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S. 324 – To amend Title 38, United States Code, to improve the provision of adult day health care services for veterans (Hatch, R-UT)

CONTACT: [Amanda Lincoln](#), 202-226-2076

FLOOR SCHEDULE:

Expected to be considered on March 13, 2018 under a suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[S. 324](#) would direct the Secretary of Veterans Affairs to enter into agreements with State Veterans Homes to provide adult day health care services for eligible veterans with severe service-connected disabilities. Payments would be made at the rate established through regulations to adequately reimburse the State home for care provided, including necessary transportation expenses.

COST:

A Congressional Budget Office (CBO) estimate is not available at this time. Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

[CBO previously estimated](#) that a substantially similar version of the bill, which passed the House by a voice vote on May 24, 2017, would have no budgetary effect because CBO does not expect that VA would implement the bill given “an extensive and complex set of rules governing the federal government’s purchasing process” with regards to State Veterans Homes. CBO expected that the VA would instead continue to pay State Veterans Homes at the current per-diem rate.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Yes, this bill would allow the Secretary to enter into new agreements to provide adult day health care services for veterans.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

This bill would direct the Secretary of Veterans’ Affairs to enter into agreements with State Veterans’ Homes to provide adult day health care services to eligible veterans. State Veterans’ Homes are owned by state governments and provide nursing home, domiciliary, or adult day health care services to veterans. Adult day health care is an outpatient day program that provides veterans with social activities, peer support, companionship, and recreation. Services include help with activities of daily living, like taking medicines, bathing, dressing, and preparing meals. [Only three of the 153 State Veterans’ Homes in the United States offer adult day health care services, however, reportedly due to below cost reimbursement levels.](#) This bill would direct the Secretary of Veterans’ Affairs to enter into agreements with State Veterans’ Homes to provide adult day health care services for eligible veterans at a rate prescribed by the Secretary to adequately reimburse the State home for

care provided, including necessary transportation expenses. Some conservatives may be concerned that this provision leaves substantial discretion to the Secretary.

Some conservatives may be concerned that [the CBO score](#) for a substantially similar House bill which passed the House by voice vote on May 24, 2017 indicated that CBO does not expect the VA would implement this policy, considering that complicated rules governing the federal purchasing process have prevented the VA from securing agreements or contracts with any State Veterans' Home.

COMMITTEE ACTION:

This bill was introduced by Senator Orrin Hatch (R-UT) on February 7, 2017. The Senate Committee on Veterans' Affairs discharged the measure by unanimous consent and the bill passed the Senate with an amendment by unanimous consent on November 9, 2017. A similar bill passed the House by voice vote on May 24, 2017. The legislative bulletin can be found [here](#).

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

Statements of Constitutional Authority are not required for Senate bills.

H.R. 4465 — Endangered Fish Recovery Programs Extension Act of 2017 (Rep. Curtis, R-UT)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Expected to be considered March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. 4465](#) would extend the authorization that allows for hydropower revenues from the [Colorado River Storage Project](#) to be used to fund the Upper Colorado and San Juan Recovery Implementation Programs.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 4465 would affect direct spending, so pay-as-you-go would apply. However, CBO estimates a negligible change in timing of outlays. Revenues would not be affected.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** Some conservatives may believe that endangered species recovery efforts are best coordinated by state and local governments.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 4465 would extend the utilization of power revenues for annual base funding of the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River Basin and for the San Juan River Recovery Implementation Program until fiscal year 2023. Under current law, this authorization would expire at the end of fiscal year 2019. The bill would also remove the provision allowing for power revenues to be used to fund operation and maintenance of capital projects and monitoring after the authorization of the utilization of power revenues for annual base funding expires.

The bill requires the Secretary of the Interior to submit a report to congress describing: (1) the accomplishments of the Recovery Implementation Programs; (2) the current and projected status of the Colorado pike minnow, humpback chub, razorback sucker and bonytail under the Endangered Species Act; (3) the total and expected expenditures by the Recovery Implementation Program; (4) the sources of the expenditures, revenues and contributions in the Recovery Implementation Program; and, (5) the activities that are expected to be carried out after FY 2023 and costs thereof. This report must be compiled in consultation with program participants and must be submitted by the end of fiscal year 2021.

