

116TH CONGRESS  
1ST SESSION

# H. R. 1664

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2019

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

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## 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—

1           (1) in subsection (a), by striking “historic land-  
2       marks, historic and prehistoric structures, and other  
3       objects of historic or scientific interest” and insert-  
4       ing “object or objects of antiquity”;

5           (2) in subsection (b), by striking “confined to  
6       the smallest area compatible with the proper care  
7       and management of the objects to be protected” and  
8       inserting “in accordance with the limitations out-  
9       lined in subsections (e), (f), (g), and (h)”;

10          (3) by adding at the end the following:

11       “(e) LIMITATION ON SIZE OF NATIONAL MONU-  
12       MENTS.—Except as provided by subsections (f), (g), and  
13       (h), after the date of the enactment of this subsection,  
14       land may not be declared under this section in a configura-  
15       tion that would create a national monument—

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

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

20       “(f) EXCEPTION FOR MONUMENTS OF LESS THAN  
21       5,000 ACRES.—Subsection (e) shall not apply to the des-  
22       ignation of a national monument under this section if the  
23       national monument so designated—

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

1           “(2) would have all exterior boundaries 50  
2 miles or more from the closest exterior boundary of  
3 another national monument declared under this sec-  
4 tion; and

5           “(3) has been reviewed under the National En-  
6 vironmental Policy Act of 1969 (42 U.S.C. 4321 et  
7 seq.) by the Secretary of the Interior or the Sec-  
8 retary of Agriculture, as appropriate.

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

11           “(1) IN GENERAL.—Subsection (e) shall not  
12 apply to the designation of a national monument  
13 under this section if the national monument so des-  
14 ignated—

15           “(A) would be at least 5,000 acres but not  
16 more than 10,000 acres; and

17           “(B) would have all exterior boundaries 50  
18 miles or more from the closest exterior bound-  
19 ary of another national monument declaration  
20 under this section.

21           “(2) OTHER REQUIREMENT.—A monument de-  
22 scribed in this subsection shall be subject to the  
23 preparation of an environmental assessment or envi-  
24 ronmental impact statement as part of a review  
25 under the National Environmental Policy Act of

1       1969 (42 U.S.C. 4321 et seq.). The choice of envi-  
2       ronmental review document shall be within the dis-  
3       cretion of the Secretary of the Interior or the Sec-  
4       retary of Agriculture, as appropriate.

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

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

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

15              “(3) has been approved by the elected gov-  
16       erning body of each county (or county equivalent),  
17       the legislature of each State, and the Governor of  
18       each State within whose boundaries the national  
19       monument will be located (and the Governor of each  
20       such State has transmitted a copy of each such ap-  
21       proval to the President).

22       “(i) EXCEPTION FOR EMERGENCY DESIGNATION.—

23              “(1) IN GENERAL.—Subsection (e) shall not  
24       apply to the designation under this section of a na-  
25       tional monument of any acreage amount if designa-

1       tion is made to prevent imminent and irreparable  
2       harm to the object or objects of antiquity to be pro-  
3       tected by the designation.

4           “(2) ONE-YEAR LIMITATION.—A national  
5       monument designation under this subsection shall  
6       terminate on the date that is one calendar year after  
7       the date of the designation.

8           “(3) ONE-TIME DESIGNATION.—Land des-  
9       ignated as a national monument under this sub-  
10      section—

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

13           “(B) may not also be permanently des-  
14      ignated as a national monument under this sec-  
15      tion.

16           “(4) RIGHTS AND USES.—Land designated as a  
17      national monument under this subsection shall re-  
18      main subject to—

19           “(A) valid existing rights; and

20           “(B) uses allowed on the day before such  
21      designation under an applicable Resource Man-  
22      agement Plan or Forest Plan.

23      “(j) LIMITATION ON PRESIDENTIAL AUTHORITY TO  
24      REDUCE SIZE OF DECLARED MONUMENTS.—The Presi-  
25      dent may—

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

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

7           “(A) has been approved by the elected gov-  
8       erning body of each county (or county equiva-  
9       lent), the legislature of each State, and the  
10      Governor of each State within whose boundaries  
11      the national monument will be located (and the  
12      Governor of each such State has transmitted a  
13      copy of each such approval to the President);  
14      and

15          “(B) has been reviewed under the National  
16      Environmental Policy Act of 1969 (42 U.S.C.  
17      4321 et seq.) by the Secretary of the Interior  
18      or the Secretary of Agriculture, as appropriate.

