

115TH CONGRESS  
1ST SESSION

# H. R. 3990

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

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

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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”.

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

8 Section 320301 of title 54, United States Code, is  
9 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) PRESIDENTIAL AUTHORITY TO REDUCE SIZE OF  
24      DECLARED MONUMENTS.—The President 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) NON-FEDERALLY OWNED PROPERTY.—After  
20           the date of the enactment of this subsection, land may  
21           not be declared as a national monument under this section  
22           in a configuration that would place non-federally owned  
23           property within the exterior boundaries of the national  
24           monument without the express written consent of the own-  
25           ers of that non-federally owned property.

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

5       “(m) WATER RIGHTS ASSOCIATED WITH A DEC-  
6 LARATION.—Water rights associated with a declaration  
7 under this section—

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

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

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

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

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

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

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

23                              “(i) relics;

24                              “(ii) artifacts;

1                   “(iii) human or animal skeletal re-  
2 mains;

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

5                   “(v) certain buildings constructed be-  
6 fore the date of the enactment of this sub-  
7 section.

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

10                   “(i) natural geographic features; and

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

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