

COLUMBIA RIVER IN-LIEU AND TREATY FISHING ACCESS
SITES IMPROVEMENT ACT

DECEMBER 3, 2018.—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

[To accompany S. 669]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 669) to authorize the Secretary of the Interior to assess sanitation and safety conditions at Bureau of Indian Affairs facilities that were constructed to provide affected Columbia River Treaty tribes access to traditional fishing grounds and expend funds on construction of facilities and structures to improve those conditions, 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 S. 669 is to authorize the Secretary of the Interior to assess sanitation and safety conditions at Bureau of Indian Affairs facilities that were constructed to provide affected Columbia River Treaty tribes access to traditional fishing grounds and expend funds on the construction of facilities and structures to improve those conditions.

BACKGROUND AND NEED FOR LEGISLATION

Certain Columbia River tribes, through a series of treaties signed with the United States in 1855, established access and secured rights to “usual and accustomed fishing areas” and ancillary fish-

ing facilities.¹ However, during the 1930s and 1950s the United States began the process of building dams along the Columbia River to provide much needed electricity to various communities throughout Washington and Oregon. As a consequence, tribal and non-tribal communities were flooded and needed to be relocated.

Congress passed the River and Harbor Act of 1945 to authorize the U.S. Army Corps of Engineers to acquire and replace tribal fishing areas along the Columbia River.² Over the next 20 years the Corps acquired five sites. In 1988 Congress authorized construction of improvements for ancillary fishing facilities along the Columbia River.³ That Act also directed the Corps to acquire lands from willing sellers to provide unfettered river access for members of the Columbia River Treaty Tribes. According to the Columbia River Intertribal Fish Commission, the flooded tribal lands were later replaced with 31 designated encampments. Since the Corps began acquiring these sites, all but four encampments have been transferred to the BIA for management.⁴

In response to a 2013 report on the sites' conditions, the Corps' Portland District acknowledged the terrible living conditions near those sites.^{5 6}

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act.

Section 2. Sanitation and safety conditions at certain Bureau of Indian Affairs facilities

Section 2 provides for the assessment of fishing access facilities and structures maintained by the BIA, establishes the BIA as the sole Federal agency tasked with executing the requirements of the bill, applies the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to the contracting process for facility assessments, defines the affected Columbia River Treaty tribes, and authorizes appropriations for assessments of the fishing access sites and facilities.

Section 2(a) authorizes the BIA, in consultation with the Columbia River Treaty tribes, to assess any permanent federal structures and improvements on BIA lands that were set aside to provide the Treaty tribes access to traditional grounds.

Section 2(b) provides that the BIA shall be the only federal agency authorized to carry out the activities in the bill.

Section 2(b) also allows the BIA to contract for the assessment with tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

¹ See Yakima Treaty, 1855; Tribes of Middle Oregon Treaty, 1855; Cayuse, Umatilla, and Walla Walla Treaty, 1855; and Nez Perce Treaty, 1855.

² Public Law 79-14 (59 Stat. 22).

³ Title IV of Public Law 100-581 (102 Stat. 2944).

⁴ Legislative Hearing on S. 3222 before S. Comm on Indian Affairs, 114th Cong. Testimony of Paul Lumley, Executive Director Columbia River Inter-Tribal Fish Commission.

⁵ Columbia River Treaty Fishing Access Sites Oregon & Washington Fact-Finding Review on Tribal Housing final report. Prepared by Cooper Zietz Engineers, Inc. For Portland District U.S. Army Corps of Engineers. November 19, 2013.

⁶ Legislative hearing on S. 2636, S. 3216, S. 3222, S. 3300 before the Senate Committee on Indian Affairs, 114th Cong. (2016) (testimony of Paul Lumley, Executive Director, Columbia River Inter-Tribal Fish Commission).

Section 2(c) defines the affected Columbia River Treaty tribes as the Nez Perce Tribe, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakama Nation.

Section 2(d) authorizes appropriations for the bill, “such sums as are necessary”.

Section 3. Study of assessment and improvement activities

This section requires GAO to evaluate whether the sanitation and safety conditions on lands held by the United States for the benefit of the Columbia River Treaty tribes has improved as a result of the activities authorized by the bill. GAO will submit a report to the relevant Congressional committees on the evaluation.

COMMITTEE ACTION

S. 669 was introduced on March 17, 2017, by Senator Jeff Merkley (D-OR). The Senate passed the bill by unanimous consent on November 29, 2017. In the House of Representatives, 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 November 15, 2018, the Committee on Natural Resources met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was 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 AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. 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 following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 29, 2018.

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 S. 669, the Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 669—Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act

Summary: S. 669 would authorize the appropriation of whatever amounts are necessary for the Bureau of Indian Affairs (BIA) to assess and improve the sanitation and safety conditions of certain land and facilities used by the four Columbia River Treaty tribes to access traditional fishing areas.

CBO estimates that implementing the act would cost \$11 million over the 2019–2023 period, assuming appropriation of the necessary amounts. Enacting S. 669 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 669 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 669 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 669 is shown in the following table. The cost of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					
	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	3	2	2	2	2	11
Estimated Outlays	3	2	2	2	2	11

Basis of estimate: For this estimate, CBO assumes that S. 669 will be enacted near the end of 2018 and that the necessary amounts will be provided each year beginning in 2019.

Currently, BIA pays for the operation and maintenance of 28 traditional fishing sites held in trust by the United States for the four Columbia River Treaty tribes: the Nez Perce Tribe, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakama Nation. S. 669 would authorize the appropriation of whatever amounts are necessary for BIA to assess and improve the sanitation and safety of land and facilities used to access those fishing areas.

Using information from BIA, CBO estimates that implementing S. 669 would cost \$11 million over the 2019–2023 period. That amount includes the cost of hiring one new staff member to oversee improvements and subsequent maintenance and seven new law enforcement officers to ensure the safety and security of facilities on the affected sites. The estimated authorization also includes the anticipated cost of all equipment necessary to upgrade the electric, sewer, and water service at those facilities.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 669 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 669 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On July 5, 2017, CBO transmitted an estimate for S. 669, the Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act, as ordered reported by the Senate Committee on Indian Affairs on March 29, 2017. The two versions of S. 669 are similar and CBO's estimates of their budgetary effects are the same.

Estimate prepared by: Federal Costs: Robert Reese; Mandates: Rachel Austin.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; 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 assess sanitation and safety conditions at Bureau of Indian Affairs facilities that were constructed to provide affected Columbia River Treaty tribes access to traditional fishing grounds and expend funds on the construction of facilities and structures to improve those conditions.

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. Section 103 of this bill directs the Secretary of the Interior to issue or reissue regulations to implement the changes the bill makes to the tribal energy resource agreement program. In addition, section 204 directs the Secretary of the Interior to issue regulations regarding the approval or disapproval of appraisals relating to the fair market value of mineral or energy resources held in trust by the United States for the benefit of an Indian tribe or by an Indian tribe with federal restrictions against alienation.

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 to existing law.