19      “(k) DISCLOSURE, CONSULTATION, SURVEY, AND  
20      EVALUATION REQUIREMENT.—On a date not later than  
21      45 days before the declaration of any national monument  
22      or reduction in size of a declared monument under this  
23      section, and excluding such designations under subsection  
24      (i), the President shall—

1           “(1) keep records of all lobbying activity as de-  
2           fined under the Lobbying Disclosure Act of 1995 (2  
3           U.S.C. 1601 et seq.) and received by the President  
4           or the Secretary of the Interior or Secretary of Agri-  
5           culture for the purposes of influencing the declara-  
6           tion of or adjustment to boundaries of such monu-  
7           ment, including a record of—

8                   “(A) identities and affiliations of peti-  
9                   tioning registered lobbyists;

10                   “(B) date of such lobbying activity;

11                   “(C) duration of all meetings between reg-  
12                   istered lobbyists and the President or the Sec-  
13                   retary of the Interior or Secretary of Agri-  
14                   culture;

15                   “(D) topics of all meetings between reg-  
16                   istered lobbyists and the President or the Sec-  
17                   retary of the Interior or Secretary of Agri-  
18                   culture; and

19                   “(E) requests by registered lobbyists or  
20                   other persons who made requests to the Presi-  
21                   dent or the Secretary of the Interior or Sec-  
22                   retary of Agriculture pertaining to the declara-  
23                   tion or modification of the boundaries of a  
24                   monument;

1           “(2) solicit from the chief executive or designee  
2           of impacted governments information and advice re-  
3           garding the declaration or adjustment to boundaries  
4           of such monument;

5           “(3) produce a record of any significant eco-  
6           nomic, recreational, cultural, geologic, artifactual,  
7           scientific, and other relevant objects or interests  
8           within the boundary of the planned monument or  
9           monument boundary adjustment, or which would  
10          otherwise be substantially impacted by such monu-  
11          ment declaration or monument boundary adjust-  
12          ment;

13          “(4) designate any qualifying object as found in  
14          the record under paragraph (3) as an object of an-  
15          tiquity, and include in the record under such clause  
16          any information showing that such designation  
17          meets the definition of object or objects of antiquity  
18          under this section;

19          “(5) conduct an analysis of economic impact of  
20          such monument declaration or boundary adjustment,  
21          including impacts to—

22                  “(A) tourism;

23                  “(B) grazing;

24                  “(C) hunting and recreation;

25                  “(D) forestry;

1                   “(E) mineral and other resource extrac-  
2                   tion; and

3                   “(F) other economic activity;

4                   “(6) produce an evaluation of anticipated im-  
5                   pacts to protection, management, and use of objects  
6                   designated as “objects of antiquity” under para-  
7                   graph (4) which would be subject to protection  
8                   under such monument declaration or boundary ad-  
9                   justment;

10                  “(7) compile and present to the Chair and  
11                  Ranking Member or the staff designees of the Sen-  
12                  ate Energy and Natural Resources Committee and  
13                  the House Committee on Natural Resources a report  
14                  which includes all information as produced or re-  
15                  ceived under paragraphs (1) through (6); and

16                  “(8) establish and maintain an online portal on  
17                  the website of the Department of the Interior acces-  
18                  sible by the public that allows the public to view  
19                  such report under paragraph (7) after the presen-  
20                  tation of such report under such paragraph.

21                  “(I) NON-FEDERALLY OWNED PROPERTY.—After  
22                  the date of the enactment of this subsection, land may  
23                  not be declared as a national monument under this section  
24                  in a configuration that would place non-federally owned  
25                  property within the exterior boundaries of the national

1 monument without the express written consent of the own-  
 2 ers of that non-federally owned property.

3 “(m) EFFECT OF DECLARATION ON FEDERAL  
 4 FUNDS.—No declaration under this section shall be con-  
 5 strued to increase the amount of Federal funds that are  
 6 authorized to be appropriated for any fiscal year.

7 “(n) WATER RIGHTS ASSOCIATED WITH A DECLARA-  
 8 TION.—Water rights associated with a declaration under  
 9 this section—

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

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

15 “(o) DEFINITIONS.—For the purposes of this section:

16 “(1) DECLARATION; DECLARED.—The terms  
 17 ‘declaration’ and ‘declared’ shall only include the  
 18 creation or expansion of a national monument under  
 19 this section.

20 “(2) IMPACTED GOVERNMENTS.—The term ‘im-  
 21 pacted governments’ means any of the following that  
 22 contain a monument or reduced monument declared  
 23 within its jurisdiction or which would otherwise have  
 24 a significant economic or culture interest in such de-  
 25 clared monument:

1 “(A) County.

2 “(B) City.

3 “(C) Federally recognized Indian Tribe.

4 “(D) State.

5 “(E) State legislature.

6 “(3) LAND.—The term ‘land’ shall not include  
7 submerged land or water.

8 “(4) OBJECT OR OBJECTS OF ANTIQUITY.—

9 “(A) The term ‘object or objects of antiq-  
10 uity’ means—

11 “(i) relics;

12 “(ii) artifacts;

13 “(iii) human or animal skeletal re-  
14 mains;

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

16 and

17 “(v) certain buildings constructed be-  
18 fore the date of the enactment of this sub-  
19 section.

20 “(B) The term ‘object or objects of antiq-  
21 uity’ does not include—

22 “(i) natural geographic features; and

1                   “(ii) objects not made by humans, ex-  
2                   cept fossils (other than fossil fuels) or  
3                   human or animal skeletal remains.”.

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