



## Legislative Bulletin.....September 13, 2005

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### Summary of the Bills Under Consideration Today:

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** At least \$25 million over five years

**Effect on Revenue:** \$0

**Total Change in Mandatory Spending:** 0

**Total New State & Local Government Mandates:** 0

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 4

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 1

### **H.R. 3649 — Sportfishing and Recreational Boating Safety Amendments Act of 2005 — *as introduced* (Young)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, September 13<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3649 extends until the end of fiscal year 2005, the authority of the Aquatic Resources Trust Fund to transfer funds to the States for boating safety programs. Under current law, this transfer authorization extends only through July 30, 2005, the date of the last highway bill extension.

According to the committee, this current law was meant to extend through the end of the fiscal year. “An extension of this authorization through the end of fiscal year 2005 is required to make this designated funding available for these programs for the months of August and September.” The bill also extends, for the same time period, funding for the National Outreach and Communications Program and the Clean Vessel Act.

Additionally, H.R. 3649 increases by \$500,000 (from \$5 million to \$5.5 million), funding for boating safety programs. H.R. 3649 taps into a stream of funding previously created by diverting the \$.45 motor boat fuel tax from the general fund back to transportation programs, and thus the funding is not calculated as an overall increase in government spending.

**Committee Action:** H.R. 3649 was introduced to the House on September 6, 2005, and referred to the Committees on Transportation and Infrastructure, Ways and Means, and Resources, all of which took no official action.

**Cost to Taxpayers:** There is no CBO cost estimate available for H.R. 3649. According to the Budget Committee, H.R. 3649 “does not appear to affect the net level of direct spending – spending not subject to appropriations – or revenue.”

**Does the Bill Create New Federal Programs or Rules?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

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## **S.Con.Res. 26 — A concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93 (*Senator Conrad*)**

**Order of Business:** The resolution is scheduled to be considered on Tuesday, September 13<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** On September 11, 2001, United Airlines Flight 93 was hijacked and then crashed in a field in Pennsylvania. Before the crash, Flight 93 passengers learned that other hijacked airplanes had been used to attack the United States, and they agreed to try to overpower the hijackers who had taken over their flight. The 9-11 Commission concluded that “the nation owes a debt to the passengers of Flight 93. Their actions saved the lives of countless others, and may have saved either the U.S. Capitol or the White House from destruction.” The crash of Flight 93 resulted in the death of everyone on board.

S.Con.Res. 26 resolves that the Senate, with the House of Representatives concurring:

- “the United States owes the passengers and crew of United Airlines Flight 93 deep respect and gratitude for their decisive actions and efforts of bravery;
- “the United States extends its condolences to the families and friends of the passengers and crew of Flight 93;

- “not later than October 1, 2006, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the Senate, the Chairman and the Ranking Member of the Committee on Rules and Administration of the Senate, and the Chairman and the Ranking Member of the Committee on Transportation and Infrastructure of the House of Representatives shall select an appropriate memorial that shall be located in the United States Capitol and that shall honor the passengers and crew of Flight 93, who saved the United States Capitol from destruction; and
- “the memorial shall state the purpose of the honor and the names of the passengers and crew of Flight 93 on whom the honor is bestowed.”

**Committee Action:** S.Con.Res. 26 was received in the House on July 19, 2005, and referred to the House Committee on Transportation and Infrastructure, which took no official action.

**Cost to Taxpayers:** There is no CBO cost estimate available for S.Con.Res. 26.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

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## **S. 252 — Dandini Research Park Conveyance Act (*Senator Reid*)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, September 13, 2005, under a motion to suspend the rules and pass the bill.

**Summary:** S. 252 would direct the Department of the Interior to convey approximately 467 acres of land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada. The bill would require the Board to reimburse the Department for any costs associated with the conveyance of the property. If the Board sells the property in the future, it would also have to pay the Department the net proceeds of the sale, which would then be “available to the Bureau of Land Management (BLM) without further appropriation.”

**Committee Action:** S. 252 was introduced in the Senate on February 1, 2005, and passed by the Senate by unanimous consent on July 26, 2005. The resolution was referred to the House Committee on International Relations’ Subcommittee on Forests and Forest Health, which took no official action.

