

INDIAN BUFFALO MANAGEMENT ACT

JUNE 27, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 6368]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6368) to assist Tribal governments in the management of buffalo and buffalo habitat and the reestablishment of buffalo on Indian land, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Buffalo Management Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **BUFFALO**.—The term “buffalo” means an animal of the genus: Bison, species: bison, subspecies: bison.

(2) **BUFFALO HABITAT**.—The term “buffalo habitat” means Indian land that is managed for buffalo.

(3) **DEPARTMENT**.—The term “Department” means the Department of the Interior.

(4) **INDIAN LAND**.—The term “Indian land” has the meaning given the term in paragraph (2) of section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501), except that, in that paragraph, the term “Indian reservation” shall be considered to have the meaning given the term “Indian reservation” in paragraph (3) of that section, without regard to the date specified in paragraph (3) of that section.

(5) **INDIAN TRIBE**.—The term “Indian Tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(6) **SECRETARY**.—The term “Secretary” means the Secretary of the Interior.

(7) **TRIBAL ORGANIZATION**.—The term “Tribal organization” means any legally established organization of Indians that—

49-006

- (A)(i) is chartered under section 17 of the Act of June 18, 1934, (commonly known as the "Indian Reorganization Act"; 25 U.S.C. 5124) and recognized by the governing body of one or more Indian Tribes; or
- (ii) is a Tribal corporation federally chartered under section 3 of the Oklahoma Indian Welfare Act (25 U.S.C. 5203); and
- (B) has demonstrable experience in the restoration of buffalo and buffalo habitat on Indian land.

SEC. 3. BUFFALO RESOURCE MANAGEMENT.

(a) PROGRAM ESTABLISHED.—The Secretary shall establish a program within the Department for the purposes of—

- (1) promoting and developing the capacity of Indian Tribes and Tribal organizations to manage buffalo and buffalo habitat;
- (2) promoting the ability of Indian Tribes and Tribal organizations to protect, conserve, and enhance populations of buffalo that are owned by Indian Tribes or Tribal organizations;
- (3) promoting the development and use of buffalo and buffalo habitat for the maximum practicable benefit of Indian Tribes and Tribal organizations; and
- (4) promoting the inclusion of Indian Tribes and Tribal organizations in Department, international, national, regional, and local decision making and forums regarding buffalo and buffalo habitat.

(b) CONTRACTS AND GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall enter into contracts and cooperative agreements with, and award grants to, Indian Tribes and Tribal organizations to enable the Indian Tribes and Tribal organizations to—

- (A) plan, conduct, or implement a buffalo restoration or management program;
- (B) plan and execute commercial activities related to buffalo or buffalo products; or
- (C) carry out other activities relating to buffalo restoration and management.

(2) NO DIMINISHMENT OF LAWS AND REGULATIONS.—Nothing in this subsection diminishes any Federal or State law (including regulations) regarding diseased buffalo or buffalo that escape from Indian land.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to an Indian Tribe or Tribal organization that enters into a contract or cooperative agreement or receives a grant under this section to assist the Indian Tribe or Tribal organization in—

- (1) carrying out the activities of a buffalo or buffalo habitat restoration or management program; and
- (2) implementing the activities described in subparagraphs (A) through (C) of subsection (b)(1).

(d) SUNSET.—The program established under this section shall terminate on September 30, 2030.

SEC. 4. CONSULTATION; COORDINATION.

(a) CONSULTATION.—Not later than 1 year after the date of enactment of this Act, and on an ongoing basis thereafter, the Secretary shall consult with Indian Tribes and Tribal organizations on initiatives of the Department that affect buffalo or buffalo habitat, including efforts of the Department to contain or eradicate diseased buffalo.

(b) COORDINATION.—The Secretary shall develop a policy relating to buffalo and buffalo habitat management activities on Indian land, in accordance with—

- (1) the goals and objectives described in buffalo management programs approved by Indian Tribes; and
- (2) Tribal laws and ordinances.

SEC. 5. PROTECTION OF INFORMATION.

