

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACQUIRE CERTAIN
PROPERTY RELATED TO THE FORT SCOTT NATIONAL HISTORIC SITE IN
FORT SCOTT, KANSAS

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2333]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2333) to authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORIZATION TO ACQUIRE LUNETTE BLAIR.

The Act entitled “An Act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes.”, approved October 19, 1978 (Public Law 95-484) is amended—

(1) in the first section, by striking “: *Provided*, that the buildings so acquired shall not include the structure known as ‘Lunette Blair’”; and

(2) in section 2—

(A) by striking “SEC. 2. When” and inserting the following:

“SEC. 2. ESTABLISHMENT.

“(a) IN GENERAL.—When”; and

(B) by adding at the end the following:

“(b) BOUNDARY MODIFICATION.—The boundary of the Fort Scott National Historic Site established under subsection (a) is modified as generally depicted on the map referred to as ‘Fort Scott National Historic Site Proposed Boundary Modification’, numbered 471/80,057, and dated February 2016.

“(c) LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire land and interests in land within the boundaries of the Fort Scott National Historic Site by donation or exchange only. The Secretary may not acquire by condemnation

any land or interests in land within the boundaries of the Fort Scott National Historic Site. No private property or non-Federal property shall be included within the boundaries of the Fort Scott National Historic Site without the written consent of the owner of such property.

“(d) NO BUFFER ZONE CREATED.—Nothing in this Act, the establishment of the Fort Scott National Historic Site, or the management plan for the Fort Scott National Historic Site, shall be construed to create a buffer zone outside of the Fort Scott National Historic Site. That activities or uses can be seen, heard or detected from areas within the Fort Scott National Historic Site shall not preclude, limit, control, regulate, or determine the conduct or management of activities or uses outside of the Fort Scott National Historic Site.”.

PURPOSE OF THE BILL

The purpose of H.R. 2333 is to authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas.

BACKGROUND AND NEED FOR LEGISLATION

Established in 1842, Fort Scott initially served as part of a line of forts created to establish a “Permanent Indian Frontier.” After an influx of white settlements forced several tribes to relocate west of the Mississippi, the government guaranteed certain lands to tribes as off-limits to white settlement. The Army created a line of forts stretching from Minnesota to Louisiana to maintain peace between the newly relocated tribes and the white settlers in Missouri and Arkansas as well as prevent conflicts between the tribes themselves. In the 1850s, a variety of factors including the Gold Rush resulted in the continued Western expansion, and a desire to establish a transcontinental railroad caused the concept of the Permanent Indian Frontier to fall apart and the Army to close the Fort.

During the Civil War, the Union Army returned to Fort Scott and erected four blockhouses, including Lunette Blair, to protect the southern portion of the town from Confederate invasion. Fort Scott served as a strategic point to protect Kansas from Confederate control as well as “a major supply depot for Union armies in the West, a general hospital for soldiers in the region and a haven for people fleeing the war—displaced Indians, escaped slaves, and white farmers.” After the Civil War, the Army auctioned off the Lunette Blair blockhouse to a private citizen who used the site as a carpentry shop for 40 years. Despite moving locations on six occasions and various transfers in ownership over the next 150 years, Lunette Blair remains the only intact Civil War blockhouse in the Fort Scott area.

H.R. 2333, as reported, modifies a prohibition on the Secretary of the Interior from incorporating new structures into the Fort Scott National Historic Site (NHS) to allow the Secretary to acquire the Lunette Blair blockhouse. Congress initially deemed the Lunette Blair blockhouse anachronistic and excluded the structure from the boundaries of the Fort Scott NHS. The National Park Service (NPS) supports adding the blockhouse to expand the interpretation of Fort Scott NHS and demonstrate its different roles throughout American history. The private citizens maintaining the blockhouse asked NPS to acquire the structure in recent years. Both the City of Fort Scott and the Historic Preservation Association, the owners of the property, support the NPS acquiring the site. The NPS believes the 16 square foot site requires very little

repair and that its maintenance can fit within the existing park budget.

