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.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. LIMITATION ON SIZE; CLARIFICATION OF ELIGIBLE OBJECTS.

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

(1) in subsection (a), by striking “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest” and inserting “object or objects of antiquity”;

(2) in subsection (b), by striking “confined to the smallest area compatible with the proper care and management of the objects to be protected” and inserting “in accordance with the limitations outlined in subsections (e), (f), (g), and (h)”;

(3) by adding at the end the following:

“(e) LIMITATION ON SIZE OF NATIONAL MONUMENTS.—Except as provided by subsections (f), (g), and (h), after the date of the enactment of this subsection, land may not be declared under this section in a configuration that would create a national monument—
“(1) that is more than 640 acres; and

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

“(f) Exception for Monuments of Less Than 5,000 Acres.—Subsection (e) shall not apply to the designation of a national monument under this section if the national monument so designated—

“(1) would be less than 5,000 acres;

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

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

“(g) Exception for Monuments of 5,000 Acres and Up to 10,000 Acres.—

“(1) In General.—Subsection (e) shall not apply to the designation of a national monument under this section if the national monument so designated—

“(A) would be at least 5,000 acres but not more than 10,000 acres; and
“(B) would have all exterior boundaries 50 miles or more from the closest exterior boundary of another national monument declaration under this section.

“(2) OTHER REQUIREMENT.—A monument described in this subsection shall be subject to the preparation of an environmental assessment or environmental impact statement as part of a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The choice of environmental review document shall be within the discretion of the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

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

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

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

and

“(3) has been approved by the elected governing body of each county (or county equivalent), the legis-
lature of each State, and the Governor of each State
within whose boundaries the national monument will
be located (and the Governor of each such State has
transmitted a copy of each such approval to the
President).

“(i) EXCEPTION FOR EMERGENCY DESIGNATION.—

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

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

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

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

“(B) may not also be permanently des-
ignated as a national monument under this sec-
tion.
“(4) RIGHTS AND USES.—Land designated as a national monument under this subsection shall remain subject to—

“(A) valid existing rights; and

“(B) uses allowed on the day before such designation under an applicable Resource Management Plan or Forest Plan.

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

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

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

“(A) has been approved by the elected governing body of each county (or county equivalent), the legislature of each State, and the Governor of each State within whose boundaries the national monument will be located (and the Governor of each such State has transmitted a copy of each such approval to the President); and

“(B) has been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the Secretary of the Interior or the Secretary of Agriculture, as appropriate.
“(k) Non-Federally Owned Property.—After the date of the enactment of this subsection, land may not be declared as a national monument under this section in a configuration that would place non-federally owned property within the exterior boundaries of the national monument without the express written consent of the owners of that non-federally owned property.

“(l) Effect of Declaration on Federal Funds.—No declaration under this section shall be construed to increase the amount of Federal funds that are authorized to be appropriated for any fiscal year.

“(m) Water Rights Associated With a Declaration.—Water rights associated with a declaration under this section—

“(1) may not be reserved expressly or by implication by a declaration under this section; and

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

“(n) Definitions.—For the purposes of this section:

“(1) Declaration; Declared.—The terms ‘declaration’ and ‘declared’ shall only include the creation or expansion of a national monument under this section.
“(2) LAND.—The term ‘land’ shall not include submerged land or water.

“(3) OBJECT OR OBJECTS OF ANTIQUITY.—

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

“(i) relics;

“(ii) artifacts;

“(iii) human or animal skeletal remains;

“(iv) fossils (other than fossil fuels); and

“(v) certain buildings constructed before the date of the enactment of this subsection.

“(B) The term ‘object or objects of antiquity’ does not include—

“(i) natural geographic features; and

“(ii) objects not made by humans, except fossils (other than fossil fuels) or human or animal skeletal remains.”.
A BILL

[Report No. 115–1074]

H. R. 3990

115th CONGRESS

Union Calendar No. 840

To amend the National Park Service Organic Act of 1933, and for other purposes.