Notwithstanding any other provision of law, the Secretary shall not disclose or cause to be disclosed any information provided to the Secretary by an Indian Tribe or Tribal organization that is identified by the Indian Tribe or Tribal organization as culturally sensitive, proprietary, or otherwise confidential.

SEC. 6. BUFFALO FROM FEDERAL LAND.

(a) IN GENERAL.—The Secretary may enter into an agreement with an Indian Tribe or Tribal organization to dispose of surplus buffalo on Federal land administered by the Department, as applicable, by transporting such buffalo onto Indian land.

(b) APPLICATION.—An Indian Tribe or Tribal organization may submit to the Secretary an application to receive buffalo described in subsection (a) at such time, in such manner, and containing such information as the Secretary may require.

(c) **WAIVER OF CHARGES.**—The Secretary may waive any charges for the buffalo described in subsection (a), including any deposit or payment for services as described in section 10.2 of title 36, Code of Federal Regulations (or any successor regulation).

SEC. 7. TREATY RIGHTS RETAINED.

Nothing in this Act alters, modifies, diminishes, or extinguishes the treaty rights of any Indian Tribe.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 6368 is to assist Tribal governments in the management of buffalo and buffalo habitat and the reestablishment of buffalo on Indian land.

BACKGROUND AND NEED FOR LEGISLATION

The American buffalo (or bison) has long held importance to the United States and was officially named the national mammal in 2016.¹ American Indian and Alaska Natives have also had a long standing cultural and spiritual relationship with buffalo which continues to this day.² Indian tribes have used the buffalo for subsistence purposes for thousands of years, incorporating it into everyday diets and livelihoods. By the end of the 19th century, however, buffalo were near extinction.³ As a result, conservation efforts were enacted to restore buffalo numbers. Over the last 100 years buffalo have slowly returned and in 2017, the U.S. Department of Agriculture estimated that there were approximately 200,000 buffalo in the United States.⁴

Indian tribes have seen their buffalo herds grow with success for many years. In 1991, several tribes with buffalo herds joined together forming the Intertribal Buffalo Council (ITBC).⁵ In 2009, the ITBC received a federal charter pursuant to Section 17 of the Indian Reorganization Act to aid tribes in the restoration of buffalo on tribal lands.⁶ Today, the ITBC is comprised of 83 member tribes with 20,000 buffalo in 21 states with the mission of restoring buffalo to Indian Country.⁷

In Fiscal Year (FY) 2023, ITBC received approximately \$1.5 million through the Bureau of Indian Affairs (BIA) for its members' buffalo programs, but this funding has fluctuated over the fiscal years.⁸ ITBC reports that, on average, an ITBC member tribe is underfunded by approximately \$150,000 to operate their buffalo program and this equates to an estimated need of \$11 million for the herd development grant program. The ITBC has estimated its approximate need to be more than \$17 million per year.⁹ Advocates

¹ Pub. L. No. 114–152.

² Intertribal Buffalo Council testimony before H. Interior Appropriations Subcommittee. March 2019.

³ Shepard Krech “Buffalo Tales: The Near-Extinction of the American Bison” National Humanities Center, <https://nationalhumanitiescenter.org/tserve/nattrans/ntecoindian/essays/buffaloc.htm>.

⁴ Miscellaneous Livestock and Animal Specialties—Inventory and Sales: 2022 and 2017, USDA, https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1_Chapter_1_US/usv1.pdf.

⁵ History and Mission, Intertribal Buffalo Council, <https://itbcbuffalonation.org/history-and-mission/>.

⁶ 25 U.S.C. 477.

⁷ HNR Staff briefing with the Intertribal Buffalo Council. 11.22.2023.

⁸ Budget Justifications and Performance Information FY 2024, Bureau of Indian Affairs, https://www.bia.gov/sites/default/files/dup/inline-files/bia_2024_greenbook.pdf.

⁹ HNR Staff briefing with the Intertribal Buffalo Council. 11.22.2023.

for a formal program state that a formal program will help with stabilizing funding.