Accordingly, the bill was amended during markup to authorize NPS to acquire, by donation or exchange, three additional properties directly adjacent to Fort Scott NHS. The three properties totaling 3.81 acres would either increase visitor access to Fort Scott NHS or house structures from the Civil War suitable for NPS interpretation.

Senator Jerry Moran (R-KS) introduced a companion bill, S. 2087, on September 28, 2015.

COMMITTEE ACTION

H.R. 2333 was introduced on May 14, 2015, by Congresswoman Lynn Jenkins (R-KS). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On June 23, 2016, the Subcommittee held a hearing on the bill. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Tom McClintock (R-CA) offered an amendment designated #1. The amendment was adopted by a roll call vote of 21 yeas to 14 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07.13.16

Recorded Vote: #2

FC Mark Up on 8 bills: **McClintock #1 Amendment to H.R. 2333** (Rep. Lynn Jenkins), To authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>		X	
Mr. Young, AK				Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX				Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>				<i>Mrs. Capps, CA</i>		X	
Mr. Lamborn, CO				Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>		X	
Mr. Wittman, VA	X			Mr. Graves, LA	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Clay, MO</i>			
Mr. Fleming, LA	X			Mr. Newhouse, WA	X		
<i>Mrs. Tsongas, MA</i>				Mr. Zinke, MT	X		
Mr. McClintock, CA	X			Mr. Hice, GA	X		
<i>Mr. Pierluisi, Puerto Rico</i>				Mrs. Radewagen, AS	X		
Mr. Thompson, PA	X			Mr. MacArthur, NJ	X		
<i>Mr. Huffman, CA</i>		X		Mr. Mooney, WV	X		
Mr. Lummis, WY	X			Mr. Hardy, NV	X		
<i>Mr. Ruiz, CA</i>		X		Mr. LaHood, IL	X		
Mr. Benishek, MI	X						
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC							
<i>Mr. Cartwright, PA</i>		X					
Mr. Gosar, AZ	X						
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X		TOTALS	21	14	

No other amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives on July 13, 2016, by a roll call vote of 22 yeas to 14 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 07.13.16

Recorded Vote: #3

FC Mark Up on 8 bills: **On Favorably Reporting H.R. 2333 (Rep. Lynn Jenkins), To authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>		X	
Mr. Young, AK				Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX				Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>				<i>Mrs. Capps, CA</i>		X	
Mr. Lamborn, CO				Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>		X	
Mr. Wittman, VA	X			Mr. Graves, LA	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Clay, MO</i>			
Mr. Fleming, LA	X			Mr. Newhouse, WA	X		
<i>Mrs. Tsongas, MA</i>				Mr. Zinke, MT	X		
Mr. McClintock, CA	X			Mr. Hice, GA	X		
<i>Mr. Pierluisi, Puerto Rico</i>				<i>Mrs. Radewagen, AS</i>	X		
Mr. Thompson, PA	X			Mr. MacArthur, NJ	X		
<i>Mr. Huffman, CA</i>		X		Mr. Mooney, WV	X		
Mrs. Lummis, WY	X			Mr. Hardy, NV	X		
<i>Mr. Ruiz, CA</i>		X		Mr. LaHood, IL	X		
Mr. Benishek, MI	X						
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC	X						
<i>Mr. Cartwright, PA</i>		X					
Mr. Gosar, AZ	X						
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X		TOTALS	22	14	

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 and Congressional Budget Act of 1974. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 27, 2016.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2333, a bill to authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2333—A bill to authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas

H.R. 2333 would authorize the National Park Service (NPS) to acquire the Civil War-era structure known as the “Lunette Blair” blockhouse and to incorporate the structure into the Fort Scott National Historic Site in Bourbon County, Kansas. The bill also would authorize the NPS to acquire, by exchange, approximately 4 acres of private land, including facilities, adjacent to the historic site and would modify the boundary of the site to include those properties. (Under current law, the NPS may only acquire such properties by donation. The bill would not allow for acquisition by purchase.)

Based on an analysis of information provided by the NPS, CBO expects that the agency would likely acquire the blockhouse by donation; however, CBO expects that the owners of the other properties within the revised boundaries of the park would not be willing to donate or exchange those properties with the NPS. As a result, CBO expects that, if the legislation were enacted, the NPS would only acquire the blockhouse.

