114TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
114–95

KEEP THE PROMISE ACT OF 2015

APRIL 29, 2015.—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. 308]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 308) to prohibit gaming activities on certain Indian lands in Arizona until the expiration of certain gaming compacts, 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. 308 is to prohibit gaming activities on certain Indian lands in Arizona until the expiration of certain gaming compacts.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 308 would prohibit class II (bingo) and class III (Las Vegas-style) gambling activities regulated under the Indian Gaming Regulatory Act of 1988 within the Phoenix, Arizona, metropolitan area until January 1, 2027, when the compacts between the State of Arizona and tribes operating class III casinos expire.[1] The immediate effect of the bill is to prohibit the operation of an off-reservation ca-

[1] H.R. 308 defines the Phoenix metro area as certain land north of a latitude line in Maricopa and Pinal Counties.

sino in Glendale, Arizona, by the Tohono O'odham Nation (TO Nation), a federally recognized tribe with approximately 30,000 members and a large reservation stretching from Tucson to the U.S.-Mexico border. Below is an overview of the history and current status of the off-reservation gaming controversy; additional detailed background and justification for prior bills to block the Glendale casino may be found in House Report 112–440 (accompanying H.R. 2938, Gila Bend Reservation Lands Replacement Clarification Act) and House Report 113–210 (accompanying H.R. 1410, Keep the Promise Act of 2013).

The controversy resolved by H.R. 308 has its origins in ambiguous statutory law, the Department of the Interior's opaque regulatory procedures, and the propensity of federal courts to invent federal Indian law and policy, such as the doctrine of absolute tribal sovereign immunity.[2]

In 1986, Congress passed the Gila Bend Indian Reservation Lands Replacement Act (Public Law 99–503). This Act authorizes the TO Nation to purchase up to 9,880 acres of lands that, when placed in trust, would replace a reservation area flooded by the federally constructed Painted Rock Dam on the Gila River. These replacement lands had to be non-incorporated and within three Arizona counties (Pima, Pinal, or Maricopa).

While there is no mention of gaming in this 1986 law, two years later Congress passed the Indian Gaming Regulatory Act of 1988 (IGRA). Under IGRA, gaming is prohibited on lands acquired in trust after October 1988 unless one of several exceptions is met. One of these exceptions is when "lands are taken into trust as part of . . . a settlement of a land claim." (25 U.S.C. 2719(b)(1)(B)(i)). There is no legislative history regarding the "land claim exception" under IGRA. Under rules developed by the Department of the Interior, when a tribe seeks to open a casino under the land claim exception, the Department must issue an opinion to determine whether the exception applies to the land in question. An opinion "is not, per se, a final agency action under the Administrative Procedures Act."[3] Therefore, the merits of land claim exception opinions by the Department are difficult for an interested party to challenge.

In 2000, the Department granted the TO Nation's request to waive restrictions on where the tribe could acquire replacement lands through the Gila Bend Indian Reservation Replacement Lands Act. The tribe then secured a Departmental opinion allowing the tribe to open a casino on replacement lands under the land claim exception of IGRA.

In 2002, Arizona voters passed Proposition 202, a referendum to approve a tribal-state compact under which 16 Arizona tribes were granted a statewide casino monopoly with limits on the scope and location of the gambling facilities. In the campaign on "Prop 202," the tribes (including the TO Nation) told voters that the compact would not allow additional casinos in Phoenix.[4] This restriction was negotiated by all parties to the compact:

---

[2] See Dissent of Justice Thomas et al. regarding "judge-made doctrine of tribal sovereign immunity" in Michigan v. Bay Mills Indian Community, 572 U.S. _____ (2014).

[3] See Federal Register, Vol. 73, No. 98, May 20, 2008, p. 29358.

[4] Yes on 202/The 17-Tribe Indian Self-Reliance Initiative, "Answers to Common Questions" Flyer.

