

Public Law 105–391
105th Congress

An Act

To provide for improved management and increased accountability for certain National Park Service programs, and for other purposes.

Nov. 13, 1998
[S. 1693]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “National Parks Omnibus Management Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

National Parks
Omnibus
Management Act
of 1998.
16 USC 5901
note.

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

**TITLE I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING,
AND MANAGEMENT**

Sec. 101. Protection, interpretation, and research in the National Park System.
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Sec. 104. Park budgets and accountability.

**TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND
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Sec. 201. Purposes.
Sec. 202. Research mandate.
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**TITLE III—STUDY REGARDING ADDITION OF NEW NATIONAL PARK
SYSTEM AREAS**

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Sec. 302. Purpose.
Sec. 303. Study of addition of new National Park System areas.

TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

Sec. 401. Short title.
Sec. 402. Congressional findings and statement of policy.
Sec. 403. Award of concessions contracts.
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Sec. 405. Protection of concessioner investment.
Sec. 406. Reasonableness of rates.
Sec. 407. Franchise fees.
Sec. 408. Transfer of concessions contracts.
Sec. 409. National Park Service Concessions Management Advisory Board.
Sec. 410. Contracting for services.
Sec. 411. Multiple contracts within a park.
Sec. 412. Special rule for transportation contracting services.

- Sec. 413. Use of nonmonetary consideration in concessions contracts.
- Sec. 414. Recordkeeping requirements.
- Sec. 415. Repeal of National Park Service Concessions Policy Act.
- Sec. 416. Promotion of the sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts.
- Sec. 417. Regulations.
- Sec. 418. Commercial use authorizations.
- Sec. 419. Savings provision.

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

- Sec. 501. Fees.
- Sec. 502. Distribution of golden eagle passport sales.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

- Sec. 601. Purposes.
- Sec. 602. National Park passport program.
- Sec. 603. Administration.
- Sec. 604. Foreign sales of Golden Eagle Passports.
- Sec. 605. Effect on other laws and programs.

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

- Sec. 701. Promotion of local fundraising support.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. United States Park Police.
- Sec. 802. Leases and cooperative management agreements.

16 USC 5901.

SEC. 2. DEFINITION.

As used in this Act, the term “Secretary” means the Secretary of the Interior, except as otherwise specifically provided.

TITLE I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING, AND MANAGEMENT

16 USC 5911.

SEC. 101. PROTECTION, INTERPRETATION, AND RESEARCH IN THE NATIONAL PARK SYSTEM.

Recognizing the ever increasing societal pressures being placed upon America’s unique natural and cultural resources contained in the National Park System, the Secretary shall continually improve the ability of the National Park Service to provide state-of-the-art management, protection, and interpretation of and research on the resources of the National Park System.

16 USC 5912.

SEC. 102. NATIONAL PARK SERVICE EMPLOYEE TRAINING.

The Secretary shall develop a comprehensive training program for employees in all professional careers in the work force of the National Park Service for the purpose of assuring that the work force has available the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park System.

16 USC 5913.

SEC. 103. MANAGEMENT DEVELOPMENT AND TRAINING.

Within 2 years after the enactment of this Act, the Secretary shall develop a clear plan for management training and development, whereby career, professional National Park Service employees from any appropriate academic field may obtain sufficient training, experience, and advancement opportunity to enable those qualified to move into park management positions, including explicitly the position of superintendent of a unit of the National Park System.

SEC. 104. PARK BUDGETS AND ACCOUNTABILITY.

16 USC 5914.

(a) **STRATEGIC AND PERFORMANCE PLANS FOR EACH UNIT.**—Each unit of the National Park System shall prepare and make available to the public a 5-year strategic plan and an annual performance plan. Such plans shall reflect the National Park Service policies, goals, and outcomes represented in the Service-wide Strategic Plan, prepared pursuant to the provisions of the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

Public
information.

(b) **ANNUAL BUDGET FOR EACH UNIT.**—As a part of the annual performance plan for a unit of the National Park System prepared pursuant to subsection (a), following receipt of the appropriation for the unit from the Operations of the National Park System account (but no later than January 1 of each year), the superintendent of the unit shall develop and make available to the public the budget for the current fiscal year for that unit. The budget shall include, at a minimum, funding allocations for resource preservation (including resource management), visitor services (including maintenance, interpretation, law enforcement, and search and rescue) and administration. The budget shall also include allocations into each of the above categories of all funds retained from fees collected for that year, including (but not limited to) special use permits, concession franchise fees, and recreation use and entrance fees.

