

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 441

To designate the Organ Mountains and other public land as components of the National Wilderness Preservation System in the State of New Mexico, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organ Mountains-
5 Desert Peaks Conservation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **MONUMENT.**—The term “Monument”
9 means the Organ Mountains-Desert Peaks National
10 Monument established by Presidential Proclamation
11 9131 (79 Fed. Reg. 30431).

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (3) STATE.—The term “State” means the State
4 of New Mexico.

5 (4) WILDERNESS AREA.—The term “wilderness
6 area” means a wilderness area designated by section
7 3(a).

8 **SEC. 3. DESIGNATION OF WILDERNESS AREAS.**

9 (a) IN GENERAL.—In accordance with the Wilderness
10 Act (16 U.S.C. 1131 et seq.), the following areas in the
11 State are designated as wilderness and as components of
12 the National Wilderness Preservation System:

13 (1) ADEN LAVA FLOW WILDERNESS.—Certain
14 land administered by the Bureau of Land Manage-
15 ment in Doña Ana County comprising approximately
16 27,673 acres, as generally depicted on the map enti-
17 tled “Potrillo Mountains Complex” and dated Sep-
18 tember 27, 2018, which shall be known as the
19 “Aden Lava Flow Wilderness”.

20 (2) BROAD CANYON WILDERNESS.—Certain
21 land administered by the Bureau of Land Manage-
22 ment in Doña Ana County comprising approximately
23 13,902 acres, as generally depicted on the map enti-
24 tled “Desert Peaks Complex” and dated October 1,

1 2018, which shall be known as the “Broad Canyon
2 Wilderness”.

3 (3) CINDER CONE WILDERNESS.—Certain land
4 administered by the Bureau of Land Management in
5 Doña Ana County comprising approximately 16,935
6 acres, as generally depicted on the map entitled
7 “Potrillo Mountains Complex” and dated September
8 27, 2018, which shall be known as the “Cinder Cone
9 Wilderness”.

10 (4) EAST POTRILLO MOUNTAINS WILDER-
11 NESS.—Certain land administered by the Bureau of
12 Land Management in Doña Ana and Luna counties
13 comprising approximately 12,155 acres, as generally
14 depicted on the map entitled “Potrillo Mountains
15 Complex” and dated September 27, 2018, which
16 shall be known as the “East Potrillo Mountains Wil-
17 derness”.

18 (5) MOUNT RILEY WILDERNESS.—Certain land
19 administered by the Bureau of Land Management in
20 Doña Ana and Luna counties comprising approxi-
21 mately 8,382 acres, as generally depicted on the
22 map entitled “Potrillo Mountains Complex” and
23 dated September 27, 2018, which shall be known as
24 the “Mount Riley Wilderness”.

1 (6) ORGAN MOUNTAINS WILDERNESS.—Certain
2 land administered by the Bureau of Land Manage-
3 ment in Doña Ana County comprising approximately
4 19,916 acres, as generally depicted on the map enti-
5 tled “Organ Mountains Area” and dated September
6 21, 2016, which shall be known as the “Organ
7 Mountains Wilderness”, the boundary of which shall
8 be offset 400 feet from the centerline of Dripping
9 Springs Road in T. 23 S., R. 04 E., sec. 7, New
10 Mexico Principal Meridian.

11 (7) POTRILLO MOUNTAINS WILDERNESS.—Cer-
12 tain land administered by the Bureau of Land Man-
13 agement in Doña Ana and Luna counties comprising
14 approximately 105,085 acres, as generally depicted
15 on the map entitled “Potrillo Mountains Complex”
16 and dated September 27, 2018, which shall be
17 known as the “Potrillo Mountains Wilderness”.

18 (8) ROBLEDO MOUNTAINS WILDERNESS.—Cer-
19 tain land administered by the Bureau of Land Man-
20 agement in Doña Ana County comprising approxi-
21 mately 16,776 acres, as generally depicted on the
22 map entitled “Desert Peaks Complex” and dated
23 October 1, 2018, which shall be known as the
24 “Robledo Mountains Wilderness”.