Background: According to the committee [report](#), in 2000, under [Public Law 106-392](#), a cost share between the federal government, affected states, and water and power users was enacted in order to

help fund the Upper Colorado and San Juan Recovery Implementation Programs. The purpose of programs is to recover the Colorado pike minnow, humpback chub, razorback sucker and bonytail and to continue the operation of the [Colorado River Storage Project](#)'s facilities. This bill extends the authorization that allows revenues from hydropower to be used to support the Upper Colorado and San Juan Recovery Implementation Programs. In 2016 the Secretary of the Interior submitted a report to [congress](#) recommending the authorization to be extended.

The House Report (H.R. 115-567) accompanying H.R. 4465 can be found [here](#).

COMMITTEE ACTION:

H.R. 4465 was introduced on November 28, 2017. The bill was referred to the House Committee on Natural Resources. The bill was marked up on December 13, 2017, and was reported by unanimous consent.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Article I, Section 8, clause 18"

H.R. 1800 — To direct the Secretary of Agriculture to transfer certain Federal land to facilitate scientific research supporting Federal space and defense programs (Rep. Bishop, R-UT)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Expected to be considered March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. 1800](#) would require the Secretary of Agriculture to convey a parcel of about 80 acres of land within the [Wasatch-Cache National Forest](#) to the Utah State University Research Foundation for scientific and educational purposes.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1800 would not significantly affect the federal budget.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 1800 would require the Secretary of Agriculture to convey a parcel of about 80 acres of land within the [Wasatch-Cache National Forest](#) to the Utah State University Research Foundation for scientific and educational purposes. Should the secretary, after the opportunity for a hearing, determine that the land is not being used for those purposes, ownership of the land shall revert back to the federal government.

Costs of conveyance, except environmental remediation costs, must be covered by the Utah State University Research Foundation.

The land to be conveyed will be determined by a survey that is satisfactory to the secretary.

The House Report (H.R. 115-442) accompanying H.R. 1800 can be found [here](#).

COMMITTEE ACTION:

H.R. 1800 was introduced on March 30, 2017. The bill was referred to the House Committee on Natural Resources. The bill was marked up on November 8, 2017, and was reported by unanimous consent.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Article 1, Section 8 of the U.S. Constitution provides Congress with the authority and responsibility to ``provide for the common Defense and general Welfare of the United States," and to ``promote progress of Science." This measure will help ensure that public lands already in use for important scientific and defense-based research will remain available into the future to support those important public purposes."

H.R. 3469 — To designate the bridge located in Blount County, Tennessee, on the Foothills Parkway (commonly known as “Bridge 2”) as the “Dean Stone Bridge” (Rep. Duncan, R-TN)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Expected to be considered March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. 3469](#) would re-designate the bridge located on the Foothills Parkway in Blount County, Tennessee as the “Dean Stone Bridge”.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3469 would not significantly impact the federal budget.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

[Dean Stone](#) was an active community leader in Blount County, Tennessee who passed away in 2016 at the age of 91. Stone was an editor with the Daily Times for over 67 years and founded the Daily Times’ Townsend Traveler. Stone served in the Army during World War II, fought in Pisa, Italy and raised the first American flag in Yugoslavia. He also served on and chaired countless commissions and committees, helped to save the Job Corps site in Great Smoky Mountains National Park as an Educational Environment Center and helped found the Townsend-in-the-Smokies Art Show and Sale, the Weekend-in-the-Smokies event, the Blount County’s first Walk for Multiple Sclerosis and the county’s first American Heart Association walk.

H.R. 3469 would re-designate the bridge located on the Foothills Parkway in Blount County, Tennessee as the “Dean Stone Bridge”.

The House Report (H.R. 115-421) accompanying H.R. 3469 can be found [here](#).

