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SENATE

{ REPORT
{ 108-8

FORT BAYARD NATIONAL HISTORIC LANDMARK ACT

FEBRUARY 11, 2003.—Ordered to be printed

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

R E P O R T

[To accompany S. 214]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 214) to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fort Bayard National Historic Landmark Act”.

SEC. 2. FORT BAYARD NATIONAL HISTORIC LANDMARK.

(a) DESIGNATION.—The Fort Bayard Historic District in Grant County, New Mexico, as listed on the National Register of Historic Places, is hereby designated as the Fort Bayard National Historic Landmark.

(b) ADMINISTRATION.—

(1) Designation of the Fort Bayard Historic District as a National Historic Landmark shall not prohibit any actions which may otherwise be taken by the property owner with respect to the property.

(2) Nothing in this Act shall affect the administration of the Fort Bayard Historic District by the State of New Mexico.

SEC. 3. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary, in consultation with the State of New Mexico, may enter into cooperative agreements with appropriate public or private entities, for the purposes of protecting historic resources at Fort Bayard and providing educational and interpretive facilities and programs for the public. The Secretary shall not enter into any agreement or provide assistance to any activity affecting Fort Bayard State Hospital without the concurrence of the State of New Mexico.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide technical and financial assistance with any entity with which the Secretary has entered into a cooperative agreement under subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

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

PURPOSE

The purpose of S. 214 is to designate the Fort Bayard Historic District in New Mexico as a National Historic Landmark.

BACKGROUND AND NEED

Fort Bayard was established in 1866 in southeastern New Mexico to protect Silver city and other nearby mining communities during ongoing fights with Apache Indians living in the area. Fort Bayard functioned as an Army post until 1899. Its soldiers, many of them African-American, or Buffalo Soldiers, protected area settlers. These Buffalo Soldiers were a mainstay of the Army during the late Apache wars and fought heroically in numerous skirmishes. Like many soldiers who served at Fort Bayard, some of the Buffalo Soldiers remained in the area following their discharge. Lines of headstones noting the names of men and their various Buffalo Soldier units remain in the older section of what is now Fort Bayard National Cemetery. In 1992, these soldiers were recognized for their bravery when a Buffalo Soldier Memorial statue was dedicated at the center of the Fort Bayard parade ground.

By the end of the 19th century, it was clear that the era of the western frontier, at least from the Army's perspective, had ended. Following the departure of the 9th U.S. Cavalry, the War Department authorized the surgeon-general to establish a general hospital for use as a military sanatorium, the first dedicated to the treatment of officers and enlisted men of the Army suffering from pulmonary tuberculosis. At 6,100 feet above sea level, and with a dry, sunny climate, the fort lay within what proponents of climatological therapy termed the "zone of immunity."

In 1920, the War Department closed the sanatorium and the United States Public Health Service assumed control of the facility. The facility was later transferred to the Veterans' Bureau. In 1965, the Fort Bayard facility, comprising over 480 acres, was transferred to the State of New Mexico, which continues to operate the facility for various medical treatment programs.

The Fort Bayard Historic District was listed on the National Register for Historic Places in July 2002, reflecting the historic significance of both the original Army post, and the subsequent medical facility.

LEGISLATIVE HISTORY

S. 214 was introduced by Senators Bingaman and Domenici on January 23, 2003. During the 107th Congress the Committee considered similar legislation sponsored by Senator Bingaman, S. 2880. The Subcommittee on National Parks held a hearing on the bill on September 19, 2002. The Committee ordered S. 214 favorably reported on October 4, 2002. The text of the bill was adopted by the Senate as part of an amendment to H.R. 980, which passed the Senate by unanimous consent on November 19, 2002.

At its business meeting on February 5, 2003, the Committee ordered S. 214 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on February 5, 2003, by a voice vote of a quorum present, recommends that the Senate pass S. 214, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 214, the Committee adopted an amendment in the nature of a substitute. The amendment deletes section 2 from the bill, which contained congressional findings. The amendment also makes minor clarifying changes to sections 2 and 3 (as redesignated). The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 entitled the bill the "Fort Bayard National Historic Landmark Act."

Section 2(a) designates the Fort Bayard Historic District in Grant County, New Mexico, as a National Historic Landmark.

Subsection (b) makes clear that designation of the site as a National Historic Landmark shall not prohibit any actions which may otherwise be taken by the property owner with respect to the property. This provision is consistent with the Department of the Interior's regulations applicable to National Historic Landmarks (36 CFR part 65).

Section 3(a) authorizes the Secretary of the Interior, in consultation with the State of New Mexico, to enter into cooperative agreements with appropriate public or private entities for the purposes of protecting historic resources at Fort Bayard and providing educational and interpretive facilities and programs for the public.

Subsection (b) authorizes the Secretary to provide technical and financial assistance with any entity with the Secretary has entered into a cooperative agreement.

Section 4 authorizes the appropriation of such sums as may be 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.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 7, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 214, the Fort Bayard National Historic Landmark Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

S. 214—Fort Bayard National Historic Landmark Act

S. 214 would designate the Fort Bayard Historic District in New Mexico as the Fort Bayard National Historic Landmark. The bill would authorize the Secretary of the Interior to execute cooperative agreements with nonfederal entities and to provide technical and financial assistance to such entities for historic preservation and interpretive activities. For those purposes, the bill would authorize the appropriation of whatever amounts are necessary.

The cost of providing technical and financial assistance under S. 214 is uncertain because the National Park Service (NPS) has not conducted any evaluation of the landmark's resources. Based on preliminary information available from the NPS at this time and assuming the availability of appropriated funds, CBO estimates that such assistance would cost about \$100,000 over the next three to four years.

S. 214 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 CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Paul R. Cullinan, Chief for Human Resources Cost Estimates Unit of the Budget Analysis Division.

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. 214. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant 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. 214.

EXECUTIVE COMMUNICATIONS

On February 6, 2003, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 214. These reports had not been received at the time the report on S. 214 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

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. 214, as ordered reported.