1 (9) SIERRA DE LAS UVAS WILDERNESS.—Cer-
2 tain land administered by the Bureau of Land Man-
3 agement in Doña Ana County comprising approxi-
4 mately 11,114 acres, as generally depicted on the
5 map entitled “Desert Peaks Complex” and dated
6 October 1, 2018, which shall be known as the “Si-
7 erra de las Uvas Wilderness”.

8 (10) WHITETHORN WILDERNESS.—Certain land
9 administered by the Bureau of Land Management in
10 Doña Ana and Luna counties comprising approxi-
11 mately 9,616 acres, as generally depicted on the
12 map entitled “Potrillo Mountains Complex” and
13 dated September 27, 2018, which shall be known as
14 the “Whitethorn Wilderness”.

15 (b) MAPS AND LEGAL DESCRIPTIONS.—

16 (1) IN GENERAL.—As soon as practicable after
17 the date of enactment of this Act, the Secretary
18 shall file maps and legal descriptions of the wilder-
19 ness areas with—

20 (A) the Committee on Energy and Natural
21 Resources of the Senate; and

22 (B) the Committee on Natural Resources
23 of the House of Representatives.

24 (2) FORCE OF LAW.—The maps and legal de-
25 scriptions filed under paragraph (1) shall have the

1 same force and effect as if included in this Act, ex-
2 cept that the Secretary may correct errors in the
3 maps and legal descriptions.

4 (3) PUBLIC AVAILABILITY.—The maps and
5 legal descriptions filed under paragraph (1) shall be
6 on file and available for public inspection in the ap-
7 propriate offices of the Bureau of Land Manage-
8 ment.

9 (c) MANAGEMENT.—Subject to valid existing rights,
10 the wilderness areas shall be administered by the Sec-
11 retary—

12 (1) as components of the National Landscape
13 Conservation System; and

14 (2) in accordance with—

15 (A) this Act; and

16 (B) the Wilderness Act (16 U.S.C. 1131 et
17 seq.), except that—

18 (i) any reference in the Wilderness
19 Act to the effective date of that Act shall
20 be considered to be a reference to the date
21 of enactment of this Act; and

22 (ii) any reference in the Wilderness
23 Act to the Secretary of Agriculture shall be
24 considered to be a reference to the Sec-
25 retary of the Interior.

1 (d) INCORPORATION OF ACQUIRED LAND AND IN-
2 TERESTS IN LAND.—Any land or interest in land that is
3 within the boundary of a wilderness area that is acquired
4 by the United States shall—

5 (1) become part of the wilderness area within
6 the boundaries of which the land is located; and

7 (2) be managed in accordance with—

8 (A) the Wilderness Act (16 U.S.C. 1131 et
9 seq.);

10 (B) this Act; and

11 (C) any other applicable laws.

12 (e) GRAZING.—Grazing of livestock in the wilderness
13 areas, where established before the date of enactment of
14 this Act, shall be administered in accordance with—

15 (1) section 4(d)(4) of the Wilderness Act (16
16 U.S.C. 1133(d)(4)); and

17 (2) the guidelines set forth in Appendix A of
18 the Report of the Committee on Interior and Insular
19 Affairs to accompany H.R. 2570 of the 101st Con-
20 gress (H. Rept. 101–405).

21 (f) MILITARY OVERFLIGHTS.—Nothing in this sec-
22 tion restricts or precludes—

23 (1) low-level overflights of military aircraft over
24 the wilderness areas, including military overflights

1 that can be seen or heard within the wilderness
2 areas;

3 (2) the designation of new units of special air-
4 space over the wilderness areas; or

5 (3) the use or establishment of military flight
6 training routes over the wilderness areas.

7 (g) BUFFER ZONES.—

8 (1) IN GENERAL.—Nothing in this section cre-
9 ates a protective perimeter or buffer zone around
10 any wilderness area.

11 (2) ACTIVITIES OUTSIDE WILDERNESS
12 AREAS.—The fact that an activity or use on land
13 outside any wilderness area can be seen or heard
14 within the wilderness area shall not preclude the ac-
15 tivity or use outside the boundary of the wilderness
16 area.