> We negotiated in good faith with all Arizona tribes and the Governor of Arizona to craft a tribal-state gaming compact that preserved tribal exclusivity for casino gaming, allowed for larger casinos and machine allotments with the ability to expand machine allotments through transfer agreements with rural tribes, and limited the number of casinos in the Phoenix metropolitan area. In order to reach a deal with the Governor of Arizona all tribes, including the [TO] Nation, had to agree that no more than seven casinos could be located in the Phoenix metropolitan area.[5]

While the tribes were informing voters the compact would not allow additional casinos in Phoenix, the TO Nation was undertaking confidential plans to build a new casino in the Phoenix area. In 2003, using a shell company, the TO Nation began purchasing 134 acres of unincorporated land in the Phoenix area (located between the cities of Glendale, Peoria, and Tolleson). On January 28, 2009, the tribe asked the Department of the Interior to accept this parcel of land in trust and deem it to be replacement lands under the 1986 Gila Bend Act. The Secretary then issued a decision to take the land in trust on August 26, 2010. The Gila River Indian Community, the City of Glendale, and other plaintiffs challenged the decision in federal court. However, federal litigation has been largely resolved in favor of the Department of the Interior and the TO Nation, except for one aspect to the controversy which cannot be resolved unless the TO Nation waives its immunity from suit.

On July 3, 2014, the Department of the Interior transferred the land in trust. In August 2014, the City of Glendale secured an agreement with the tribe that gives the city an average of $1.3 million per year for 20 years. On August 28, 2014, the tribe broke ground on construction of the $400 million casino project.

Analysis of H.R. 308

H.R. 308 prohibits class II and class III gaming conducted by any tribe within defined region in the Phoenix metropolitan area. As mentioned above, the principal aim of the bill is to block the operation of class II and class III gaming by the TO Nation on off-reservation lands acquired in trust by the Department of the Interior for the tribe's benefit, but the ban applies to all tribes. The prohibition is not permanent and thus any tribe (including the TO Nation) could potentially bargain for new gaming rights in the Phoenix area when the tribal-state compact is up for renewal.

The ability of a tribe to operate a casino is not absolute. The regulatory framework for Indian gaming is subject to modification by Congress in accordance with a foundational principle of federal Indian law, which is that Congress "possesses comprehensive power with respect to Indian affairs."[6] This power is regarded as plenary. As explained by the Supreme Court, this power "has always been deemed a political one, not subject to be controlled by the judicial

---

[5] Diane Enos, President, Salt River Pima-Maricopa Indian Community, Testimony before the Subcommittee on Indian and Alaska Native Affairs, Legislative Hearing on H.R. 2938, October 4, 2011.

[6] Conference of Western Attorneys General, American Indian Law Deskbook (Fourth Edition), 2008, p. 8.

department of the government."[7] While Congress may not violate a constitutionally-protected right of a tribe, it may freely adjust a tribe's powers, privileges, and immunities. Accordingly, Congress may modify the federal regulatory power governing the operation of gaming pursuant to IGRA.

The hearing record for prior legislation addressing the controversy (H.R. 1410, 113th Congress) demonstrates the strong sentiment of the State of Arizona and a majority of its recognized tribes that the casino breaches a contract with Arizona voters. In turn, the breach may upset a careful balance of interests in which tribes agreed to limit the location and number of Las Vegas-style casinos in exchange for the exclusive right to operate class III gaming. This sentiment has been heard in the House of Representatives, which has previously demonstrated strong bipartisan support for prohibiting a new casino in the Phoenix area.[8] In addition, in a recent bipartisan letter sent to members of the Natural Resources Committee, five Arizona Members representing districts and tribes directly affected by the controversy averred that the TO Nation's "actions represent a very real and serious threat to existing gaming structure in Arizona if the Tohono O'odham Nation is able to develop a Las Vegas-style casino in the Phoenix metropolitan area."[9]

H.R. 308 preserves a balance struck among Arizona tribes, voters, and elected State officials (including the Governor) to grant tribes exclusive gaming rights in Arizona in exchange for limits on the number and location Indian gaming facilities. The bill advances a sound public policy respecting the federal role in the regulation of Indian gaming and it best reflects how the elected officials representing the Congressional districts most directly touched by the controversy wish to resolve it.

COMMITTEE ACTION

H.R. 308 was introduced on January 13, 2015, by Congressman Trent Franks (R–AZ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. On March 24, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Raúl Grijalva (D–AZ) offered an amendment designated .024. It was not adopted by a roll call vote of 10 to 21, as follows:

---

[7] *Lone Wolf* v. *Hitchcock*, 187 U.S. 553 (1903) at 565.

[8] Prior legislation on this issue passed the House in the 112th Congress 343–78, 2 Present (vote on H.R. 2938, June 19, 2012) and by voice vote in the 113th Congress (vote on H.R. 1410, September 17, 2013).

