

Union Calendar No. 840

115TH CONGRESS
2D SESSION

H. R. 3990

[Report No. 115–1081]

To amend title 54, United States Code, to reform the Antiquities Act of 1906, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2017

Mr. BISHOP of Utah (for himself, Mr. LAMBORN, Mr. MCCLINTOCK, Mr. GOSAR, Mr. LAMALFA, and Mr. WESTERMAN) introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 19, 2018

Additional sponsors: Mr. YOUNG of Alaska, Mr. STEWART, Mr. CURTIS, and Mr. WILLIAMS

DECEMBER 19, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 6, 2017]

A BILL

To amend title 54, United States Code, to reform the
Antiquities Act of 1906, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Monument*
 5 *Creation and Protection Act” or the “National Monument*
 6 *CAP Act”.*

7 **SEC. 2. LIMITATION ON SIZE; CLARIFICATION OF ELIGIBLE**
 8 **OBJECTS.**

9 *Section 320301 of title 54, United States Code, is*
 10 *amended—*

11 *(1) in subsection (a), by striking “historic land-*
 12 *marks, historic and prehistoric structures, and other*
 13 *objects of historic or scientific interest” and inserting*
 14 *“object or objects of antiquity”;*

15 *(2) in subsection (b), by striking “confined to the*
 16 *smallest area compatible with the proper care and*
 17 *management of the objects to be protected” and insert-*
 18 *ing “in accordance with the limitations outlined in*
 19 *subsections (e), (f), (g), and (h)”;* and

20 *(3) by adding at the end the following:*

21 *“(e) LIMITATION ON SIZE OF NATIONAL MONU-*
 22 *MENTS.—Except as provided by subsections (f), (g), and (h),*
 23 *after the date of the enactment of this subsection, land may*
 24 *not be declared under this section in a configuration that*
 25 *would create a national monument—*

1 “(1) *that is more than 640 acres; and*

2 “(2) *whose exterior boundary is less than 50*
3 *miles from the closest exterior boundary of another*
4 *national monument declared under this section.*

5 “(f) *EXCEPTION FOR MONUMENTS OF LESS THAN*
6 *5,000 ACRES.—Subsection (e) shall not apply to the des-*
7 *ignation of a national monument under this section if the*
8 *national monument so designated—*

9 “(1) *would be less than 5,000 acres;*

10 “(2) *would have all exterior boundaries 50 miles*
11 *or more from the closest exterior boundary of another*
12 *national monument declared under this section; and*

13 “(3) *has been reviewed under the National Envi-*
14 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
15 *by the Secretary of the Interior or the Secretary of*
16 *Agriculture, as appropriate.*

17 “(g) *EXCEPTION FOR MONUMENTS OF 5,000 ACRES*
18 *AND UP TO 10,000 ACRES.—*

19 “(1) *IN GENERAL.—Subsection (e) shall not*
20 *apply to the designation of a national monument*
21 *under this section if the national monument so des-*
22 *ignated—*

23 “(A) *would be at least 5,000 acres but not*
24 *more than 10,000 acres; and*

1 “(B) would have all exterior boundaries 50
2 miles or more from the closest exterior boundary
3 of another national monument declaration under
4 this section.

5 “(2) OTHER REQUIREMENT.—A monument de-
6 scribed in this subsection shall be subject to the prepa-
7 ration of an environmental assessment or environ-
8 mental impact statement as part of a review under
9 the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.). The choice of environmental re-
11 view document shall be within the discretion of the
12 Secretary of the Interior or the Secretary of Agri-
13 culture, as appropriate.

14 “(h) EXCEPTION FOR MONUMENTS 10,000 ACRES AND
15 UP TO 85,000 ACRES.—Subsection (e) shall not apply to
16 the designation of a national monument under this section
17 if the national monument so designated—

18 “(1) would be at least 10,000 acres but not more
19 than 85,000 acres;

20 “(2) would have all exterior boundaries 50 miles
21 or more from the closest exterior boundary of another
22 national monument declaration under this section;
23 and

24 “(3) has been approved by the elected governing
25 body of each county (or county equivalent), the legis-

1 *lature of each State, and the Governor of each State*
 2 *within whose boundaries the national monument will*
 3 *be located (and the Governor of each such State has*
 4 *transmitted a copy of each such approval to the*
 5 *President).*

