

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3990
OFFERED BY MR. BISHOP OF UTAH

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

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

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

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

13 (2) in subsection (b), by striking “confined to
14 the smallest area compatible with the proper care
15 and management of the objects to be protected” and
16 inserting “in accordance with the limitations out-
17 lined in subsections (e), (f), (g), and (h)”;

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

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

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

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

10 “(f) EXCEPTION FOR MONUMENTS OF LESS THAN
11 5,000 ACRES.—Subsection (e) shall not apply to the des-
12 ignation of a national monument under this section if the
13 national monument so designated—

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

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

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

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

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

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

7 “(B) would have all exterior boundaries 50
8 miles or more from the closest exterior bound-
9 ary of another national monument declaration
10 under this section.

11 “(2) OTHER REQUIREMENT.—A monument de-
12 scribed in this subsection shall be subject to the
13 preparation of an environmental assessment or envi-
14 ronmental impact statement as part of a review
15 under the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.). The choice of envi-
17 ronmental review document shall be within the dis-
18 cretion of the Secretary of the Interior or the Sec-
19 retary of Agriculture, as appropriate.

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

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

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

5 “(3) has been approved by the elected gov-
6 erning body of each county (or county equivalent),
7 the legislature of each State, and the Governor of
8 each State within whose boundaries the national
9 monument will be located (and the Governor of each
10 such State has transmitted a copy of each such ap-
11 proval to the President).

12 “(i) EXCEPTION FOR EMERGENCY DESIGNATION.—

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

19 “(2) ONE YEAR LIMITATION.—A national
20 monument designation under this subsection shall
21 terminate on the date that is one calendar year after
22 the date of the designation.

23 “(3) ONE TIME DESIGNATION.—Land des-
24 ignated as a national monument under this sub-
25 section—

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

2 and

3 “(B) may not also be permanently des-
4 igned as a national monument under this sec-
5 tion.

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

9 “(A) valid existing rights; and

10 “(B) uses allowed on the day before such
11 designation under an applicable Resource Man-
12 agement Plan or Forest Plan.

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

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

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

21 “(A) has been approved by the elected gov-
22 erning body of each county (or county equiva-
23 lent), the legislature of each State, and the
24 Governor of each State within whose boundaries
25 the national monument will be located (and the

1 Governor of each such State has transmitted a
2 copy of each such approval to the President);
3 and

4 “(B) has been reviewed under the National
5 Environmental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.) by the Secretary of the Interior
7 or the Secretary of Agriculture, as appropriate.

8 “(k) NON-FEDERALLY OWNED PROPERTY.—After
9 the date of the enactment of this subsection, land may
10 not be declared as a national monument under this section
11 in a configuration that would place non-federally owned
12 property within the exterior boundaries of the national
13 monument without the express written consent of the own-
14 ers of that non-federally owned property.

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

19 “(m) WATER RIGHTS ASSOCIATED WITH A DEC-
20 LARATION.—Water rights associated with a declaration
21 under this section—

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

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

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

5 “(1) DECLARATION; DECLARED.—The terms
6 ‘declaration’ and ‘declared’ shall only include the
7 creation or expansion of a national monument under
8 this section.

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

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

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

14 “(i) relics;

15 “(ii) artifacts;

16 “(iii) human or animal skeletal re-
17 mains;

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

19 and

20 “(v) certain buildings constructed be-
21 fore the date of the enactment of this sub-
22 section.

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

25 “(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.”.