[9] March 24, 2015, letter to Natural Resources Committee Members from Representatives Trent Franks, Ann Kirkpatrick, Paul Gosar, David Schweikert, and Matt Salmon.

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

Date: 03-25-14 Recorded Vote #: 1

Meeting on / Amendment on: Grijalva_024 amendment to H.R. 308

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		**Mr. LaMalfa, CA**		X	
Mr.Grijalva, AZ, Ranking Member	X			*Mrs. Dingell, MI*	X		
Mr. Young, AK				**Mr. Byrne, AL**			
Mrs. Napolitano, CA	X			*Mr. Takai, HI*			
Mr. Gohmert, TX		X		**Mr. Denham, CA**		X	
Mrs. Bordallo, Guam	X			*Mr. Gallego, AZ*	X		
Mr. Lamborn, CO		X		**Mr. Cook, CA**		X	
Mr. Costa, CA		X		*Mrs. Capps, CA*			
Mr. Wittman, VA				**Mr. Westerman, AR**		X	
Mr. Sablan, CNMI				*Mr. Polis, CO*	X		
Mr. Fleming, LA		X		**Mr. Graves, LA**			
Mrs. Tsongas, MA	X			**Mr. Newhouse, WA**			
Mr. McClintock, CA	X			**Mr. Zinke, MT**		X	
Mr. Peirluisi, Puerto Rico				**Mr. Hice, GA**		X	
Mr. Thompson, PA	X			**Ms. Radewagen, AS**			
Mr. Huffman, CA		X		**Mr. MacArthur, NJ**		X	
Mrs. Lummis, WY		X		**Mr. Mooney, WV**		X	
Mr. Ruiz, CA				**Mr. Hardy, NV**		X	
Mr. Benishek, MI		X					
Mr. Lowenthal, CA		X					
Mr. Duncan, SC							
Mr. Cartwright, PA		X					
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			**TOTALS**	10	21	

No additional amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

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. 308—Keep the Promise Act of 2015

Summary: H.R. 308 would prohibit gambling (other than social games for prizes of minimal value) on property near Glendale, Arizona that is owned by the Tohono O'odham Nation and held in trust by the United States for the benefit of the tribe. That prohibition would last until 2027. The Tohono O'odham Nation is currently constructing a resort and casino on this property and expects to begin operations within a year.

Based on information from the Tohono O'odham Nation, CBO expects that if H.R. 308 were enacted, the tribe would pursue litigation against the federal government to recover its financial losses caused by the prohibition on gambling. Whether the tribe would prevail in such litigation and when those proceedings might be concluded are both uncertain. The basis for any judicial determination of the tribe's financial losses is also uncertain. CBO estimates that possible compensation payments from the government could range from nothing to more than $1 billion; however, we have no basis for estimating the outcome of the future litigation. Because enacting H.R. 308 could increase direct spending, pay-as-you-go procedures apply. Enacting H.R. 308 would not affect revenues.

By prohibiting gambling on land that the tribe is currently planning to use for such a purpose, the bill would impose an intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA). Absent the bill, CBO estimates that the tribe will collect more than $100 million annually once the casino it is building begins operations, probably in 2016. Those costs would exceed the annual threshold established in UMRA ($77 million in 2015, adjusted annually for inflation) in at least one of the first five years after enactment of the bill.

H.R. 308 contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: CBO expects that the Tohono O'odham Nation would pursue litigation against the federal government if H.R. 308 is enacted. CBO has no basis for judging the outcome of that litigation. It is possible that the federal government would incur no compensation costs, or that it would pay the tribe a settlement or be ordered to pay compensation by a court. Any such payment would increase direct spending, and the amount could exceed $1 billion. The federal government also would incur discretionary costs, which are subject to appropriation, to defend itself in the expected litigation. The amount of such costs would depend on the length and extent of the legal challenges.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in 2015 and that under current law the Tohono O'odham Nation will probably commence gambling operations and begin generating gambling revenue in 2016.