17 (h) PARAGLIDING.—The use of paragliding within
18 areas of the East Potrillo Mountains Wilderness des-
19 ignated by subsection (a)(4) in which the use has been
20 established before the date of enactment of this Act, shall
21 be allowed to continue in accordance with section 4(d)(1)
22 of the Wilderness Act (16 U.S.C. 1133(d)(1)), subject to
23 any terms and conditions that the Secretary determines
24 to be necessary.

1 (i) CLIMATOLOGIC DATA COLLECTION.—Subject to
2 such terms and conditions as the Secretary may prescribe,
3 nothing in this Act precludes the installation and mainte-
4 nance of hydrologic, meteorologic, or climatologic collec-
5 tion devices in wilderness areas if the facilities and access
6 to the facilities are essential to flood warning, flood con-
7 trol, or water reservoir operation activities.

8 (j) FISH AND WILDLIFE.—Nothing in this Act af-
9 fects the jurisdiction of the State with respect to fish and
10 wildlife located on public land in the State, except that
11 the Secretary, after consultation with the New Mexico De-
12 partment of Game and Fish, may designate zones where,
13 and establish periods during which, no hunting or fishing
14 shall be permitted for reasons of public safety, administra-
15 tion, or compliance with applicable law.

16 (k) WITHDRAWALS.—

17 (1) IN GENERAL.—Subject to valid existing
18 rights, the Federal land within the wilderness areas
19 and any land or interest in land that is acquired by
20 the United States in the wilderness areas after the
21 date of enactment of this Act is withdrawn from—

22 (A) entry, appropriation, or disposal under
23 the public land laws;

24 (B) location, entry, and patent under the
25 mining laws; and

1 (C) operation of the mineral leasing, min-
2 eral materials, and geothermal leasing laws.

3 (2) PARCEL B.—The approximately 6,498 acres
4 of land generally depicted as “Parcel B” on the map
5 entitled “Organ Mountains Area” and dated Sep-
6 tember 21, 2016, is withdrawn in accordance with
7 paragraph (1), except that the land is not withdrawn
8 for purposes of the issuance of oil and gas pipeline
9 or road rights-of-way.

10 (3) PARCEL C.—The approximately 1,297 acres
11 of land generally depicted as “Parcel C” on the map
12 entitled “Organ Mountains Area” and dated Sep-
13 tember 21, 2016, is withdrawn in accordance with
14 paragraph (1), except that the land is not withdrawn
15 from disposal under the Act of June 14, 1926 (com-
16 monly known as the “Recreation and Public Pur-
17 poses Act”) (43 U.S.C. 869 et seq.).

18 (4) PARCEL D.—

19 (A) IN GENERAL.—The Secretary of the
20 Army shall allow for the conduct of certain rec-
21 reational activities on the approximately 2,035
22 acres of land generally depicted as “Parcel D”
23 on the map entitled “Organ Mountains Area”
24 and dated September 21, 2016 (referred to in
25 this paragraph as the “parcel”), which is a por-

1 tion of the public land withdrawn and reserved
2 for military purposes by Public Land Order 833
3 dated May 21, 1952 (17 Fed. Reg. 4822).

4 (B) OUTDOOR RECREATION PLAN.—

5 (i) IN GENERAL.—The Secretary of
6 the Army shall develop a plan for public
7 outdoor recreation on the parcel that is
8 consistent with the primary military mis-
9 sion of the parcel.

10 (ii) REQUIREMENT.—In developing
11 the plan under clause (i), the Secretary of
12 the Army shall ensure, to the maximum
13 extent practicable, that outdoor recreation
14 activities may be conducted on the parcel,
15 including hunting, hiking, wildlife viewing,
16 and camping.

17 (C) CLOSURES.—The Secretary of the
18 Army may close the parcel or any portion of the
19 parcel to the public as the Secretary of the
20 Army determines to be necessary to protect—

21 (i) public safety; or

22 (ii) the safety of the military members
23 training on the parcel.

