



Legislative Bulletin.....December 5, 2011

Contents:

- H.R. 2351** - North Cascades National Park Service Complex Fish Stocking Act
- H.R. 944** - To eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes
- H.R. 2360** - POWER Act
- H.R. 643** - Sugar Loaf Fire Protection District Land Exchange Act
- H.R. 1560** - To amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe
- S. 683** - Box Elder Utah Land Conveyance Act
- S. 535** - Fort Pulaski National Monument Lease Authorization Act
- S.Con.Res. 32** - A concurrent resolution to authorize the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 470, an Act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes

H.R. 2351 - North Cascades National Park Service Complex Fish Stocking Act (Hastings, R-WA)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 2351 directs the Secretary of Interior to authorize the stocking of fish in not more than 42 of the 91 lakes in the North Cascades National Park Service Complex.

The Secretary shall only stock fish that are:

- (A) native to the slope of the Cascade Range on which the lake to be stocked is located; and
- (B) nonreproducing, as identified in management alternative B of the plan.

H.R. 2351 directs the Secretary to continue a program that monitors and researches the impacts of fish stocking on the resources of the Cascades National Park Service Complex. The legislation also directs the Secretary to submit a report to the Senate Committee on Energy and Natural Resources and the House Natural Resources Committee that describes the results of this research and monitoring program. This report is due within 5 years of enactment and every 5 years thereafter.

CBO states “the expense of stocking fish would be borne by the state or other nonfederal entities as it has been since the three park units were established.”

Committee Action: H.R. 2351 was introduced June 24, 2011, and referred to the House Natural Resources Subcommittee on Natural Parks, Forests and Public Lands. The full committee held a markup on October 5, 2011, and favorably reported the legislation by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information provided by the Department of the Interior, CBO estimates that implementing H.R. 2351 would have no significant effect on the federal budget. Under the bill, the expense of stocking fish would be borne by the state or other nonfederal entities as it has been since the three park units were established. CBO’s report can be [viewed here](#).

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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: Rep. Hastings’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: Article I, section 8 and Article IV, section 3 of the Constitution of the United States.” The statement can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

**H.R. 944 - To eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes
(Campbell, R-CA)**

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 944 transfers certain islands and rocks to the California Coastal National Monument. Two of these rocks were originally reserved for lighthouse construction in 1931 and 1935, however the lighthouses were never built.

According to the Committee Report, the California Coastal National Monument was created on January 11, 2000, and it is currently administered by the Bureau of Land Management. When the monument was created it included only “unreserved and unappropriated” rocks and islands. Since two rocks had already been reserved for lighthouses they were not allowed to be included in the monument. H.R. 944 amends legislation from 1930 and 1935 to allow these two rocks to be included in the California Coastal National Monument.

Committee Action: H.R. 944 was introduced on March 8, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation. On June 15, 2011, the full committee held a markup and agreed to the legislation by unanimous consent, without amendment.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing H.R. 944 would have no significant impact on the federal budget. CBO’s report can be [viewed here](#).

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?: According to [House Report 112-165](#), H.R. 944 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [House Report 112-165](#), this bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: Rep. Campbell’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: Clause 2 of Section 3 of Article IV of the Constitution of the United States.” The statement can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 2360 - POWER Act (Landry, R-LA)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 2360 amends the Outer Continental Shelf Lands Act to apply all existing U.S. laws to offshore renewable energy development.

Additional Information: According to the sponsor, a Custom and Border Patrol (CBP) ruling regarding the Outer Continental Shelf and Lands Act found that the Jones Act applies only to activities associated with gas and oil extraction, not renewable energy (i.e. wind farms, etc) on the Outer Continental Shelf. This legislation closes the existing loophole and would clarify that the Jones Act (among all other U.S. laws) does apply to renewable energy development.

The Jones Act Background: The Jones Act was passed in the aftermath of WWI with the intention of providing an increased merchant marine fleet for national security purposes. The Jones Act was included as Section 27 of the Merchant Marine Act in 1920. The Jones Act governs the domestic transportation of merchandise and passengers by water and it requires that merchandise transported entirely or partly by water between U.S. points, either directly or via a foreign point, must travel in U.S.-built, U.S.-citizen owned vessels that are U.S.-documented by the Coast Guard. These additional mandates on the private sector are a point of contention amongst conservatives.

Potential Conservative Concerns: The purpose of the Jones Act is to support the U.S. merchant marine industry. Some conservative argue that this law protects U.S. national security interest, but many free market conservatives argue that the law is protectionist.

A 2002 report by the U.S. International Trade Commission found that complete liberalization of U.S. shipping policies (i.e. repealing the Jones Act) would add \$656 million annually to the U.S. economy. The report can be [found here](#).

