NSHE on this constructive, collaborative effort.

#### CONCLUSION

Thank you for the opportunity to testify. The BLM looks forward to working with the bill's sponsor and the Committee to address the needs of the Nevada System of Higher Education.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 940 as ordered reported.