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

SEC. 201. PURPOSES.

16 USC 5931.

The purposes of this title are—

(1) to more effectively achieve the mission of the National Park Service;

(2) to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes;

(3) to ensure appropriate documentation of resource conditions in the National Park System;

(4) to encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value, where such study is consistent with the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.); and

(5) to encourage the publication and dissemination of information derived from studies in the National Park System.

SEC. 202. RESEARCH MANDATE.

16 USC 5932.

The Secretary is authorized and directed to assure that management of units of the National Park System is enhanced by the availability and utilization of a broad program of the highest quality science and information.

16 USC 5933.

SEC. 203. COOPERATIVE AGREEMENTS.

(a) **COOPERATIVE STUDY UNITS.**—The Secretary is authorized and directed to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research and develop integrated information products on the resources of the National Park System, or the larger region of which parks are a part.

Deadline.

(b) **REPORT.**—Within one year of the date of enactment of this title, the Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives on progress in the establishment of a comprehensive network of such college and university based cooperative study units as will provide full geographic and topical coverage for research on the resources contained in units of the National Park System and their larger regions.

16 USC 5934.

SEC. 204. INVENTORY AND MONITORING PROGRAM.

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The monitoring program shall be developed in cooperation with other Federal monitoring and information collection efforts to ensure a cost-effective approach.

16 USC 5935.

SEC. 205. AVAILABILITY FOR SCIENTIFIC STUDY.

(a) **IN GENERAL.**—The Secretary may solicit, receive, and consider requests from Federal or non-Federal public or private agencies, organizations, individuals, or other entities for the use of any unit of the National Park System for purposes of scientific study.

(b) **CRITERIA.**—A request for use of a unit of the National Park System under subsection (a) may only be approved if the Secretary determines that the proposed study—

(1) is consistent with applicable laws and National Park Service management policies; and

(2) will be conducted in a manner as to pose no threat to park resources or public enjoyment derived from those resources.

(c) **FEE WAIVER.**—The Secretary may waive any park admission or recreational use fee in order to facilitate the conduct of scientific study under this section.

(d) **NEGOTIATIONS.**—The Secretary may enter into negotiations with the research community and private industry for equitable, efficient benefits-sharing arrangements.

16 USC 5936.

SEC. 206. INTEGRATION OF STUDY RESULTS INTO MANAGEMENT DECISIONS.

The Secretary shall take such measures as are necessary to assure the full and proper utilization of the results of scientific study for park management decisions. In each case in which an action undertaken by the National Park Service may cause a significant adverse effect on a park resource, the administrative record shall reflect the manner in which unit resource studies have been considered. The trend in the condition of resources of the National Park System shall be a significant factor in the annual performance

evaluation of each superintendent of a unit of the National Park System.

SEC. 207. CONFIDENTIALITY OF INFORMATION.

16 USC 5937.

Information concerning the nature and specific location of a National Park System resource which is endangered, threatened, rare, or commercially valuable, of mineral or paleontological objects within units of the National Park System, or of objects of cultural patrimony within units of the National Park System, may be withheld from the public in response to a request under section 552 of title 5, United States Code, unless the Secretary determines that—

(1) disclosure of the information would further the purposes of the unit of the National Park System in which the resource or object is located and would not create an unreasonable risk of harm, theft, or destruction of the resource or object, including individual organic or inorganic specimens; and

(2) disclosure is consistent with other applicable laws protecting the resource or object.

TITLE III—STUDY REGARDING ADDITION OF NEW NATIONAL PARK SYSTEM AREAS

National Park System New Areas Studies Act.

SEC. 301. SHORT TITLE.

16 USC 1 note.

This title may be cited as the “National Park System New Areas Studies Act”.

SEC. 302. PURPOSE.

16 USC 1a-5 note.

It is the purpose of this title to reform the process by which areas are considered for addition to the National Park System.

SEC. 303. STUDY OF ADDITION OF NEW NATIONAL PARK SYSTEM AREAS.

Section 8 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-5) is amended as follows:

(1) By inserting “GENERAL AUTHORITY.—” after “(a)”.

(2) By striking the second through the sixth sentences of subsection (a).