H.R. 6368 would promote tribal management of buffalo through contracts, cooperative agreements, and grants. This would be accomplished through buffalo restoration programs, the planning and executing of commercial activities related to buffalo products, and other activities related to buffalo restoration and management. Last, the bill authorizes the Secretary of the Interior (Secretary) to enter into agreements with Indian tribes or tribal organizations to dispose of surplus buffalo on federal land and transfer those buffalo to Indian land.

H.R. 6368 would authorize DOI to establish a program to develop and promote the capacity of Indian tribes and tribal organizations to manage buffalo and buffalo habitat. The DOI would do this through contracts, cooperative agreements and grants to Indian tribes and tribal organizations.

COMMITTEE ACTION

H.R. 6368 was introduced on November 13, 2023, by Representative Doug LaMalfa (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Insular Affairs. On December 5, 2023, the Subcommittee on Indian and Insular Affairs held a hearing on the bill. On March 12, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Indian and Insular Affairs was discharged from further consideration of H.R. 6368 by unanimous consent. Representative Doug LaMalfa (R-CA) offered an Amendment designated LaMalfa_067. The amendment was agreed to by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Indian and Insular Affairs held on December 5, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Establishes the short title of the bill as the “Indian Buffalo Management Act”.

Section 2. Definitions

Provides definitions for the terms “buffalo”, “buffalo habitat”, “Department”, “Indian land”, “Indian Tribe”, “Secretary”, and “Tribal organization”.

Section 3. Buffalo Resource Management

Establishes a program within the Department of the Interior (DOI) to promote and develop tribal management of buffalo; Allows the Secretary to enter into contracts and cooperative agreements with tribes and tribal organizations to create or maintain buffalo restoration or management programs and requires the Secretary to

provide technical assistance to tribes or tribal organizations that enter into the aforementioned agreements. Nothing will diminish any state or federal regulations regarding diseased buffalo or buffalo that escape from Indian lands. Includes program sunset of Sept. 30, 2030.

Section 4. Consultation; coordination

Requires the Secretary to consult with tribes and tribal organizations regarding buffalo and buffalo habitat initiatives; Requires the Secretary to develop a policy related to buffalo and buffalo habitat management.

Section 5. Protection of information

Requires the Secretary to protect any information provided by a tribe or tribal organization that is deemed culturally sensitive, proprietary, or confidential.

Section 6. Buffalo from federal land

Allows the Secretary to dispose of surplus buffalo from federal lands to tribes or tribal organizations and allows the Secretary to waive charges if they choose.

Section 7. Treaty rights retained

States that nothing in this Act alters, modifies, diminishes, or extinguishes tribal treaty rights.

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:

H.R. 6368, Indian Buffalo Management Act			
As ordered reported by the House Committee on Natural Resources on March 12, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	64	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 6368 would create a new program through 2030 at the Department of the Interior to assist tribal governments in restoring and managing buffalo herds on their land. Under the bill, the Bureau of Indian Affairs (BIA) could award grants to tribes to implement buffalo restoration programs, protect habitat, and conduct activities to enhance the commercial and practical value of buffalo. In addition, the bill would require the department to consult annually with tribal nations on federal initiatives that affect buffalo or buffalo habitats.

For this estimate, CBO assumes that H.R. 6368 will be enacted late in fiscal year 2024. Using information from BIA and based on historical spending patterns for similar activities, CBO estimates that operating the new program would cost \$64 million over the 2024–2029 period, assuming appropriation of the estimated amounts each year.

The costs of the legislation, detailed in Table 1, fall within budget function 450 (community and regional development).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 6368

	By fiscal year, millions of dollars—						
	2024	2025	2026	2027	2028	2029	2024–2029
Estimated Authorization	*	14	15	15	15	15	74
Estimated Outlays	*	8	12	14	15	15	64

* = between zero and \$500,000.

The CBO staff contact for this estimate is Julia Aman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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 assist Tribal governments in the management of buffalo and buffalo habitat and the reestablishment of buffalo on Indian land.

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.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 6368 contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

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.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As ordered reported by the Committee on Natural Resources, H.R. 6368 would make no changes in existing law.

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