Former U.S. Ambassador to the United Nations Economic and Social Council, Terry Miller [has argued](#): “The real costs of Jones Act protectionism are even higher when you take into account the distortions of trade that cost American firms and workers the ability to compete fairly for American contracts. For example, U.S. scrap iron, a vital ingredient for American steel plants, is shipped from U.S. coastal areas to Turkey, or to Taiwan, or to China rather than to other U.S. ports, because the Jones Act makes such U.S.-to-U.S. shipping prohibitively expensive.”

There has been prior conservative opposition to the program. On June 23, 2010, Sen. McCain (R-AZ) and Sen. Risch (R-ID) introduced the Open America’s Waters Act (S. 3525) which would have repealed the Jones Act.

The following outside groups have advocated the repeal of the Jones Act in the past:

- CATO Institute – [here](#), [here](#) and [here](#).
- The Heritage Foundation – [here](#)

Supporting Information:

The Natural Resources Committee Report citing background and need for the legislation can be [found here](#). From the Committee Report:

“The Committee on Natural Resources has determined legislation is needed to further clarify the application of OCSLA to all offshore energy development to eliminate uncertainty and to further clarify that the existing laws governing energy development on the OCS must be applied fully and fairly. As such, the intent of this legislation is to clarify existing law to ensure that all offshore energy development projects, including offshore wind energy and other future offshore renewable energy production, are held to the same standard as oil and gas development projects.”

Rep. Landry issued [this press release](#) when the legislation was approved by the Natural Resources Committee. From the press release:

“The POWER Act is a common-sense solution that levels the playing field for offshore energy resources, improves regulatory certainty, boosts job opportunities, and increases worker safety – all of which are desperately requested by job creators and the American people.”

Committee Action: H.R. 2360 was introduced on June 24, 2011, and was referred to the House Natural Resources Subcommittee on Energy and Mineral Resources. The subcommittee discharged H.R. 2360 by unanimous consent. The full committee held a markup on October 5, 2011, and favorably reported the legislation by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting this bill would have no budgetary impact. CBO’s report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation clarifies that all U.S. laws apply to offshore renewable energy development. In the event that all U.S. laws did not apply to offshore renewable energy development, then this legislation would arguably be an expansion of the size and scope of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The legislation applies U.S. laws (including the Jones Act) to offshore renewable energy development. The Jones Act contains private sector mandates that are described above.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: Rep. Landry’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: This bill is

enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 3 of the United States Constitution.” The statement can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 643 - Sugar Loaf Fire Protection District Land Exchange Act (Polis, D-CO)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 643 would direct the Secretary Agriculture to transfer two parcels, totaling approximately 5.08 acres, to the Sugar Loaf Fire Protection District of Boulder, Colorado, in exchange for one parcel of land of approximately 5.17 acres.

H.R. 643 requires the Sugar Loaf Fire Protection District to pay the costs of any land surveys and appraisals of the lands exchanged. In the event that that land being transferred to the federal government is of a lesser value than the land being transferred from the federal government, the Sugar Loaf Fire Protection District shall pay a cash equalization payment to cover the difference.

Committee Action: H.R. 643 was introduced on February 10, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation. On June 15, 2011, the full committee held a markup and agreed to the legislation by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have no impact on discretionary spending. Any administrative costs related to the exchange would be paid by the Sugar Loaf Fire Protection District. CBO’s report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: H.R. 643 would increase in the amount of acreage owned by the government by 0.09 acres.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to [House Report 112-161](#), H.R. 643 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [House Report 112-161](#), this bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: Rep. Polis’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress), and Article IV, Section 3, Clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).” The statement can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 1560 - To amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe (*Reyes, D-TX*)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 1560 amends the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow tribal members to include any person of Tigua Ysleta del Sur Pueblo Indian blood who is enrolled by the tribe.

Current law requires tribal members to have 1/8 degree or more of Tigua-Ysleta del Sur Pueblo Indian blood. H.R. 1560 eliminates this requirement.

Committee Action: H.R. 1560 was introduced on April 14, 2011, and referred to the House Natural Resources Subcommittee on Indian and Alaska Native Affairs. The full committee held a markup on July 20, 2011, and favorably reported the legislation by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing H.R. 1560 would have no significant impact on the federal budget. CBO’s report can be [viewed here](#).

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?: According to [House Report 112-222](#), H.R. 1560 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: Rep. Reyes’ statement of constitutional authority states:

Congress has the power to enact this legislation pursuant to the following: The Congress enacts this bill pursuant to Article I, Section 8 of the United States Constitution.