(3) By redesignating the last two sentences of subsection (a) as subsection (f) and inserting in the first of such sentences before the words “For the purposes of carrying” the following: “(f) AUTHORIZATION OF APPROPRIATIONS.—”.

(4) By inserting the following after subsection (a):

“(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

Records.

“(2) In developing the list to be submitted under this subsection, the Secretary shall consider—

“(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

“(B) themes, sites, and resources not already adequately represented in the National Park System; and

“(C) public petition and Congressional resolutions.

“(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

“(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

“(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

“(c) REPORT.—(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

“(2) In conducting the study, the Secretary shall consider whether the area under study—

“(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

“(B) is a suitable and feasible addition to the system.

“(3) Each study—

“(A) shall consider the following factors with regard to the area being studied—

“(i) the rarity and integrity of the resources;

“(ii) the threats to those resources;

“(iii) similar resources are already protected in the National Park System or in other public or private ownership;

“(iv) the public use potential;

“(v) the interpretive and educational potential;

“(vi) costs associated with acquisition, development and operation;

“(vii) the socioeconomic impacts of any designation;

“(viii) the level of local and general public support;

and

“(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

“(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

“(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

“(D) may include any other information which the Secretary deems to be relevant.

“(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969.

“(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary’s preferred management option for the area.

“(d) NEW AREA STUDY OFFICE.—The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

“(e) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.”.

(5) By adding at the end of subsection (f) (as designated by paragraph (3) of this section) the following: “For carrying out subsections (b) through (d) there are authorized to be appropriated \$2,000,000 for each fiscal year.”.

TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the “National Park Service Concessions Management Improvement Act of 1998”.

SEC. 402. CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), which directs the Secretary to administer units of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, and natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as have to be provided within such units should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that—

(1) visitation will not unduly impair these resources and values; and

National Park
Service
Concessions
Management
Improvement Act
of 1998.
Contracts.
16 USC 5901
note.

16 USC 5951.

(2) development of public accommodations, facilities, and services within such units can best be limited to locations that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of such units.

(b) POLICY.—It is the policy of the Congress that the development of public accommodations, facilities, and services in units of the National Park System shall be limited to those accommodations, facilities, and services that—

(1) are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located; and

(2) are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit.

16 USC 5952.

SEC. 403. AWARD OF CONCESSIONS CONTRACTS.

In furtherance of the findings and policy stated in section 402, and except as provided by this title or otherwise authorized by law, the Secretary shall utilize concessions contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to units of the National Park System. Such concessions contracts shall be awarded as follows:

(1) COMPETITIVE SELECTION PROCESS.—Except as otherwise provided in this section, all proposed concessions contracts shall be awarded by the Secretary to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concessions contracts.

(2) SOLICITATION OF PROPOSALS.—Except as otherwise provided in this section, prior to awarding a new concessions contract (including renewals or extensions of existing concessions contracts) the Secretary shall publicly solicit proposals for the concessions contract and, in connection with such solicitation, the Secretary shall prepare a prospectus and shall publish notice of its availability at least once in local or national newspapers or trade publications, and/or the Commerce Business Daily, as appropriate, and shall make the prospectus available upon request to all interested parties.

(3) PROSPECTUS.—The prospectus shall include the following information:

(A) The minimum requirements for such contract as set forth in paragraph (4).

(B) The terms and conditions of any existing concessions contract relating to the services and facilities to be provided, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including public access, utilities, and buildings.

(E) An estimate of the amount of compensation, if any, due an existing concessioner from a new concessioner under the terms of a prior concessions contract.

(F) A statement as to the weight to be given to each selection factor identified in the prospectus and the relative importance of such factors in the selection process.

(G) Such other information related to the proposed concessions operation as is provided to the Secretary pursuant to a concessions contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals.

(H) Where applicable, a description of a preferential right to the renewal of the proposed concessions contract held by an existing concessioner as set forth in paragraph (7).

(4) MINIMUM REQUIREMENTS.—(A) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include the following:

(i) The minimum acceptable franchise fee or other forms of consideration to the Government.

(ii) Any facilities, services, or capital investment required to be provided by the concessioner.

(iii) Measures necessary to ensure the protection, conservation, and preservation of resources of the unit of the National Park System.

(B) The Secretary shall reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is not likely to provide satisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(C) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(D) The Secretary may not execute a concessions contract which materially amends or does not incorporate the proposed terms and conditions of the concessions contract as set forth in the applicable prospectus. If proposed material amendments or changes are considered appropriate by the Secretary, the Secretary shall resolicit offers for the concessions contract incorporating such material amendments or changes.