6 *“(i) EXCEPTION FOR EMERGENCY DESIGNATION.—*

7 *“(1) IN GENERAL.—Subsection (e) shall not*
 8 *apply to the designation under this section of a na-*
 9 *tional monument of any acreage amount if designa-*
 10 *tion is made to prevent imminent and irreparable*
 11 *harm to the object or objects of antiquity to be pro-*
 12 *tected by the designation.*

13 *“(2) ONE YEAR LIMITATION.—A national monu-*
 14 *ment designation under this subsection shall termi-*
 15 *nate on the date that is one calendar year after the*
 16 *date of the designation.*

17 *“(3) ONE TIME DESIGNATION.—Land designated*
 18 *as a national monument under this subsection—*

19 *“(A) may only be so designated one time;*
 20 *and*

21 *“(B) may not also be permanently des-*
 22 *ignated as a national monument under this sec-*
 23 *tion.*

1 “(4) *RIGHTS AND USES.*—*Land designated as a*
 2 *national monument under this subsection shall re-*
 3 *main subject to—*

4 “(A) *valid existing rights; and*

5 “(B) *uses allowed on the day before such*
 6 *designation under an applicable Resource Man-*
 7 *agement Plan or Forest Plan.*

8 “(j) *PRESIDENTIAL AUTHORITY TO REDUCE SIZE OF*
 9 *DECLARED MONUMENTS.*—*The President may—*

10 “(1) *reduce the size of any national monument*
 11 *declared under this section by 85,000 acres or less; or*

12 “(2) *reduce the size of any national monument*
 13 *declared under this section by more than 85,000 acres*
 14 *only if the reduction—*

15 “(A) *has been approved by the elected gov-*
 16 *erning body of each county (or county equiva-*
 17 *lent), the legislature of each State, and the Gov-*
 18 *ernor of each State within whose boundaries the*
 19 *national monument will be located (and the Gov-*
 20 *ernor of each such State has transmitted a copy*
 21 *of each such approval to the President); and*

22 “(B) *has been reviewed under the National*
 23 *Environmental Policy Act of 1969 (42 U.S.C.*
 24 *4321 et seq.) by the Secretary of the Interior or*
 25 *the Secretary of Agriculture, as appropriate.*

1 “(k) *NON-FEDERALLY OWNED PROPERTY.*—After the
 2 date of the enactment of this subsection, land may not be
 3 declared as a national monument under this section in a
 4 configuration that would place non-federally owned prop-
 5 erty within the exterior boundaries of the national monu-
 6 ment without the express written consent of the owners of
 7 that non-federally owned property.

8 “(l) *EFFECT OF DECLARATION ON FEDERAL FUNDS.*—
 9 No declaration under this section shall be construed to in-
 10 crease the amount of Federal funds that are authorized to
 11 be appropriated for any fiscal year.

12 “(m) *WATER RIGHTS ASSOCIATED WITH A DECLARA-*
 13 *TION.*—Water rights associated with a declaration under
 14 this section—

15 “(1) may not be reserved expressly or by impli-
 16 cation by a declaration under this section; and

17 “(2) may be acquired for a declaration under
 18 this section only in accordance with the laws of the
 19 State in which the water rights are based.

20 “(n) *DEFINITIONS.*—For the purposes of this section:

21 “(1) *DECLARATION; DECLARED.*—The terms ‘dec-
 22 laration’ and ‘declared’ shall only include the cre-
 23 ation or expansion of a national monument under
 24 this section.

1 “(2) *LAND*.—The term ‘land’ shall not include
2 *submerged land or water*.

3 “(3) *OBJECT OR OBJECTS OF ANTIQUITY*.—

4 “(A) The term ‘object or objects of antiquity’
5 *means—*

6 “(i) *relics*;

7 “(ii) *artifacts*;

8 “(iii) *human or animal skeletal re-*
9 *mains*;

10 “(iv) *fossils (other than fossil fuels)*;
11 *and*

12 “(v) *certain buildings constructed be-*
13 *fore the date of the enactment of this sub-*
14 *section*.

15 “(B) The term ‘object or objects of antiq-

16 *uity’ does not include—*

17 “(i) *natural geographic features*; and

18 “(ii) *objects not made by humans, ex-*
19 *cept fossils (other than fossil fuels) or*
20 *human or animal skeletal remains.*”.

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