24 (D) TRANSFER OF ADMINISTRATIVE JURIS-
25 DICTION; WITHDRAWAL.—

1 (i) IN GENERAL.—On a determination
2 by the Secretary of the Army that military
3 training capabilities, personnel safety, and
4 installation security would not be hindered
5 as a result of the transfer to the Secretary
6 of administrative jurisdiction over the par-
7 cel, the Secretary of the Army shall trans-
8 fer to the Secretary administrative jurisdic-
9 tion over the parcel.

10 (ii) WITHDRAWAL.—On transfer of
11 the parcel under clause (i), the parcel shall
12 be—

13 (I) under the jurisdiction of the
14 Director of the Bureau of Land Man-
15 agement; and

16 (II) withdrawn from—

17 (aa) entry, appropriation, or
18 disposal under the public land
19 laws;

20 (bb) location, entry, and
21 patent under the mining laws;
22 and

23 (cc) operation of the mineral
24 leasing, mineral materials, and
25 geothermal leasing laws.

1 (iii) RESERVATION.—On transfer
2 under clause (i), the parcel shall be re-
3 served for management of the resources of,
4 and military training conducted on, the
5 parcel in accordance with a memorandum
6 of understanding entered into under sub-
7 paragraph (E).

8 (E) MEMORANDUM OF UNDERSTANDING
9 RELATING TO MILITARY TRAINING.—

10 (i) IN GENERAL.—If, after the trans-
11 fer of the parcel under subparagraph
12 (D)(i), the Secretary of the Army requests
13 that the Secretary enter into a memo-
14 randum of understanding, the Secretary
15 shall enter into a memorandum of under-
16 standing with the Secretary of the Army
17 providing for the conduct of military train-
18 ing on the parcel.

19 (ii) REQUIREMENTS.—The memo-
20 randum of understanding entered into
21 under clause (i) shall—

22 (I) address the location, fre-
23 quency, and type of training activities
24 to be conducted on the parcel;

1 (II) provide to the Secretary of
2 the Army access to the parcel for the
3 conduct of military training;

4 (III) authorize the Secretary or
5 the Secretary of the Army to close the
6 parcel or a portion of the parcel to the
7 public as the Secretary or the Sec-
8 retary of the Army determines to be
9 necessary to protect—

10 (aa) public safety; or

11 (bb) the safety of the mili-
12 tary members training; and

13 (IV) to the maximum extent
14 practicable, provide for the protection
15 of natural, historic, and cultural re-
16 sources in the area of the parcel.

17 (F) MILITARY OVERFLIGHTS.—Nothing in
18 this paragraph restricts or precludes—

19 (i) low-level overflights of military air-
20 craft over the parcel, including military
21 overflights that can be seen or heard with-
22 in the parcel;

23 (ii) the designation of new units of
24 special airspace over the parcel; or

1 (iii) the use or establishment of mili-
2 tary flight training routes over the parcel.

3 (l) ROBLEDO MOUNTAINS.—

4 (1) IN GENERAL.—The Secretary shall manage
5 the Federal land described in paragraph (2) in a
6 manner that preserves the character of the land for
7 the future inclusion of the land in the National Wil-
8 derness Preservation System.

9 (2) LAND DESCRIPTION.—The land referred to
10 in paragraph (1) is certain land administered by the
11 Bureau of Land Management, comprising approxi-
12 mately 100 acres as generally depicted as “Lookout
13 Peak Communication Site” on the map entitled
14 “Desert Peaks Complex” and dated October 1,
15 2018.

16 (3) USES.—The Secretary shall permit only
17 such uses on the land described in paragraph (2)
18 that were permitted on the date of enactment of this
19 Act.

20 (m) RELEASE OF WILDERNESS STUDY AREAS.—
21 Congress finds that, for purposes of section 603(c) of the
22 Federal Land Policy and Management Act of 1976 (43
23 U.S.C. 1782(c)), the public land in Doña Ana County ad-
24 ministered by the Bureau of Land Management not des-

1 ignated as wilderness by subsection (a) or described in
2 subsection (l)—

3 (1) has been adequately studied for wilderness
4 designation;

5 (2) is no longer subject to section 603(c) of the
6 Federal Land Policy and Management Act of 1976
7 (43 U.S.C. 1782(c)); and

8 (3) shall be managed in accordance with—

9 (A) the Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1701 et seq.);

11 (B) this Act; and

12 (C) any other applicable laws.