(5) SELECTION OF THE BEST PROPOSAL.—(A) In selecting the best proposal, the Secretary shall consider the following principal factors:

(i) The responsiveness of the proposal to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(ii) The experience and related background of the person, corporation, or entity submitting the proposal, including the past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services.

(iii) The financial capability of the person, corporation, or entity submitting the proposal.

(iv) The proposed franchise fee, except that consideration of revenue to the United States shall be subordinate to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities to the public at reasonable rates.

(B) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(C) In developing regulations to implement this title, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of a concession, contracts should be identified as a factor in the selection of a best proposal under this section.

(6) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of \$5,000,000 or a duration of more than 10 years to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both committees.

(7) PREFERENTIAL RIGHT OF RENEWAL.—(A) Except as provided in subparagraph (B), the Secretary shall not grant a concessioner a preferential right to renew a concessions contract, or any other form of preference to a concessions contract.

(B) The Secretary shall grant a preferential right of renewal to an existing concessioner with respect to proposed renewals of the categories of concessions contracts described by paragraph (8), subject to the requirements of that paragraph.

(C) As used in this title, the term “preferential right of renewal” means that the Secretary, subject to a determination by the Secretary that the facilities or services authorized by a prior contract continue to be necessary and appropriate within the meaning of section 402, shall allow a concessioner qualifying for a preferential right of renewal the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal for a proposed new concessions contract which authorizes the continuation of the facilities and services provided by the concessioner under its prior contract.

(D) A concessioner which successfully exercises a preferential right of renewal in accordance with the requirements of this title shall be entitled to award of the proposed new concessions contract to which such preference applies.

(8) OUTFITTER AND GUIDE SERVICES AND SMALL CONTRACTS.—(A) The provisions of paragraph (7) shall apply only to the following:

(i) Subject to subparagraph (B), outfitting and guide concessions contracts.

(ii) Subject to subparagraph (C), concessions contracts with anticipated annual gross receipts under \$500,000.

(B) For the purposes of this title, an “outfitting and guide concessions contract” means a concessions contract which solely

Applicability.

authorizes the provision of specialized backcountry outdoor recreation guide services which require the employment of specially trained and experienced guides to accompany park visitors in the backcountry so as to provide a safe and enjoyable experience for visitors who otherwise may not have the skills and equipment to engage in such activity. Outfitting and guide concessioners, where otherwise qualified, include concessioners which provide guided river running, hunting, fishing, horseback, camping, and mountaineering experiences. An outfitting and guide concessioner is entitled to a preferential right of renewal under this title only if—

(i) the contract with the outfitting and guide concessioner does not grant the concessioner any interest, including any leasehold surrender interest or possessory interest, in capital improvements on lands owned by the United States within a unit of the National Park System, other than a capital improvement constructed by a concessioner pursuant to the terms of a concessions contract prior to the date of the enactment of this title or constructed or owned by a concessioner or his or her predecessor before the subject land was incorporated into the National Park System;

(ii) the Secretary determines that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(iii) the concessioner has submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(C) A concessioner that holds a concessions contract that the Secretary estimates will result in gross annual receipts of less than \$500,000 if renewed shall be entitled to a preferential right of renewal under this title if—

(i) the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(ii) the concessioner has submitted a responsive proposal for a proposed new concessions contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(9) NEW OR ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a unit of the National Park System.

(10) SECRETARIAL AUTHORITY.—Nothing in this title shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions contract or to establish its terms and conditions in furtherance of the policies expressed in this title.

(11) EXCEPTIONS.—Notwithstanding the provisions of this section, the Secretary may award, without public solicitation, the following:

(A) A temporary concessions contract or an extension of an existing concessions contract for a term not to exceed 3 years in order to avoid interruption of services to the public at a unit of the National Park System, except that prior to making such an award, the Secretary shall take

all reasonable and appropriate steps to consider alternatives to avoid such interruption.

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publication.

(B) A concessions contract in extraordinary circumstances where compelling and equitable considerations require the award of a concessions contract to a particular party in the public interest. Such award of a concessions contract shall not be made by the Secretary until at least 30 days after publication in the Federal Register of notice of the Secretary's intention to do so and the reasons for such action, and submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

16 USC 5953.

SEC. 404. TERM OF CONCESSIONS CONTRACTS.

