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SENATE

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### FORT PULASKI NATIONAL MONUMENT LEASE AUTHORIZATION ACT

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AUGUST 30 (legislative day, AUGUST 2), 2011.—Ordered to be printed

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Mr. BINGAMAN, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 535]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 535) to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 535 is to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument in Georgia.

#### BACKGROUND AND NEED

Fort Pulaski, located on Cockspur Island in the Savannah River, was constructed as part of a system of coastal fortifications ordered by President James Madison after the War of 1812. An estimated 25 million bricks were used to build the fort, which was completed in 1837. According to the National Park Service, before the Civil War, brick forts were America's main defense against overseas enemies. In 1862, however, a 30-hour bombardment by the Union Army's new rifled cannons breached the fort and compelled surrender by Confederates inside Fort Pulaski. After that battle, brick forts were considered obsolete. The fort became a national monument in 1924 and was transferred from the War Department to the National Park Service in 1933.

In 1940, the National Park Service authorized by special use permit exclusive use of land and improvements within the national monument to the Savannah Bar Pilots Association to operate a vessel piloting business. The Bar Pilots Association operate pilot vessels to help steer commercial shipping through the waters of the Savannah River, where shifting sand bars create dangerous conditions that make navigation difficult. The Bar Pilots Association has occupied the same spot at the west end of Cockspur Island since 1940. There are no other known locations from which Association can operate more efficiently than the current permitted location. Deep water accessibility and the relatively short distance to embarking and disembarking ships in Savannah Harbor render the current site the ideal location for continued operations.

In 1973, the National Park Service issued a twenty-year special use permit allowing the Association to continue to use the tract, and to construct and upgrade living quarters, a dock, a fuel supply system and a parking lot. The special use permit was renewed in 1993 and 1998. However, the Park Service has been advised by the Department of the Interior's Solicitor's Office that the Association's continued use of national monument land should be authorized through a non-competitive lease, rather than a special use permit. S. 535 would authorize the National Park Service to enter into such a lease.

#### LEGISLATIVE HISTORY

S. 535 was introduced by Senators Isakson and Chambliss on March 9, 2011. The Subcommittee on National Parks held a hearing on the bill on May 11, 2011. The Committee on Energy and Natural Resources considered the bill at its business meeting on July 14, 2011, and ordered S. 535 favorably reported without amendment.

An identical bill, S. 3778, was introduced in the 111th Congress by Senators Isakson and Chambliss. A companion bill, H.R. 4773, sponsored by Representative Kingston, passed the House of Representatives by a vote of 379-0 on July 13, 2010. The Subcommittee on National Parks and the Subcommittee on Public Lands and Forests held a joint hearing on S. 3778 and H.R. 4773 on September 29, 2010 (S. Hrg. 111-721). No further action occurred on either bill prior to the sine die adjournment of the 111th Congress.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 14, 2011, by a voice vote of a quorum present, recommends that the Senate pass S. 535.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the "Fort Pulaski National Monument Lease Authorization Act".

*Section 2(a)* authorizes the Secretary of the Interior to lease not more than 30,000 square feet of land within Fort Pulaski National Monument to the Savannah Bar Pilots Association or a successor organization.

Subsection (b) requires that the rental fee be based on fair market value and the the proceeds from any rental fees be deposited into a special account in the Treasury of the United States, in accordance with section 3(k)(5) of Public Law 91–383, which authorizes the National Park Service to collect and expend lease revenues.

Subsection (c) provides that the term of the lease shall be no more than 10 years, and at the discretion of the Secretary, for successive terms of not more than 10 years.

Subsection (d) clarifies that the other provisions in section 3(k) of Public Law 91–383 (other than as provided for in section 2(b)(2)) shall not apply to the lease authorized by this Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

##### *S. 535—Fort Pulaski National Monument Lease Authorization Act*

S. 535 would authorize the National Park Service (NPS) to lease to the Savannah Bar Pilots Association a small site at the Fort Pulaski National Monument in Georgia. Under the bill, the NPS would charge the association a rental fee based on the market value of the land and use the proceeds, without further appropriation, for site maintenance and other expenses.

Based on information provided by the NPS, CBO estimates that implementing the bill would have no significant net effect on the federal budget. The nonprofit association already operates a 30,000-square-foot site, including a dock and associated facilities, under a special-use permit. Fees collected under the permit are used, without appropriation, for purposes similar to those authorized by the bill. CBO estimates that rental proceeds under the bill would be less than \$25,000 a year, slightly more than the NPS currently collects in permit fees.

Because enacting S. 535 would affect direct spending (through the collection and spending of additional fees), pay-as-you-go procedures apply. CBO estimates, however, that the net effect of any annual changes on the federal budget would be insignificant.

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.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 535.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 535, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 535, as 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.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the May 11, 2011 Subcommittee hearing on S. 535 follows:

STATEMENT OF STEPHEN E. WHITESELL, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES, AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 535, a bill to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

The Department supports this legislation, which would allow the Savannah Bar Pilots Association to lease the land on Cockspur Island within Fort Pulaski National Monument in the State of Georgia that the association has used continuously since 1940.

In 1940, the National Park Service authorized by special use permit exclusive use of National Park Service land and improvements to the Savannah Bar Pilots Association to operate a vessel piloting business. The National Park Service has issued a series of permit renewals during the ensuing 70 years. However; in recent years, the National Park Service has been advised by the Department's Solicitor's Office that the association's use of this land should be based on more certain legal authority than the special use permitting process. The National Park Service believes that a non-competitive lease, which would be authorized by S. 535, would be the best option in this unique circumstance to enable the Savannah Bar Pilots Association to continue traditional operations from its Fort Pulaski location. The Bar Pilots serve a function that is vital to the state's deepwater ports and inland barge terminals, including directing ship traffic and assisting in navigation in the Savannah Harbor.

There are no other known locations from which Savannah Bar Pilots Association can operate more efficiently than its current location. Deep water accessibility and the relatively short distance to embarking and disembarking ships in Savannah Harbor render the current Cockspur Island site the ideal location for continued operations. The Savannah Bar Pilots have been operating at the current location with virtually no adverse impact on park resources, on the visitor experience, or on park operations. Fort Pulaski National Monument derives revenue from the current special use permit and would continue to do so

from a lease. The Savannah Bar Pilots enjoy local support from both the City of Savannah and the Georgia Port Authority.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or any members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 535 as ordered reported.