Outcome of Future Litigation

CBO expects that enacting the legislation would probably result in litigation against the federal government by the Tohono O'odham Nation. Based on information from the tribe, CBO expects the tribe would seek compensation for financial losses caused by H.R. 308. To date, the tribe has prevailed in disputes with Arizona and other tribes about its planned gaming operations on the property. A 2013 district court decision on whether gambling on the site is consistent with current federal law concluded that "the Glendale-area land acquired by the Nation with LRA[1] funds qualifies for gaming under IGRA[2] § 2719(b)(1)(B)(1). The land also qualifies for gaming under § 3(j)(1) of the Compact, which specifically authorizes gaming on after-acquired lands that qualify for gaming under § 2719."[3]

That decision is now under appeal at the Ninth Circuit Court of Appeals. Although the tribe has been successful in litigation thus far and construction of its resort and casino is underway, it may be more difficult for the tribe to prevail in a claim brought after enactment of H.R. 308 because of the types of claims available to it and the facts of this particular situation. The outcome of such litigation is uncertain. CBO expects the tribe would argue that the legislation caused either a regulatory taking of the tribe's property interest in gaming on that land, or a breach of the settlement agreement that permitted the tribe to acquire the land for non-agricultural economic development purposes. In either circumstance, the federal government could be required to compensate the tribe. Any such compensation would probably be paid from the Judgment Fund (a permanent, indefinite appropriation for claims and judgments against the United States).

Amount of Compensation

To estimate the amount of compensation that might be due to the tribe, CBO reviewed the outcome of other cases involving regulatory takings, tribal land settlements, and gaming disputes. We also consulted with the Tohono O'odham Nation, other Arizona tribes, and federal and state agencies that regulate tribal gaming

[1] Gila Bend Indian Reservation Lands Replacement Act, Public Law 99–503.
[2] Indian Gaming Regulatory Act, Public Law 100–497.
[3] *State of Arizona, et al.* v. *Tohono O'odham Nation*, 944 F. Supp. 2d 748, 756 (D. Ariz. 2013).

to estimate the net receipts that the tribe may realize from the casino operations of the resort now under construction.

CBO concluded that:

- Regulatory taking claims are often unsuccessful and usually do not lead to significant economic awards when (as in this case) the taking does not fully diminish the economic value of the property;
- The outcomes of disputes about tribal gaming and land settlement agreements vary and are generally dependent on the specific facts of each dispute, making it difficult to use past disputes to predict the outcome of new cases;
- Prohibiting the tribe from operating gambling activities at the resort and casino near Glendale could result in a loss of net income to the tribe of more than $1 billion over the next decade; and
- Whether gaming was among the nonagricultural economic development activities envisioned under the tribe's land settlement agreement is unclear because the property was acquired as a result of a land settlement agreement with the federal government that was enacted two years before the Indian Gaming Regulatory Act, which authorized gambling on tribal lands under certain circumstances.

CBO estimates that possible awards to the tribe following litigation could range from no monetary award to more than $1 billion. After considering the uncertainties about whether the tribe would prevail in a future lawsuit against the federal government, and the unpredictability of the amount of any award, CBO concluded that there is no basis to predict the amount of monetary award or settlement, if any, that the tribe would receive as a result of the enactment of H.R. 308.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting H.R. 308 could increase direct spending over the 2015–2025 period; however, CBO has no basis for estimating the amount or timing of such spending, if any.

Estimated impact on state, local, and tribal governments: By prohibiting gaming on land that the tribe is currently planning to use for such a purpose, the bill would impose an intergovernmental mandate, as defined in UMRA. Absent the bill, CBO estimates that the tribe will net more than $100 million annually once the casino begins operations, probably in 2016. That estimate is a probabilistic assessment based on information from the tribe about projected revenues, accounting for uncertainty of projected revenues, operating expenses, and payments the tribe is required to make from gaming revenue, which all may be higher or lower than expected. It also accounts for the possibility that already pending legal actions could delay or prohibit gaming activities on the land. The cost of that mandate on the tribe would exceed the annual threshold established in UMRA ($77 million in 2015, adjusted annually for inflation) in at least one of the first five years after enactment of the bill, CBO estimates.

If the bill is enacted and the tribe submits a successful claim for damages against the federal government, such settlement amounts would benefit the tribe.

Estimated impact on the private sector: H.R. 308 contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Martin von Gnechten; Impact on state, local, and tribal governments: Melissa Merrell, Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, 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, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office estimates that the bill could result in possible compensation payments from litigation (direct spending) but it has "no basis for estimating the outcome of the future litigation."

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 prohibit gaming activities on certain Indian lands in Arizona until the expiration of certain gaming compacts.

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 would impose an intergovernmental mandate as defined by Public Law 104–4.