A concessions contract entered into pursuant to this title shall generally be awarded for a term of 10 years or less. However, the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

16 USC 5954.

SEC. 405. PROTECTION OF CONCESSIONER INVESTMENT.

(a) **LEASEHOLD SURRENDER INTEREST UNDER NEW CONCESSIONS CONTRACTS.**—On or after the date of the enactment of this title, a concessioner that constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concessions contract shall have a leasehold surrender interest in such capital improvement subject to the following terms and conditions:

(1) A concessioner shall have a leasehold surrender interest in each capital improvement constructed by a concessioner under a concessions contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner's leasehold surrender interest in the capital improvement.

(2) A leasehold surrender interest—

(A) may be pledged as security for financing of a capital improvement or the acquisition of a concessions contract when approved by the Secretary pursuant to this title;

(B) shall be transferred by the concessioner in connection with any transfer of the concessions contract and may be relinquished or waived by the concessioner; and

(C) shall not be extinguished by the expiration or other termination of a concessions contract and may not be taken for public use except on payment of just compensation.

(3) The value of a leasehold surrender interest in a capital improvement shall be an amount equal to the initial value (construction cost of the capital improvement), increased (or decreased) in the same percentage increase (or decrease) as the percentage increase (or decrease) in the Consumer Price Index, from the date of making the investment in the capital improvement by the concessioner to the date of payment of the value of the leasehold surrender interest, less depreciation of the capital improvement as evidenced by the condition and prospective serviceability in comparison with a new unit of like kind.

Effective date.

(4) Effective 9 years after the date of the enactment of this Act, the Secretary may provide, in any particular new

concession contract the Secretary estimates will have a leasehold surrender interest of more than \$10,000,000, that the value of any leasehold surrender interest in a capital improvement shall be based on either (A) a reduction on an annual basis, in equal portions, over the same number of years as the time period associated with the straight line depreciation of the initial value (construction cost of the capital improvement), as provided by applicable Federal income tax laws and regulations in effect on the day before the date of the enactment of this Act or (B) such alternative formula that is consistent with the objectives of this title. The Secretary may only use such an alternative formula if the Secretary determines, after scrutiny of the financial and other circumstances involved in this particular concession contract (including providing notice in the Federal Register and opportunity for comment), that such alternative formula is, compared to the standard method of determining value provided for in paragraph (3), necessary in order to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity to make a profit under the new contract. If no responsive offers are received in response to a solicitation that includes such an alternative formula, the concession opportunity shall be resolicited with the leasehold surrender interest value as described in paragraph (3).

Federal Register,
publication.

(5) Where a concessioner, pursuant to the terms of a concessions contract, makes a capital improvement to an existing capital improvement in which the concessioner has a leasehold surrender interest, the cost of such additional capital improvement shall be added to the then current value of the concessioner's leasehold surrender interest.

(b) SPECIAL RULE FOR EXISTING POSSESSORY INTEREST.—

(1) A concessioner which has obtained a possessory interest as defined pursuant to Public Law 89-249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.), as in effect on the day before the date of the enactment of this Act, under the terms of a concessions contract entered into before that date shall, upon the expiration or termination of such contract, be entitled to receive compensation for such possessory interest improvements in the amount and manner as described by such concessions contract. Where such a possessory interest is not described in the existing contract, compensation of possessory interest shall be determined in accordance with the laws in effect on the day before the date of enactment of this Act.

(2) In the event such prior concessioner is awarded a new concessions contract after the effective date of this title replacing an existing concessions contract, the existing concessioner shall, instead of directly receiving such possessory interest compensation, have a leasehold surrender interest in its existing possessory interest improvements under the terms of the new contract and shall carry over as the initial value of such leasehold surrender interest (instead of construction cost) an amount equal to the value of the existing possessory interest as of the termination date of the previous contract. In the event of a dispute between the concessioner and the Secretary as to the value of such possessory interest, the matter shall be resolved through binding arbitration.

(3) In the event that a new concessioner is awarded a concessions contract and is required to pay a prior concessioner for possessory interest in prior improvements, the new concessioner shall have a leasehold surrender interest in such prior improvements and the initial value in such leasehold surrender interest (instead of construction cost), shall be an amount equal to the value of the existing possessory interest as of the termination date of the previous contract.