**Cost to Taxpayers:** CBO estimates “that enacting S. 252 would have no significant impact on the federal budget and no effect on revenues. According to BLM, the land to be conveyed under the bill is already leased to the Board of Regents, which operates university-constructed research facilities on that site. It is very unlikely that the property would have been sold under current law; therefore, donating it to the university would not reduce future offsetting receipts from surplus land sales. We estimate that any reimbursements made by the board would be minimal. For this estimate, we assume that the conveyed land would remain in the university system.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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**S. 264 — Hawaii Water Resources Act (*Senator Akaka*)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, September 13, 2005, under a motion to suspend the rules and pass the bill.

An almost identical bill, S. 960, passed the Senate last Congress by unanimous consent on May 19, 2004, but was not acted upon in the House.

**Summary:** S. 264 would authorize the Secretary of the Interior to participate in three separate water reclamation projects in Hawaii (listed below). The bill would limit the federal share of project costs to 25 percent and would prohibit the use of federal funds for operating or maintaining the projects. The bill authorizes the Secretary to:

- “Participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;
- “Participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and
- “Participate in the design, planning, and construction of, and *acquire land for*, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County” (*emphasis added*).

**Administration Position:** In May of 2003, Bureau of Reclamation Commissioner John Keys appeared before the Senate Committee on Energy and Natural Resources to provide the Department of the Interior's views on S. 960 (the similar bill from the 108<sup>th</sup> Congress). Mr. Keys stated, “We do note that Section 2 of the proposed legislation adds three additional projects to Title XVI. *Due to the tremendous backlog of current projects already authorized under this program, we currently oppose the addition of any new projects. And, based on recent funding levels, it could take Reclamation more than 15 years to complete funding of the 27 currently authorized projects*” (*emphasis added*).

**Committee Action:** S. 264 was introduced in the Senate on February 2, 2005, and passed by the Senate by unanimous consent on July 26, 2005. The resolution was referred to the House Committee on Resources’ Subcommittee on Water and Power, which took no official action.

**Cost to Taxpayers:** CBO estimates that “implementing S. 264 would cost \$16 million over the 2006-2010 period. Enacting S. 264 would not affect direct spending or revenues.” The bill appropriates “such sums as necessary” to carry out the project.

**Does the Bill Expand the Size and Scope of the Federal Government?:** The bill authorizes an increase in federal funding for state water projects.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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## **S.276 — Wind Cave National Park Boundary Revision Act of 2005 (*Senator Johnson*)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, September 13, under a motion to suspend the rules and pass the bill.

**Summary:** S. 276 would authorize the federal government to acquire 5,595 acres of private land, and 80 acres of Bureau of Land Management land for addition to the Wind Cave National Park in South Dakota. The bill allows for the acquisition of land to “be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange” (see Additional Information below).

The bill allows the Interior Secretary to “permit the continuation of livestock grazing” on the acquired land, but limits grazing at no more than the level existing on the date on which the land is acquired. The Secretary is also authorized to purchase the outstanding portion of a grazing permit or lease on this land or accept the voluntary termination of a permit or lease for grazing.

**Administration Position:** The Department of the Interior testified before Congress in the 108<sup>th</sup> and 107<sup>th</sup> Congresses on identical bills (S. 425, S. 2788), that the **Administration “does not support” the Wind Cave bill**, because of the President’s “commitment to eliminate the deferred maintenance backlog in our national parks [and] need[s] to continue to focus our resources on taking care of existing areas in the National Park System.”

Americans for Tax Reform testified before Congress on separate legislation that the “National Park Service...is already facing a multi-billion dollar maintenance backlog.”

**Additional Information:** Though the Senate Committee report states the private land is owned by a “willing seller,” an AP story from February 2005 paints a different picture:

South Dakota's congressional delegation introduced legislation Thursday to allow Wind Cave National Park to expand its boundaries. But whether such an effort could ever lead to the Black Hills park annexing the Casey Ranch property remains to be seen. **“The Casey family, which owns the 5,550-acre ranch next to Wind Cave, “does not intend on pursuing that [federal purchase] avenue right now,” said Brendan Casey, managing partner of Casey Family Limited Partnership and the Milliron Ranches. Instead, the family wants to develop the property into conservation-oriented homes. Casey said he knows of the legislation but that it wasn’t prompted by his family. The land is worth between \$13 million and \$14 million, he said, but the government has appraised it at \$6 million. “Why they're pursuing it at that price with no purchase agreement is a little bit beyond me,” Casey said Thursday in a telephone interview. ...**

[Senator Johnson’s Communications Director] Fisher said the government's \$6 million appraisal stands and the Casey family would have to do its own private appraisal. The goal would then be to bridge the difference in a public-private partnership, she said. “At that point, we could go to a third-party group, a conservancy group of sorts, and see if we could work on bridge financing to close the gap between the federal appraisal dollar amount and the independent appraisal amount from the Casey family,” Fisher said. ...The family now is exploring a development site where buyers purchase and build homes on parcels ranging from 5 acres to 40 acres and share voting rights for a larger undeveloped common area.