COMMITTEE ACTION:

H.R. 3469 was introduced on July 27, 2017. The bill was referred to the House Committee on Natural Resources. The bill was marked up on November 8, 2017 and was reported by unanimous consent.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Article IV, Section 3: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

H.R. 4266 — Acadia National Park Boundary Clarification Act (Rep. Poliquin, R-ME)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Expected to be considered March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. 4266](#) would confirm the boundary of the Acadia National Park, add certain requirements the Secretary of the Interior must meet prior to making future boundary revisions, reestablish the Acadia National Park Advisory Commission, repeal authorizations for the secretary to extend the park within Hancock County and Mount Desert Island, and require the secretary to allow for the traditional harvesting of marine species, in addition to implementing other provisions related to the park.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 4266 would be less than \$500,000 over the 2018-2022 period. CBO also estimates the National Park System would incur about \$50,000 in administrative costs, subject to appropriation. Direct spending and revenues would not be affected, so paygo would not apply.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 4266 would confirm the boundary of the [Acadia National Park](#) located in Maine. The process of accepting a 2015 land donation drew criticisms from local stakeholders, though the land donation itself was supported by the community.

The bill requires the Secretary of the Interior to, prior to making boundary revisions: (1) certify that the revision is necessary for the proper preservation and management of the park; (2) consult with each local government body that has taxing authority over the affected land; (3) obtain written consent from affected property owners; and, (4) submit written notice to the Acadia National Park Advisory Commission, the appropriate congressional committees, and Maine's congressional delegation.

The secretary may not make boundary revisions to Acadia National Park pursuant to [54 U.S.C. 100506](#).

The secretary is required to reestablish and appoint members to the Acadia National Park Advisory Commission as established by [54 U.S.C. 341 note](#). The secretary is required to consult with the commission on management and development matters, including on the acquisition of lands and the termination of rights of use and occupancy.

The bill repeals the secretary's authorization to accept land on [Mount Desert Island](#) or land within [Hancock County](#) for the extension of the park.

The bill authorizes the secretary to convey land to the town of Tremont, Maine for public purposes, including recreation or education. The current language only allows for conveyances related to education.

The bill requires the secretary to allow for the traditional harvesting of marine worms, clams, shellfish and other marine species, as defined by the [State of Maine](#), in accordance with the state's laws, within the boundaries of the park.

The secretary is required to convey a specific .29-acre parcel of land in the park to the Town of Bar Harbor for use as a solid waste transfer facility. The land shall revert back to the United States if the land is not used for this purpose.

The House Report (H.R. 115-439) accompanying H.R. 4266 can be found [here](#).

COMMITTEE ACTION:

H.R. 4266 was introduced on November 7, 2017. The bill was referred to the House Committee on Natural Resources. The bill was marked up on December 13, 2017, and was reported by unanimous consent.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Article IV, Section 3, Clause 2: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

H.R. 1350 — To modify the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes (Rep. Nolan, D-MN)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

FLOOR SCHEDULE:

Expected to be considered March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. 1350](#) would transfer to the National Park Service (NPS) the administrative jurisdiction of certain Bureau of Land Management (BLM) lands within the boundaries of the [Voyageurs National Park](#) in Minnesota. The bill further requires any land within or adjacent to the park's boundaries to be acquired through donation or exchange.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1350 would cost less than \$500,000 annually, subject to appropriation. The bill could affect direct spending, so paygo would apply. The bill would not affect revenues.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

[H.R. 1350](#) would amend [16 U.S.C. 160b](#) to transfer to the National Park Service (NPS) the administrative jurisdiction of certain Bureau of Land Management (BLM) lands within the boundaries of the [Voyageurs National Park](#) in Minnesota. The bill further requires any land within or adjacent to the park's boundaries to be acquired through donation or exchange.

According to the committee report, H.R. 1350 "is expected to save agency time and taxpayer money by eliminating duplicative land management" and will resolve a land dispute between Koochingching county and the state of Minnesota.

The House Report (H.R. 115-470) accompanying H.R. 1350 can be found [here](#).

COMMITTEE ACTION:

H.R. 1350 was introduced on March 2, 2017. The bill was referred to the House Committee on Natural Resources. The bill was marked up on December 13, 2017, and was reported by unanimous consent.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: "Article IV, Section 3, Clause 2 of the Constitution provides that Congress shall have the Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

H.R. _____ – Trickett Wendler, Frank Mongiello, Jordan McLinn, and Matthew Bellina Right to Try Act of 2018 (Fitzpatrick, R-PA)

CONTACT: [Amanda Lincoln](#), 202-226-2076

FLOOR SCHEDULE:

Expected to be considered on March 13, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

[H.R. _____](#) would create an alternative pathway for patients to gain access to experimental treatments if they have a disease or condition in which there is a reasonable likelihood that death will occur in a matter of months, or that the disease or condition will result in significant irreversible morbidity or severely premature death.