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

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 308 will breach an agreement between the United States and the Tohono O'odham Nation (Nation), in order to protect a gaming monopoly and will be an ugly mark on Congress' relations with all Indian tribes. This legislation not only upsets settled law, subjecting the United States to significant liability, but also creates a dangerous precedent for hundreds of tribal-state compacts and land and water rights settlements nationwide. Moreover, it will kill thousands of jobs and millions in economic development already underway in the West Valley. The House should reject this legislation.

In the 1950s, the United States Army Corps of Engineers constructed the Painted Rock Dam in Arizona, which caused repeated flooding and eventual destruction of nearly 10,000 acres of the Nation's Gila Bend Reservation. In 1986, Congress enacted legislation to compensate the Tohono O'odham Nation for this loss, authorizing the Nation to acquire new land to replace the destroyed land, and specifying that the new land would have the same legal status as the destroyed land—that it would be treated "as a federal reservation for all purposes." In 1987 the Nation signed a settlement agreement forgoing its claims against the United States and relinquishing its land and water rights at Gila Bend.

A generation later, the Tohono O'odham Nation has done what Congress authorized it to do—acquire replacement land in Maricopa County—and the Department of the Interior has done what Congress mandated—put that replacement land in trust and make it part of the Tohono O'odham Nation's reservation. H.R. 308 would undo all of this in order to create a no-competition zone in the Phoenix metropolitan area for the benefit of two tribes that currently operate 5 tribal casinos in Maricopa County south and east of Phoenix.

The arguments in favor of H.R. 308 have been litigated in federal court and rejected on their merits. Bill proponents allege that the Nation's reservation replacement lands were not eligible for gaming under the Indian Gaming Regulatory Act (IGRA). The district court ruled that "the Glendale-area land acquired by the Nation . . . qualifies for gaming," and that "gaming on that land is expressly permitted by the federal statute [IGRA] that authorizes Indian gaming."[1]

Bill supporters claim that the Arizona tribal-state gaming compact prohibited the Nation from opening a gaming facility in the Phoenix area. The district court found that "no reasonable reading of the Compact could lead a person to conclude that it prohibited new casinos in the Phoenix area."[2] Ranking Member Grijalva of-

[1] *State of Arizona* v. *Tohono O'odham Nation*, 944 F. Supp. 2d 748, 753, 756 (D. Ariz. 2013).
[2] *Tohono O'odham Nation*, 944 F.Supp.2d at 768.

fered an amendment during Committee consideration of H.R. 308 to specify that the Nation could only pursue gaming in the Phoenix area if allowed by the Compact. Despite the fact that this would appear to accomplish the stated goal of the bill proponents, the amendment was rejected.

These parties also argue that the Nation promised other tribes and the State of Arizona that the Nation would not game in the Phoenix area. The district court rejected this argument as well; not on sovereign immunity grounds, but by holding that "the parties did not reach such an agreement."[3]

The Tohono O'odham Nation has not been engaged in "reservation shopping." Rather, the Nation has simply acquired new land to replace that which was destroyed, just as was intended by the 1986 settlement act. Further, the Tohono O'odham Nation has acquired its West Valley property pursuant to legislative authority that is unique to the Nation and is therefore inapplicable to any other tribe in any other state. Acquisition of the Nation's West Valley property has no bearing on off-reservation land acquisition or off-reservation gaming in any other part of the United States.

H.R. 308 would unilaterally amend the Arizona tribal-state gaming compact by inserting a new restriction that the tribes and the State never negotiated, and one that Arizona voters did not approve. Such actions undermine Congress' intent in IGRA when it formulated the tribal-state gaming compact process and puts all tribal-state compacts at risk of collateral attack by Congress.

Enactment of H.R. 308 would harm not just the Tohono O'odham Nation and local communities, but also the American taxpayer. The Congressional Budget Office has found that enactment of this legislation could subject the United States to as much as a billion dollars in liability for breach of contract and taking private property. According to CBO, "any such payment would increase direct spending, and the amount could exceed $1 billion. The federal government also would incur discretionary costs, which are subject to appropriation, to defend itself in the expected litigation. The amount of such costs would depend on the length and extent of the legal challenges."

H.R. 308 is bad Indian policy and bad fiscal policy, and it should be rejected.

RAÚL GRIJALVA.
MADELEINE BORDALLO.
TOM MCCLINTOCK.
GRACE NAPOLITANO.
RUBEN GALLEGO.

○

[3] Id.