(Source: <http://www.casperstartribune.net/articles/2005/02/04/news/regional/f918f2466fc1e48187256f9d007c3ceb.prt>)

Wind Cave National Park was established in 1903, and legislation passed in 1912 established the Wind Cave National Game Preserve. In 1935, the Wind Cave National Game Preserve was transferred into Wind Cave National Park. The Senate Resources Committee states, “These lands are a natural extension of the park, and will improve fire management of the mixed-grass prairie ecosystem. These additions will protect archaeological sites such as a thousand-year-old buffalo jump, expand the backcountry, preserve a viewshed, and increase natural habitat for bison, elk, deer and pronghorn antelope. The lands are a natural extension of the rolling hills and prairie that dominate the current park landscape and will help preserve the magnificent mixed-grass prairie and ponderosa pine forest of this natural treasure.”

**Committee Action:** S. 276 passed the Senate on July 26, 2005, by unanimous consent, and was referred to the House Committee on Resources, which took no official action.

**Cost to Taxpayers:** The bill does not authorize a specific dollar amount, but CBO estimates that it would cost the National Park Service \$9 million to implement it over the next five years, subject to appropriation. Of that amount, CBO estimates that about \$6 million would be spent in 2005 or 2006 to purchase 5,595 acres of privately owned land adjacent to the existing park boundary. **[Note: because the bill does not authorize a specific dollar amount and because the private owner is stating that his land is worth more than double the federal appraisal, it is possible that the Interior Department has authority under S. 276 to pay more than \$6 million for the land, thus increasing the overall cost estimate of the bill.]** During this period, CBO expects that the agency also would accept administrative jurisdiction over an additional 80 acres (two 40-acre parcels) currently managed by the Bureau of Land Management. CBO estimates that the NPS would spend another \$2 million during 2005 to protect and develop newly acquired lands for park use. Finally, CBO estimates that managing the added property would cost the NPS about \$200,000 a year beginning in 2005, subject to appropriation.

According to Administration testimony, the current annual base funding for Wind Cave National Park is \$1.892 million. If enacted, additional funding would be required due to anticipated increases in the number of full time employees needed for increased wildlife and interpretive responsibilities. In addition, construction funding of \$1.817 million would be necessary for the removal and installation of fencing.

**Does the Bill Expand the Size and Scope of the Federal Government?:** **Yes**, the bill will increase the amount of land currently owned by the federal government and according to the Administration will require the hiring of more full-time federal employees to manage the land.

The federal government owns 6.2% of South Dakota land, according to a September 30, 2004, GSA report.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A House Committee report citing authority is unavailable.

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## **H.R. 539 — Student Caribbean National Forest Act of 2005 (Delegate Fortuno)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, September 13<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 539 would designate the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico as wilderness and as a component of the National Wilderness Preservation System. The designated area is to be known as the El Toro Wilderness.

The bill directs the Secretary of Agriculture to prepare a boundary description of the El Toro Wilderness and submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The map and description are to be on file and available for public inspection in the office of the Chief of the Forest Service.

H.R. 539 specifically states that nothing in the Act is to prevent, “the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.”

**Additional Background:** According to Committee Report [109-126](#), in 1997, the land in the Caribbean National Forest/Luquillo Experimental Forest in Puerto Rico was first proposed for wilderness classification in the U.S. Forest Service’s land and resource management plan. The report also states, “the wilderness designation would also allow for special management considerations such as the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data

collection and remote transmission facilities, or any combination of those facilities necessary for the scientific research purposes of the Luquillo Experimental Forest.”

**Committee Action:** On February 2, 2005, the bill was introduced and referred to the House Committee on Resources, which considered it, held a mark-up, and reported it to the House by unanimous consent, on June 14, 2005.

**Cost to Taxpayers:** According to CBO, implementation of H.R. 539 would have no significant impact on the federal budget, and would not affect direct spending or revenues.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No, since the land is already federally controlled.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** The Committee finds authority in Article I, Section 8 of the Constitution of the United States (Powers of Congress). House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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