



## **S. 140 — To amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to clarify the use of amounts in the WMAT Settlement Fund (Sen. Flake, R-AZ)**

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### **FLOOR SCHEDULE:**

Expected to be considered January 10, 2017, under a closed [rule](#).

### **TOPLINE SUMMARY:**

The [Rules Committee Print for S. 140](#) would combine three bills dealing with tribal issues into one bill. The bill would clarify that White Mountain Apache Tribe (WMAT) Settlement funds may be used for cost-overruns of Arizona's [White Mountain Apache Rural Water System](#), would allow the Santa Clara and Ohkay Owingeh Pueblos to issue 99-year leases of their restricted fee lands to non-federal governmental agencies, and would exclude tribes from the definition of employer under the National Labor Relations Act.

### **COST:**

According to the Congressional Budget Office (CBO), each of the bills that comprise the Rules Committee Print for S. 140 "would not affect the federal budget".

The CBO score for S. 140 as reported by the House Committee on Natural Resources can be found [here](#). According to CBO, while under current law almost \$79 million has been authorized for the WMAT Settlement Fund, no funds have been appropriated.

The CBO score for S. 249 as reported by the House Committee on Natural Resources can be found [here](#).

The CBO score for H.R. 986 the House Committee on Education and the Workforce can be found [here](#).

### **CONSERVATIVE CONCERNS:**

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### **DETAILED SUMMARY AND ANALYSIS:**

S. 140 is an aggregate of three bills: S. 140, S. 249, and H.R. 986.

### **Section 1— S. 140 (Sen. Flake, R-AZ)**

S. 140 would amend Section 312 of [Public Law 111-291](#) to clarify that the White Mountain Apache Tribe (WMAT) Settlement Fund may be used in the planning, design and construction of the WMAT rural water system.

The WMAT Settlement Fund may be used for water-related development projects, including the [White Mountain Apache Rural Water System](#) in Arizona. According to the committee [report](#), the Department of the Interior has specified it is uncertain whether or not the fund may be used for cost overruns for the project. This section would clarify the fund may be used for this purpose.

The House Report (HR-115-441) accompanying S. 140 can be found [here](#).

### **Section 2 – S. 249 (Sen. Udall, D-NM)**

The bill would amend the Long-Term Leasing Act ([25 U.S.C. 415\(a\)](#)) to allow the Santa Clara and Ohkay Owingeh Pueblos to lease their restricted fee lands to non-federal government agencies for up to 99 years, with approval of the Secretary of the Interior. Under current law the tribes may only lease their trust lands for up to 99 years, subject to secretarial approval, and their tribal lands may only be leased up to 25 years. In addition, according to the committee report.

The Senate Report (S. Rept. 115-8) accompanying S. 249 can be found [here](#).

### **Section 3—H.R. 986 (Rep. Rokita, R-IN)**

The bill would amend the definition of employer under section 2 of the National Labor Relations Act ([29 U.S.C. 152](#)) to specifically exclude Indian tribes. As a result, tribes would be treated similarly to state and local governments with regards to the National Labor Relations Board.

The House Report (HR-115-324) accompanying H.R. 986 can be found [here](#).

### **COMMITTEE ACTION:**

S. 140 (introduced on January 12, 2017) and S. 249 (introduced February 1, 2017) passed the senate by unanimous consent on May 8, 2017. Both bills were referred to and reported by the House Committee on Natural Resources by unanimous consent (S. 140 on November 8, 2017, and S. 249 on June 27, 2017).

H.R. 986 was introduced on February 9, 2017. The bill was referred to the House Committee on Education and the Workforce, where it was marked up and reported by a vote of 22-16 on June 29, 2017.

### **ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

### **CONSTITUTIONAL AUTHORITY:**

Constitutional authority statements are not required for bills that originate in the Senate.

However, a constitutional authority statement is available for H.R. 986, which is section 3 of the underlying bill. According to the bill's sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

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