13 (n) PRIVATE LAND.—In accordance with section 5 of
14 the Wilderness Act (16 U.S.C. 1134), the Secretary shall
15 ensure adequate access to non-Federal land located within
16 the boundary of a wilderness area.

17 **SEC. 4. BORDER SECURITY.**

18 (a) IN GENERAL.—Nothing in this Act—

19 (1) prevents the Secretary of Homeland Secu-
20 rity from undertaking law enforcement and border
21 security activities, in accordance with section 4(c) of
22 the Wilderness Act (16 U.S.C. 1133(c)), within the
23 wilderness areas, including the ability to use motor-
24 ized access within a wilderness area while in pursuit
25 of a suspect;

1 (2) affects the 2006 Memorandum of Under-
2 standing among the Department of Homeland Secu-
3 rity, the Department of the Interior, and the De-
4 partment of Agriculture regarding cooperative na-
5 tional security and counterterrorism efforts on Fed-
6 eral land along the borders of the United States; or

7 (3) prevents the Secretary of Homeland Secu-
8 rity from conducting any low-level overflights over
9 the wilderness areas that may be necessary for law
10 enforcement and border security purposes.

11 (b) WITHDRAWAL AND ADMINISTRATION OF CER-
12 TAIN AREA.—

13 (1) WITHDRAWAL.—The area identified as
14 “Parcel A” on the map entitled “Potrillo Mountains
15 Complex” and dated September 27, 2018, is with-
16 drawn in accordance with section 3(k)(1).

17 (2) ADMINISTRATION.—Except as provided in
18 paragraphs (3) and (4), the Secretary shall admin-
19 ister the area described in paragraph (1) in a man-
20 ner that, to the maximum extent practicable, pro-
21 tects the wilderness character of the area.

22 (3) USE OF MOTOR VEHICLES.—The use of
23 motor vehicles, motorized equipment, and mechan-
24 ical transport shall be prohibited in the area de-
25 scribed in paragraph (1) except as necessary for—

1 (A) the administration of the area (includ-
2 ing the conduct of law enforcement and border
3 security activities in the area); or

4 (B) grazing uses by authorized permittees.

5 (4) EFFECT OF SUBSECTION.—Nothing in this
6 subsection precludes the Secretary from allowing
7 within the area described in paragraph (1) the in-
8 stallation and maintenance of communication or sur-
9 veillance infrastructure necessary for law enforce-
10 ment or border security activities.

11 (c) RESTRICTED ROUTE.—The route excluded from
12 the Potrillo Mountains Wilderness identified as “Re-
13 stricted—Administrative Access” on the map entitled
14 “Potrillo Mountains Complex” and dated September 27,
15 2018, shall be—

16 (1) closed to public access; but

17 (2) available for administrative and law enforce-
18 ment uses, including border security activities.

19 **SEC. 5. ORGAN MOUNTAINS-DESERT PEAKS NATIONAL**
20 **MONUMENT.**

21 (a) MANAGEMENT PLAN.—In preparing and imple-
22 menting the management plan for the Monument, the Sec-
23 retary shall include a watershed health assessment to iden-
24 tify opportunities for watershed restoration.

1 (b) INCORPORATION OF ACQUIRED STATE TRUST
2 LAND AND INTERESTS IN STATE TRUST LAND.—

3 (1) IN GENERAL.—Any land or interest in land
4 that is within the State trust land described in para-
5 graph (2) that is acquired by the United States
6 shall—

7 (A) become part of the Monument; and

8 (B) be managed in accordance with—

9 (i) Presidential Proclamation 9131
10 (79 Fed. Reg. 30431);

11 (ii) this Act; and

12 (iii) any other applicable laws.

