



Legislative Bulletin.....December 9, 2014

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**H.R 5086 – To amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Chief Standing Bear National Historic Trail, and for other purposes, as amended—
(Rep. Fortenberry, R-NE)**

Order of Business: [H.R. 5086](#) is scheduled for consideration on December 9, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill amends the [National Trails System Act](#) to conduct a feasibility study on designating the Chief Standing Bear National Historic Trail. This trail would extend approximately 550 miles from Niobrara, Nebraska, to Ponca City, Oklahoma, which follows the route taken by Chief Standing Bear and the Ponca people during the Federal Indian removal. It would also extend approximately 550 miles from Ponca City, Oklahoma, through Omaha, Nebraska, to Niobrara, Nebraska, which follows the return route taken by Chief Standing Bear and the Ponca people.

The feasibility study is to be completed no later than one year after the date of enactment.

Additional Background: National trails were established under the National Trails System Act of 1968, which included several types of trails, including scenic trails, historic trails, and recreation trails. Since that time, 11 national scenic trails and 19 national historic trails have been established by law. These trails are administered by the National Park Service, the USDA Forest Service, and the Bureau of Land Management, depending on the trail.

The following [steps](#) are required to establish a national trail:

- An amendment to the National Trails System Act requesting a feasibility study;

- The feasibility study (usually conducted by the National Park Service).;
- If the feasibility study recommends establishment, an act of Congress adding the trail to the National Trails System; and
- Once the trail is established, a comprehensive management and use plan, usually conducted by the trail's administering agency, outlining the roles of partners (including the Federal Government) and the full length of the trail.

[Chief Standing Bear](#) was the Chief of Ponca, a small Indian nation related to the Omaha. The influx of European-American settlers to Nebraska, in combination with pressure from the U.S. Government, forced the tribes located in Nebraska to give up their land, except for around the Niobrara River. Due to a mistake by the government, the land kept by the Ponca people was given to the Sioux in the 1868 Ft. Laramie Treaty. In 1875, the government admitted its mistake and suggested the Ponca move to Indian Territory in Oklahoma. Standing Bear and others went to survey the land in Oklahoma, and after determining it was uninhabitable, were told they could walk the 500 miles home. In that time, many of the Ponca people were moved to Oklahoma, and died due to starvation and malaria. Included in those who died was Standing Bear's eldest son. Standing Bear wanted to bury his son in the Niobrara River valley, but as they traveled back north, their presence in Nebraska reached the government, and Carl Schurz, the Secretary of the Interior had them arrested for leaving Indian Territory. In April 1879, Standing Bear sued for a writ of habeas corpus in U.S. District Court in Omaha, Nebraska. On May 12, 1879, Judge Elmer S. Dundy ruled that "an Indian is a person" within the meaning of habeas corpus. He stated that the federal government had failed to show a basis under law for the Poncas' arrest and captivity.

Committee Action: This bill was introduced by Representative Fortenberry on July 11, 2014, and referred to the House Committee on Natural Resources. A [mark-up](#) was held on this bill on November 19, 2014, and the bill was reported by unanimous consent.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that implementing the legislation would cost about \$500,000 over the next year or two, assuming availability of appropriated funds. Enacting H.R. 5086 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

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?: H.R. 5086 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 Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: “Article I, Section 8, Clause 1 of the United States Constitution.”

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H.R 5699 – John Muir National Historic Site Expansion Act, as amended — (Rep. Miller, D-CA)

Order of Business: [H.R. 5699](#) is scheduled for consideration on December 9, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill authorizes the Secretary of the Interior to acquire approximately 44 acres of land, and interests in such land, that was donated from the Muir Heritage Land Trust. This land will be administered as part of the John Muir National Historic Site in Martinez, California.

Additional Background: The John Muir National Historic Site is located in the San Francisco Bay Area in California. This [site](#) consists of nearly 325 acres as well as a 14-room mansion where John Muir lived, and has historically been owned by the Muir family.

John Muir was a naturalist and author as well as an early advocate for the preservation of wilderness in the United States. He lobbied Congress for the National Park bill which established both Yosemite and Sequoia National Park. He is sometimes referred to as the “Father of National Parks”.

Committee Action: This bill was introduced by Representative Miller on November 13, 2014, and referred to the House Committee on Natural Resources. A [mark-up](#) was held on this bill on November 19, 2014, and the bill was reported, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that implementing H.R. 5699 would have no significant impact on the federal budget. Under the legislation, the additional acres could only be acquired through donation. Based on information from the NPS, CBO estimates that annual costs to operate and maintain the new properties would be minimal. Enacting H.R. 5699 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: This bill will allow the Secretary of the Interior to acquire 44 acres of land in Martinez, California.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 5699 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 Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: According to the sponsor, Congress has the power to enact this legislation pursuant to the following: “Article 1, Section 8, Clause 18 of the Constitution.”