COST:

No Congressional Budget Office (CBO) score is currently available. Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

[H.R. _____](#) would create an alternative pathway for patients to gain access to experimental treatments if they have a disease or condition in which there is a reasonable likelihood that death will occur in a matter of months, or that the disease or condition will result in significant irreversible morbidity or severely premature death. Specifically, the bill would allow patients to gain access to any experimental drug that has completed a Phase I clinical trial and has not been approved or licensed by the Food and Drug Administration (FDA) but for which an active application has been filed, or an experimental drug that is under investigation in a clinical trial intended to form the primary basis of a claim of effectiveness in support of approval or licensure, that is the subject of an active investigational new drug application and active development or production is ongoing, has not been discontinued by a manufacturer, and is not the subject of a [clinical hold](#).

As long as certain conditions specified in the bill are met, investigational drugs obtained under the new pathway would be exempt from certain current law provisions related to misbranded drugs and devices, labeling or packaging requirements for prescription drugs, and interstate commerce of new drugs. First, the eligible investigational drug would have to comply with existing FDA regulations related to the labeling, promotion, and recoverable costs of investigational drugs. Second, the drug sponsor would be required to notify the Secretary of any provision of an eligible investigational drug within seven business days, as correspondence to the investigational new drug application. Third, as a condition of providing the eligible investigational drug to a physician for use under this bill, the

drug sponsor or manufacturer must require that the physician immediately report any serious adverse events to the sponsor or manufacturer. [21 CFR 312](#).

The Secretary would not be permitted to use clinical outcomes associated with use under the new alternative pathway to delay or adversely affect the eligible investigational drug's review or approval, unless the drug sponsor requests it or the Secretary makes a determination that use of the clinical outcome is critical to determining the drug's safety. The Secretary would be required to provide written notice of such a determination to the sponsor, including a public health justification, which would be made part of the administrative record, and the determination could not be delegated below the director of the agency center responsible for premarket review of the eligible investigational drug. The manufacturer or sponsor would also be required to post an annual summary of any provision of an eligible investigational drug under the bill's new alternative pathway, to be posted on the same public Internet website that the manufacturer is required to maintain in order to participate in FDA's current law Expanded Access program.

Finally, the bill includes several provisions related to liability. It would ensure that manufacturers and sponsors would not be held liable for any alleged act or omission related to providing eligible investigational drugs to single patients or small groups of patients under FDA's current law Expanded Access program or the new alternative pathway established under this bill. It also ensures that no licensed physician, clinical investigator, or hospital would be held liable for any alleged act or omission related to providing eligible investigational drugs to single patients or small groups of patients in accordance with FDA's current law [Expanded Access program](#) or the new alternative pathway established under this bill, unless such act or omission constitutes willful or criminal misconduct, reckless misconduct, gross negligence, or an applicable tort under applicable state law. In addition, it would ensure that no manufacturer, sponsor, licensed physician, clinical investigator, or hospital would be held liable for determining not to provide access to an investigational drug or for discontinuing access it initially determined to provide.

COMMITTEE ACTION:

This bill was publicly posted at 11:50 PM on March 9, 2018. The Senate passed a similar bill, S. 204, by unanimous consent on August 3, 2017. The Energy and Commerce Committee held a [hearing](#) on the topic of patient access to investigational drugs on October 3, 2017. No further Committee action has occurred.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time. President Trump and Vice President Pence have previously expressed support for "Right to Try" policies. In his State of the Union address, President Trump stated that "people who are terminally ill should not have to go from country to country to seek a cure. It is time for Congress to give these wonderful Americans the 'right to try.'" Vice President Pence recently stated that the policies are "about restoring hope and giving patients with life-threatening diseases a fighting chance."

CONSTITUTIONAL AUTHORITY:

No Statement of Constitutional Authority is available.

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