Text:

Article I, Section. 8. Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Clause 2: To borrow Money on the credit of the United States;

Clause 3: To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

Clause 4: To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; Clause 5: To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; Clause 6: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

Clause 7: To establish Post Offices and post Roads;

Clause 8: To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Clause 9: To constitute Tribunals inferior to the supreme Court;

Clause 10: To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

Clause 11: To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Clause 12: To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

Clause 13: To provide and maintain a Navy;

Clause 14: To make Rules for the Government and Regulation of the land and naval Forces;

Clause 15: To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

Clause 16: To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

Clause 17: To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And

Clause 18: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

The statement can be [viewed here](#).

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 683 - Box Elder Utah Land Conveyance Act (Sen. Lee, R-UT)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: S. 683 directs the Secretary of Agriculture to convey approximately 31.5 acres of the National Forest System Land in Box Elder County, Utah to the town of Mantua, Utah. The town of Mantua would pay for costs associated with this conveyance (including survey and administrative costs).

As a condition of conveyance, the town of Mantua shall use this land only for public purposes. The land shall revert back to the Secretary if it is used for anything but public purposes.

Committee Action: S. 683 was introduced on March 30, 2011, and referred to the Senate Energy and Natural Resources Subcommittee on Public Lands and Forests. The full committee reported the legislation on August 30, 2011, with amendments. S. 683 passed the Senate on November 2, 2011, by unanimous consent and was held at the desk.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the legislation would have no significant impact on the federal budget. CBO's report can be [viewed here](#).

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?: According to [Senate Report 112-60](#), S. 683 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [Senate Report 112-60](#), S. 683, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

Constitutional Authority: Senate rules do not require a statement of constitutional authority to be submitted with legislation at the time of introduction.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 535 - Fort Pulaski National Monument Lease Authorization Act (Sen. Isakson, R-GA)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: S.535 allows the Secretary of the Interior to lease 30,000 square feet of land within the Fort Pulaski National Monument to the Savannah Bar Pilots Association. The Secretary shall require a rental fee based on the adjusted fair market value, as the Secretary deems appropriate. The legislation states this space has been continuously used by the Savannah Bar Pilots Association since 1940.

The lease shall be for 10 years, and there will be an option to renew. The Secretary shall have the option to revise the renewed lease and include any terms and conditions necessary to protect the resources of the Monument.

Additional Information: Similar legislation, H.R. 4773, passed the House on July 13, 2010, by a roll call vote of 379-0. The legislation was not acted on by the Senate. The RSC Legislative Bulletin for H.R. 4773 can be [found here](#). Fort Pulaski is named after Casimir Pulaski, a Polish military officer who fought alongside American colonists against the British in the American Revolutionary War. On September 15, 1777, George Washington elevated Casimir Pulaski to the rank of Brigadier General of the American Cavalry. On October 8, 2009, the House of Representatives proclaimed Casimir Pulaski to be an honorary citizen of the United States posthumously, by a [roll call vote of 422-0](#).

Committee Action: S. 535 was introduced on March 9, 2011, and was referred to the Senate Energy and Natural Resources Subcommittee on National Parks. The legislation passed the Senate on November 2, 2011, without amendment. S. 535 was then referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation. On November 17, 2011, the House Natural Resources Committee favorably reported the legislation by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing S. 535 would have no significant net effect on the federal budget. CBO's report can be [viewed here](#).

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?: According to [House Report 112-298](#), S. 535 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [House Report 112-298](#), S. 535 does

not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: Senate rules do not require a statement of constitutional authority to be submitted with legislation at the time of introduction.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S.Con.Res. 32 - A concurrent resolution to authorize the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 470, an Act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes (*Sen. Bingaman, D-NM*)

Order of Business: The bill is scheduled to be considered on Monday, December 5, 2011, under a motion to suspend the rules and pass the legislation.

Summary: S.Con.Res. 32 makes a technical correct to H.R. 470, the Hoover Power Allocation Act of 2011. This legislation passed the House of Representatives on October 3, 2011, by voice vote. The RSC Legislative Bulletin for H.R. 470 can be [viewed here](#).

H.R. 470 states that the term “the marketing area for the Boulder City Area Projects” shall have the same meaning as in appendix A of the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984.

S.Con.Res. 32 would amend H.R. 470 so that the term “the marketing area for the Boulder City Area Projects” shall have the same meaning as in appendix A of the **Conformed** General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984. [**Emphasis Added**]

Committee Action: S.Con.Res. 32 was introduced on October 18, 2011. The legislation passed the Senate on October 18, 2011, by unanimous consent, and was held at the desk.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO is unavailable.

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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: The statement can be viewed here.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.
