

HILL CREEK CULTURAL PRESERVATION AND ENERGY  
DEVELOPMENT ACT

MAY 14, 2013.—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. 356]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 356) to clarify authority granted under the Act entitled “An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, 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. 356 is to clarify authority granted under the Act entitled “An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes.”

BACKGROUND AND NEED FOR LEGISLATION

H.R. 356, the Hill Creek Cultural Preservation and Energy Development Act, authorizes an acre-for-acre land exchange to resolve a complex split-estate problem within an area known as the Hill Creek Extension of the Uintah and Ouray Indian Reservation of the Ute Tribe of Utah. Specifically, H.R. 356 authorizes the State of Utah to exchange subsurface rights it owns beneath culturally and environmentally sensitive tribal lands in the southern portion of the Hill Creek Extension. In return for relinquishing this property, the State acquires an equal number of acres of federal subsurface administered by the Bureau of Land Management (BLM) in the northern part of the Hill Creek Extension. These lands are

within an actively developed area where the Tribe does not object to oil and gas leasing. The State subsurface lands concerned in H.R. 356 are administered by the School and Institutional Trust Lands Administration (SITLA), which supports K–12 education in Utah.

To hold the U.S. Treasury and SITLA financially harmless, H.R. 356 reserves to the federal government an overriding mineral interest in all lands conveyed to the State equal to the percentage of revenue that the United States would have retained under the Mineral Leasing Act had the lands remained in federal ownership. In a similar fashion, the bill reserves to the State an equal overriding interest in the lands conveyed to the federal government.

A detailed historical background concerning the Uintah and Ouray Indian Reservation and SITLA, as well as an analysis of the justification for H.R. 356, may be found in House Report 112–509, the Committee Report accompanying H.R. 4027. H.R. 356 is nearly identical to H.R. 4027, which passed the House in the 112th Congress but did not move in the Senate. H.R. 356 does omit a provision that was included in H.R. 4027 to terminate the overriding mineral interests of the United States and the State of Utah after 30 years. This change was made to address concerns expressed by the Administration in a hearing held by the Subcommittee on Indian and Alaska Native Affairs on March 20, 2012. The State of Utah and the Ute Tribe strongly support enactment of this legislation.

#### COMMITTEE ACTION

H.R. 356 was introduced on January 23, 2013, by Congressman Rob Bishop (R–UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittees on Indian and Alaska Native Affairs and Energy and Mineral Resources. On April 24, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittees on Indian and Alaska Native Affairs and Energy and Mineral Resources were discharged by unanimous consent. No amendments were offered, and 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 Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 356—Hill Creek Cultural Preservation and Energy Development Act*

H.R. 356 would authorize a conveyance of mineral rights within the Uintah and Ouray Indian Reservation in Utah among the state of Utah’s School and Institutional Trust Land Administration (SITLA), the federal government, and the Ute Indian Tribe. SITLA currently owns the *subsurface* mineral rights to approximately 18,000 acres in the Hill Creek Extension of the reservation; however, the *surface* rights to that land are held in trust for the Ute Indian Tribe by the federal government. The legislation would authorize SITLA to relinquish to the Ute Indian Tribe its subsurface mineral rights in exchange for the subsurface rights to about 18,000 acres of other land within the Hill Creek Extension owned by the federal government.

CBO estimates that the legislation would have no significant impact on the federal budget over the 2014–2023 period. Enacting H.R. 356 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 356 would authorize a transfer of federally owned subsurface mineral rights for an equivalent number of acres of state land. However, the acres transferred may not have the same value because mineral deposits are not evenly spread across all areas. To compensate for such a potential imbalance, H.R. 356 would preserve a royalty interest in the value of any subsurface minerals that are developed on the transferred properties for the state and the federal governments.

H.R. 356 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enacting the bill would benefit the tribe and state.

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 implementing this legislation would have no significant impact on the federal budget.

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 clarify authority granted under the Act entitled “An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes.”

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**ACT OF MARCH 11, 1948**

AN ACT To define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes.

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*SEC. 5. In order to further clarify authorizations under this Act, the State of Utah is hereby authorized to relinquish to the United States, for the benefit of the Ute Indian Tribe of the Uintah and Ouray Reservation, State school trust or other State-owned subsurface mineral lands located beneath the surface estate delineated in Public Law 440 (approved March 11, 1948) and south of the border between Grand County, Utah, and Uintah County, Utah, and select in lieu of such relinquished lands, on an acre-for-acre basis, any subsurface mineral lands of the United States located beneath the surface estate delineated in Public Law 440 (approved March 11, 1948) and north of the border between Grand County, Utah, and Uintah County, Utah, subject to the following conditions:*

*(1) RESERVATION BY UNITED STATES.—The Secretary of the Interior shall reserve an overriding interest in that portion of the mineral estate comprised of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 171 et seq.) in any mineral lands conveyed to the State.*

*(2) EXTENT OF OVERRIDING INTEREST.—The overriding interest reserved by the United States under paragraph (1) shall consist of—*

(A) 50 percent of any bonus bid or other payment received by the State as consideration for securing any lease or authorization to develop such mineral resources;

(B) 50 percent of any rental or other payments received by the State as consideration for the lease or authorization to develop such mineral resources;

(C) a 6.25 percent overriding royalty on the gross proceeds of oil and gas production under any lease or authorization to develop such oil and gas resources; and

(D) an overriding royalty on the gross proceeds of production of such minerals other than oil and gas, equal to 50 percent of the royalty rate established by the Secretary of the Interior by regulation as of October 1, 2011.

(3) **RESERVATION BY STATE OF UTAH.**—The State of Utah shall reserve, for the benefit of its State school trust, an overriding interest in that portion of the mineral estate comprised of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 181 et seq.) in any mineral lands relinquished by the State to the United States.

(4) **EXTENT OF OVERRIDING INTEREST.**—The overriding interest reserved by the State under paragraph (3) shall consist of—

(A) 50 percent of any bonus bid or other payment received by the United States as consideration for securing any lease or authorization to develop such mineral resources on the relinquished lands;

(B) 50 percent of any rental or other payments received by the United States as consideration for the lease or authorization to develop such mineral resources;

(C) a 6.25 percent overriding royalty on the gross proceeds of oil and gas production under any lease or authorization to develop such oil and gas resources; and

(D) an overriding royalty on the gross proceeds of production of such minerals other than oil and gas, equal to 50 percent of the royalty rate established by the Secretary of the Interior by regulation as of October 1, 2011.

(5) **NO OBLIGATION TO LEASE.**—Neither the United States nor the State shall be obligated to lease or otherwise develop oil and gas resources in which the other party retains an overriding interest under this section.

(6) **COOPERATIVE AGREEMENTS.**—The Secretary of the Interior is authorized to enter into cooperative agreements with the State and the Ute Indian Tribe of the Uintah and Ouray Reservation to facilitate the relinquishment and selection of lands to be conveyed under this section, and the administration of the overriding interests reserved hereunder.