(c) **TRANSITION TO SUCCESSOR CONCESSIONER.**—Upon expiration or termination of a concessions contract entered into after the effective date of this title, a concessioner shall be entitled under the terms of the concessions contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of such expiration or termination. A successor concessioner shall have a leasehold surrender interest in such capital improvement under the terms of a new contract and the initial value of the leasehold surrender interest in such capital improvement (instead of construction cost) shall be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concessions contract.

(d) **TITLE TO IMPROVEMENTS.**—Title to any capital improvement constructed by a concessioner on lands owned by the United States in a unit of the National Park System shall be vested in the United States.

(e) **DEFINITIONS.**—For purposes of this section:

(1) **CONSUMER PRICE INDEX.**—The term “Consumer Price Index” means the “Consumer Price Index—All Urban Consumers” published by the Bureau of Labor Statistics of the Department of Labor, unless such index is not published, in which case another regularly published cost-of-living index approximating the Consumer Price Index shall be utilized by the Secretary; and

(2) **CAPITAL IMPROVEMENT.**—The term “capital improvement” means a structure, fixture, or nonremovable equipment provided by a concessioner pursuant to the terms of a concessions contract and located on lands of the United States within a unit of the National Park System.

Deadline.

(f) **SPECIAL REPORTING REQUIREMENT.**— Not later than 7 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives containing a complete analysis of the concession program as well as—

(1) an assessment of competition in the solicitation of prospectuses, fair and/or increased return to the Government, and improvement of concession facilities and infrastructure; and

(2) an assessment of any problems with the management and administration of the concession program that are a direct result of the implementation of the provisions of this title.

16 USC 5955.

SEC. 406. REASONABLENESS OF RATES.

(a) **IN GENERAL.**—Each concessions contract shall permit the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services provided to the public, subject to approval under subsection (b).

(b) **APPROVAL BY SECRETARY REQUIRED.**—A concessioner's rates and charges to the public shall be subject to approval by the Secretary. The approval process utilized by the Secretary shall be as prompt and as unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable. The Secretary shall approve rates and charges that the Secretary determines to be reasonable and appropriate. Unless otherwise provided in the contract, the reasonableness and appropriateness of rates and charges shall be determined primarily by comparison with those rates and charges for facilities, goods, and services of comparable character under similar conditions, with due consideration to the following factors and other factors deemed relevant by the Secretary: length of season, peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, and type of patronage. Such rates and charges may not exceed the market rates and charges for comparable facilities, goods, and services, after taking into account the factors referred to in the preceding sentence.

(c) **IMPLEMENTATION OF RECOMMENDATIONS.**—Not later than 6 months after receiving recommendations from the Advisory Board established under section 409(a) regarding concessioner rates and charges to the public, the Secretary shall implement the recommendations or report to the Congress the reasons for not implementing the recommendations.

Deadline.

SEC. 407. FRANCHISE FEES.

16 USC 5956.

(a) **IN GENERAL.**—A concessions contract shall provide for payment to the government of a franchise fee or such other monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas and of providing necessary and appropriate services for visitors at reasonable rates.

(b) **AMOUNT OF FRANCHISE FEE.**—The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concessions contract shall be specified in the concessions contract and may only be modified to reflect extraordinary unanticipated changes from the conditions anticipated as of the effective date of the contract. The Secretary shall include in concessions contracts with a term of more than 5 years a provision which allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of such extraordinary unanticipated changes. Such provision shall provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances.

(c) **SPECIAL ACCOUNT.**—All franchise fees (and other monetary consideration) paid to the United States pursuant to concessions contracts shall be deposited into a special account established in the Treasury of the United States. Twenty percent of the funds deposited in the special account shall be available for expenditure by the Secretary, without further appropriation, to support activities throughout the National Park System regardless of the unit of

the National Park System in which the funds were collected. The funds deposited into the special account shall remain available until expended.

(d) **SUBACCOUNT FOR EACH UNIT.**—There shall be established within the special account required under subsection (c) a subaccount for each unit of the National Park System. Each subaccount shall be credited with 80 percent of the franchise fees (and other monetary consideration) collected at a single unit of the National Park System under concessions contracts. The funds credited to the subaccount for a unit of the National Park System shall be available for expenditure by the Secretary, without further appropriation, for use at the unit for visitor services and for purposes of funding high-priority and urgently necessary resource management programs and operations. The funds credited to a subaccount shall remain available until expended.