Once acquired, the NPS would incur costs to repair and maintain the blockhouse. Based on information provided by the agency, CBO estimates that implementing the legislation would cost about \$200,000 over the 2017–2021 period and an additional \$40,000 an-

nually thereafter; that spending would be subject to the availability of appropriated funds.

Enacting H.R. 2333 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2333 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2333 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.

On October 26, 2016, CBO transmitted a cost estimate for S. 2087, the Fort Scott National Historic Site Boundary Modification Act, as ordered reported by the Senate Committee on Energy and Natural Resources on July 13, 2016. That bill would authorize the NPS to acquire properties for inclusion within the park by purchase using appropriated funds, whereas H.R. 2333 would not allow such purchases. As a result, CBO's estimate of spending subject to appropriation is lower for H.R. 2333 than for S. 2087.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. 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 authorize the Secretary of the Interior to acquire certain property related to the Fort Scott National Historic Site in Fort Scott, Kansas.

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, and existing law in which no change is proposed is shown in roman):

PUBLIC LAW 95-484

AN ACT An Act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes.

Be it enacted by the Senate and Bowe of Representatives of the United States of America in Congress assembled, That, in order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas[: *Provided, that the buildings so acquired shall not include the structure known as "Lunette Blair"*].

[SEC. 2. When]**SEC. 2. ESTABLISHMENT.**

(a) *IN GENERAL.*—*When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.*

(b) *BOUNDARY MODIFICATION.*—*The boundary of the Fort Scott National Historic Site established under subsection (a) is modified as generally depicted on the map referred to as "Fort Scott National Historic Site Proposed Boundary Modification", numbered 471/80,057, and dated February 2016.*

(c) *LAND ACQUISITION.*—*The Secretary of the Interior is authorized to acquire land and interests in land within the boundaries of the Fort Scott National Historic Site by donation or exchange only. The Secretary may not acquire by condemnation any land or interests in land within the boundaries of the Fort Scott National Historic Site. No private property or non-Federal property shall be included within the boundaries of the Fort Scott National Historic Site without the written consent of the owner of such property.*

(d) *NO BUFFER ZONE CREATED.*—*Nothing in this Act, the establishment of the Fort Scott National Historic Site, or the management plan for the Fort Scott National Historic Site, shall be construed to create a buffer zone outside of the Fort Scott National Historic Site. That activities or uses can be seen, heard or detected from areas within the Fort Scott National Historic Site shall not preclude, limit, control, regulate, or determine the conduct or management of activities or uses outside of the Fort Scott National Historic Site.*

* * * * *

DISSENTING VIEWS

H.R. 2333, as introduced, was bipartisan legislation to adjust the boundary of a national historic site to include a small Civil War-era block house, known as the Lunette Blair, in Fort Scott, Kansas. At the hearing, the National Park Service asked the committee to include three additional properties in the boundary expansion. Acquisition and federal management of the Lunette Blair Blockhouse and the three other properties will preserve significant Civil War era resources and enhance the interpretative mission of the site.

At mark-up, an amendment by Federal Lands Subcommittee Chairman McClintock complied with this request, but also prohibited the use of federal funds for the purchase of any of the identified properties. As a result, the bill would include these properties within the boundary of the site, but acquisition authority is now limited to donation or exchange. This is a dramatic policy change that limits the tools available to the property owners and the federal government for protecting these important historic resources.

In some cases, Democrats have reluctantly signed off on funding restrictions put forward by the majority. These were narrow instances in which boundary expansions did not require the use of federal funds. In this case, however, the use of federal funds is crucial to the expansion and perfectly appropriate. To be clear, any such funds would have to be appropriated by Congress.

Apparently, the Majority has determined that the resources in Fort Scott are not worthy of federal funding and should only come under federal management if a generous benefactor decides to donate them. We think this is short-sighted and cannot support this bill moving forward, as amended.

RAÚL M. GRIJALVA,
Ranking Member,
Committee on Natural Resources.
NIKI TSONGAS,
Ranking Member,
Subcommittee on Federal Lands.

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