

SANDIA PUEBLO SETTLEMENT TECHNICAL AMENDMENT
ACT

APRIL 1, 2014.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 3605]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3605) to make a technical amendment to the T'uf Shur Bien Preservation Trust Area Act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3605 is to make a technical amendment to the T'uf Shur Bien Preservation Trust Area Act.

BACKGROUND AND NEED FOR LEGISLATION

In February 2003, the T'uf Shur Bien Preservation Trust Area Act (Public Law 108-7) was established to protect areas on Sandia Mountain, located east of Albuquerque, New Mexico, while retaining the areas as part of the Cibola National Forest, that are considered sacred for the Pueblo of Sandia. The Act included land exchanges to the Pueblo and resolved the Pueblo of Sandia's claim of ownership of the mountain.

One of the provisions in the 2003 Act was to transfer National Forest land to the Pueblo. The U.S. Forest Service and the tribe reached an agreement on the lands (of equal value) to be transferred (approximately 710 acres); however, there is disagreement over how those lands are to be valued. The 2003 Act mandates that lands to be transferred "shall remain in its natural state and shall not be subject to commercial development of any kind." The Forest

Service has argued that the land to be transferred to the Pueblo should be appraised without title restrictions, since land use limitations would take place post-conveyance.

In 2009, Congress attempted to fix the valuation issue by passing an amendment to the 2003 Act (Public Law 111–11). Unfortunately, the Department of Agriculture did not believe the technical amendment addressed the valuation issue. The Department of Agriculture held a position that the land to be transferred had to be appraised on its highest and best use (even though the 2003 Act prohibited any commercial development on the lands transferred).

H.R. 3605 would authorize the land transfer via an interagency exchange between the Department of Agriculture and the Department of the Interior. The U.S. Forest Service land identified for exchange would be transferred to the Department of the Interior, to be held in trust for the Pueblo, and the Department of the Interior would transfer to the Forest Service a property called the La Luz tract and the Piedra Lisa tract. The bill's language had input from all the major stakeholders: the Pueblo, Forest Service, and the Interior Department. H.R. 3605 is similar to a bill (S. 611, Sandia Pueblo Settlement Technical Amendment Act) passed by the Senate on March 12, 2014.

COMMITTEE ACTION

H.R. 3605 was introduced on November 21, 2013, by Congresswoman Michelle Lujan Grisham (D–NM). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittees on Indian and Alaska Native Affairs and Public Lands and Environmental Regulation. On February 5, 2014, the Subcommittee on Indian and Alaska Native Affairs held a hearing on the bill. On February 27, 2014, the Natural Resources Committee met to consider the bill. The Subcommittees on Indian and Alaska Native Affairs and Public Lands and Environmental Regulation were discharged by unanimous consent. The bill was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3605—Sandia Pueblo Settlement Technical Amendment Act

H.R. 3605 would require the Secretary of Agriculture to transfer certain lands in the Sandia Mountain Wilderness and Cibola National Forest in New Mexico to the Department of the Interior to be held in trust for the Pueblo of Sandia. In exchange for the specified National Forest lands, the legislation would require the Secretary of the Interior to transfer certain lands and easements held in trust for the Pueblo of Sandia to the Forest Service.

CBO estimates that implementing H.R. 3605 would have no significant impact on the federal budget. Based on information provided by the Forest Service, CBO estimates that the cost of administering the land transfers would be minimal. Enacting H.R. 3605 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3605 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit the Pueblo of Sandia.

On December 2, 2013, CBO transmitted a cost estimate for S. 611, the Sandia Pueblo Settlement Technical Amendment Act, as ordered reported by the Senate Committee on Indian Affairs on October 20, 2013. The two pieces of legislation are similar, and the CBO cost estimates are the same.

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

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that the cost of administering the land transfers would be minimal. Enacting H.R. 3605 would not affect direct spending or revenues.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to make a technical amendment to the Tuf Shur Bien Preservation Trust Area Act.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

T’UF SHUR BIEN PRESERVATION TRUST AREA ACT

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**DIVISION F—INTERIOR AND RELATED
AGENCIES APPROPRIATIONS, 2003**

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**TITLE IV—T’UF SHUR BIEN
PRESERVATION TRUST AREA**

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SEC. 413. PROVISIONS RELATING TO CONTRIBUTIONS AND LAND EXCHANGE.

(a) CONTRIBUTIONS.—

(1) **IN GENERAL.**—The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with this title.

(2) **DEADLINE.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) **LAND EXCHANGE.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo’s Reservation within sections 3, 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills sub-

division in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) ACCEPTANCE OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act (43 U.S.C. 1716(b)), the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) FUNDS RECEIVED.—Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under the Act of December 4, 1967, known as the Sisk Act (16 U.S.C. 484a), and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) TREATMENT OF LAND EXCHANGED OR CONVEYED.—All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall, as a condition of the [conveyance] *title to be conveyed*, remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under this title.

(5) FAILURE TO MAKE OFFER.—If the land exchange offer is not made by the date that is 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(6) FAILURE TO EXCHANGE.—

(A) *IN GENERAL.*—*If the land exchange authorized under paragraph (1) is not completed by the date that is 30 days after the date of enactment of this paragraph, the Secretary, on request of the Pueblo and the Secretary of the Interior, shall transfer the National Forest land generally depicted as “Land to be Held in Trust” on the map entitled “Sandia Pueblo Settlement Technical Amendment Act” and dated October 18, 2013, to the Secretary of the Interior to be held in trust by the United States for the Pueblo—*

(i) subject to the restriction enforced by the Secretary of the Interior that the land remain undeveloped, with the natural characteristics of the land to be preserved in perpetuity; and

(ii) consistent with subsection (c).

(B) *OTHER TRANSFERS.*—*After the transfer under subparagraph (A) is complete, the Secretary of the Interior, with the consent of the Pueblo, shall—*

(i) transfer to the Secretary, consistent with section 411(c)—

(I) the La Luz tract generally depicted on the map entitled "Sandia Pueblo Settlement Technical Amendment Act" and dated October 18, 2013; and

(II) the conservation easement for the Piedra Lisa tract generally depicted on the map entitled "Sandia Pueblo Settlement Technical Amendment Act" and dated October 18, 2013; and

(ii) grant to the Secretary a right-of-way for the Piedra Lisa Trail within the Piedra Lisa tract generally depicted on the map entitled "Sandia Pueblo Settlement Technical Amendment Act" and dated October 18, 2013.

(c) LAND ACQUISITION AND OTHER COMPENSATION.—

(1) IN GENERAL.—The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) PIEDRA LISA TRACT.—Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section 409(h)(3)(C); and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 409(b)(2).

(d) REIMBURSEMENT OF CERTAIN COSTS.—

(1) IN GENERAL.—The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94-2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) TREATMENT OF REIMBURSEMENT.—Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24 U.S.C. 2412).

(3) PAYMENTS.—Subject to the availability of appropriated funds the Secretary of the Treasury shall make reimbursement payments as provided in this section.

(4) APPLICATIONS.—Not later than 180 days after the date of enactment of this Act, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) MAXIMUM REIMBURSEMENT.—No party shall be reimbursed in excess of \$750,000 under this section, and the total

amount reimbursed in accordance with this section shall not exceed \$3,000,000.

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