13 (2) DESCRIPTION OF STATE TRUST LAND.—

14 The State trust land referred to in paragraph (1) is
15 the State trust land in T. 22 S., R 01 W., New Mex-
16 ico Principal Meridian and T. 22 S., R. 02 W., New
17 Mexico Principal Meridian.

18 (c) LAND EXCHANGES.—

19 (1) IN GENERAL.—Subject to paragraphs (3)
20 through (6), the Secretary shall attempt to enter
21 into an agreement to initiate an exchange under sec-
22 tion 2201.1 of title 43, Code of Federal Regulations
23 (or successor regulations), with the Commissioner of
24 Public Lands of New Mexico, by the date that is 18
25 months after the date of enactment of this Act, to

1 provide for a conveyance to the State of all right,
2 title, and interest of the United States in and to Bu-
3 reau of Land Management land in the State identi-
4 fied under paragraph (2) in exchange for the convey-
5 ance by the State to the Secretary of all right, title,
6 and interest of the State in and to parcels of State
7 trust land within the boundary of the Monument
8 identified under that paragraph or described in sub-
9 section (b)(2).

10 (2) IDENTIFICATION OF LAND FOR EX-
11 CHANGE.—The Secretary and the Commissioner of
12 Public Lands of New Mexico shall jointly identify
13 the Bureau of Land Management land and State
14 trust land eligible for exchange under this sub-
15 section, the exact acreage and legal description of
16 which shall be determined by surveys approved by
17 the Secretary and the New Mexico State Land Of-
18 fice.

19 (3) APPLICABLE LAW.—A land exchange under
20 paragraph (1) shall be carried out in accordance
21 with section 206 of the Federal Land Policy and
22 Management Act of 1976 (43 U.S.C. 1716).

23 (4) CONDITIONS.—A land exchange under para-
24 graph (1) shall be subject to—

25 (A) valid existing rights; and

1 (B) such terms as the Secretary and the
2 State shall establish.

3 (5) VALUATION, APPRAISALS, AND EQUALI-
4 ZATION.—

5 (A) IN GENERAL.—The value of the Bu-
6 reau of Land Management land and the State
7 trust land to be conveyed in a land exchange
8 under this subsection—

9 (i) shall be equal, as determined by
10 appraisals conducted in accordance with
11 subparagraph (B); or

12 (ii) if not equal, shall be equalized in
13 accordance with subparagraph (C).

14 (B) APPRAISALS.—

15 (i) IN GENERAL.—The Bureau of
16 Land Management land and State trust
17 land to be exchanged under this subsection
18 shall be appraised by an independent,
19 qualified appraiser that is agreed to by the
20 Secretary and the State.

21 (ii) REQUIREMENTS.—An appraisal
22 under clause (i) shall be conducted in ac-
23 cordance with—

1 (I) the Uniform Appraisal Stand-
2 ards for Federal Land Acquisitions;
3 and

4 (II) the Uniform Standards of
5 Professional Appraisal Practice.

6 (C) EQUALIZATION.—

7 (i) IN GENERAL.—If the value of the
8 Bureau of Land Management land and the
9 State trust land to be conveyed in a land
10 exchange under this subsection is not
11 equal, the value may be equalized by—

12 (I) making a cash equalization
13 payment to the Secretary or to the
14 State, as appropriate, in accordance
15 with section 206(b) of the Federal
16 Land Policy and Management Act of
17 1976 (43 U.S.C. 1716(b)); or

18 (II) reducing the acreage of the
19 Bureau of Land Management land or
20 State trust land to be exchanged, as
21 appropriate.

22 (ii) CASH EQUALIZATION PAY-
23 MENTS.—Any cash equalization payments
24 received by the Secretary under clause
25 (i)(I) shall be—

1 (I) deposited in the Federal Land
2 Disposal Account established by sec-
3 tion 206(a) of the Federal Land
4 Transaction Facilitation Act (43
5 U.S.C. 2305(a)); and

6 (II) used in accordance with that
7 Act.

8 (6) LIMITATION.—No exchange of land shall be
9 conducted under this subsection unless mutually
10 agreed to by the Secretary and the State.