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S. 1000 – Chesapeake Bay Accountability and Recovery Act of 2014 — (Senator Warner, D-VA)

Order of Business: [S.1000](#) is scheduled for consideration on December 9, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill directs the Director of the Office of Management and Budget (OMB), in consultation with the [Chesapeake Executive Counsel](#), the chief executive of each Chesapeake Bay State, and the [Chesapeake Commission](#) to submit to Congress a financial report which will contain the following:

- An interagency crosscut budget that displays the proposed Federal restoration activity to be carried out in the succeeding fiscal year, an estimate on state restoration activity, all expenditures for Federal restoration the preceding two years and succeeding fiscal year, and specific opportunities to consolidate similar programs and activities within the budget;
- A detailed accounting of all funds received and obligated by each Federal agency for restoration activities;
- To the extent the information is available, a detailed accounting from each State of all funds received and obligated for restoration activities; and
- A description of proposed Federal and State restoration activities to be carried out in the succeeding fiscal year.

For the first three years of the report, both Federal and State activities are to be noted if they have funding amounts equal to more greater than \$300,000. This number will be reduced to \$100,000 for every year after. This report is to be submitted to Congress no later than September 30 of each year.

This bill directs the Chesapeake Executive Council to nominate an Independent Evaluator who demonstrates excellence in marine science, policy evaluation, or other studies relating to complex environmental restoration activities, and will review and report on restoration activities.

No additional funds are authorized to be appropriated to carry out this Act.

The states referred to in this bill are Maryland, West Virginia, Delaware, New York, the Commonwealth of Virginia, the Commonwealth of Pennsylvania, and the District of Columbia.

Additional Background: The Chesapeake Bay is an estuary laying inland from the Atlantic Ocean which has more than 150 rivers and streams flowing into the bay. This bill provides more coordination and increased accountability between the six states and numerous local governments and federal agencies which oversee the restoration and preservation of the bay.

Committee Action: This bill was introduced by Senator Warner on May 21, 2013, and referred to the Committee on Environment and Public Works. On December 2, 2014, the Senate passed this bill by unanimous consent.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: No CBO score is available at this time.

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 Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: Senate rules do not require the inclusion of a constitutional authority statement.

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H.R. 5701 – Western Oregon Indian Tribal Lands Act, as amended (Rep. DeFazio, D-OR)

Order of Business: The bill is scheduled to be considered on December 10, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: [H.R. 5701](#) would require that the reservation for the Confederated Tribes of the Grand Ronde Community, Oregon Coastal land, Cow Creek Umpqua land, and Siletz Tribe land be held in trust by the United States for the benefit of federally recognized tribes in the State of Oregon.

Title I of bill would authorize the Secretary of the Interior to accept title to any additional number of acres of real property located within the boundaries of the original 1857 reservation of the [Confederated Tribes of the Grand Ronde Community](#) of Oregon established on June 30, 1857, comprised of land within the political boundaries of Polk and Yamhill Counties, Oregon, if that real property is conveyed or otherwise transferred to the United States by or on behalf of the tribe. Applications to take land into trust within the boundaries of the original 1857 reservation shall be treated by the Secretary of the Interior as an on-reservation trust acquisition.

Title II of the bill would hold in trust the Oregon Coastal land (approximately 14,408 acres of land), for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Not later than one year after the bill's enactment, the Secretary of the Interior shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust.

Title III of the bill would hold in trust the Council Creek land (approximately 17,519 acres of land), for the benefit of the Cow Creek Band of the Umpqua Tribe . Not later than one year after the bill's enactment, the Secretary of the Interior shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust. Not later than 180 days after the date of enactment of the bill, the Secretary of Agriculture and the Secretary of the Interior shall identify any Oregon and California Railroad grant land that is held in trust by the United States for the benefit of the tribe.

Title IV of the bill would amend [section 7 of the Siletz Tribe Indian Restoration Act](#) by authorizing the Secretary of the Interior to accept title to any additional number of acres of real property located within the boundaries of the original 1855 Siletz Coast Reservation established on November 9, 1855, comprised of land within the political boundaries of Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties in Oregon, if that real property is conveyed or otherwise transferred to the United States by or on behalf of the tribe.

Title V of the bill would amend [section 5\(d\) of the Coquille Restoration Act](#) authorizing the Secretary of the Interior to manage the Coquille Forest in accordance with the laws pertaining to the management of Indian trust land.

Additional Information: Title I of the bill incorporated [H.R. 841](#), which passed the House by voice vote on January 13, 2014. Title IV of the bill incorporated [H.R. 931](#), which was introduced in the House on February 28, 2013. Title II incorporates [H.R. 5511, which was](#) introduced on September 17, 2014. Title III of the bill incorporates [H.R. 5512, which was](#) introduced on September 17, 2014. More information from the Confederated Tribes of the Grand Ronde Community from a House Committee on Natural Resources Committee hearing on May 16, 2013 hearing, expressing concerns over H.R. 931 and support for H.R. 841 can be found [here](#). Testimony from the Confederated Tribes of Siletz Indians of Oregon in support of H.R. 931 can be found [here](#).

Committee Action: The bill was introduced on November 13, 2014, and was referred to the House Committee on Natural Resources.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: No Congressional Budget Office (CBO) estimate is available.

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 CBO estimate is available.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: U.S. Const. art. I, sec. 8, cl. 3 (To regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes) and U.S. Const. art. IV, sec. 3, cl. 2, sen. a (The Congress shall have Power to dispose of and make all needful Rule and Regulations respecting the Territory of other Property belonging to the United States).

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