16 USC 5957.

SEC. 408. TRANSFER OF CONCESSIONS CONTRACTS.

(a) **APPROVAL OF THE SECRETARY.**—No concessions contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the Secretary.

(b) **CONDITIONS.**—The Secretary shall approve a transfer or conveyance described in subsection (a) unless the Secretary finds that—

(1) the individual, corporation or entity seeking to acquire a concessions contract is not qualified or able to satisfy the terms and conditions of the concessions contract;

(2) such transfer or conveyance would have an adverse impact on (A) the protection, conservation, or preservation of the resources of the unit of the National Park System or (B) the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and

(3) the terms of such transfer or conveyance are likely, directly or indirectly, to reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract, adversely affect the quality of facilities and services provided by the concessioner, or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

(c) **TRANSFER TERMS.**—The terms and conditions of any contract under this section shall not be subject to modification or open to renegotiation by the Secretary because of a transfer or conveyance described in subsection (a), unless such transfer or conveyance would have an adverse impact as described in paragraph (2) of subsection (b).

16 USC 5958.

SEC. 409. NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT ADVISORY BOARD.

(a) **ESTABLISHMENT.**—There is hereby established a National Park Service Concessions Management Advisory Board (in this title referred to as the "Advisory Board") whose purpose shall be to advise the Secretary and National Park Service on matters relating to management of concessions in the National Park System.

(b) **DUTIES.**—

(1) **ADVICE.**—The Advisory Board shall advise on each of the following:

(A) Policies and procedures intended to assure that services and facilities provided by concessioners are necessary and appropriate, meet acceptable standards at reasonable rates with a minimum of impact on park resources and values, and provide the concessioners with a reasonable opportunity to make a profit.

(B) Ways to make National Park Service concessions programs and procedures more cost effective, more process efficient, less burdensome, and timelier.

(2) RECOMMENDATIONS.—The Advisory Board shall make recommendations to the Secretary regarding each of the following:

(A) National Park Service contracting with the private sector to conduct appropriate elements of concessions management and providing recommendations to make more efficient, less burdensome, and timelier the review or approval of concessioner rates and charges to the public.

(B) The nature and scope of products which qualify as Indian, Alaska Native, and Native Hawaiian handicrafts within this meaning of this title.

(C) The allocation of concession fees.

The initial recommendations under subparagraph (A) relating to rates and charges shall be submitted to the Secretary not later than one year after the first meeting of the Board.

(3) ANNUAL REPORT.—The Advisory Board, commencing with the first anniversary of its initial meeting, shall provide an annual report on its activities to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) ADVISORY BOARD MEMBERSHIP.—Members of the Advisory Board shall be appointed on a staggered basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Advisory Board shall be comprised of not more than seven individuals appointed from among citizens of the United States not in the employment of the Federal Government and not in the employment of or having an interest in a National Park Service concession. Of the seven members of the Advisory Board—

(1) one member shall be privately employed in the hospitality industry and have both broad knowledge of hotel or food service management and experience in the parks and recreation concessions business;

(2) one member shall be privately employed in the tourism industry;

(3) one member shall be privately employed in the accounting industry;

(4) one member shall be privately employed in the outfitting and guide industry;

(5) one member shall be a State government employee with expertise in park concession management;

(6) one member shall be active in promotion of traditional arts and crafts; and

(7) one member shall be active in a nonprofit conservation organization involved in parks and recreation programs.

(d) **TERMINATION.**—The Advisory Board shall continue to exist until December 31, 2008. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(e) **SERVICE ON ADVISORY BOARD.**—Service of an individual as a member of the Advisory Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Advisory Board shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or other comparable provisions of Federal law.

16 USC 5959.

SEC. 410. CONTRACTING FOR SERVICES.

(a) **CONTRACTING AUTHORIZED.**—(1) To the maximum extent practicable, the Secretary shall contract with private entities to conduct or assist in those elements of the management of the National Park Service concessions program considered by the Secretary to be suitable for non-Federal performance. Such management elements include each of the following:

- (A) Health and safety inspections.
- (B) Quality control of concessions operations and facilities.
- (C) Strategic capital planning for concessions facilities.
- (D) Analysis of rates and charges to the public.

(2) The Secretary may also contract with private entities to assist the Secretary with each of the following:

- (A) Preparation of the financial aspects of prospectuses for National Park Service concessions contracts.
- (B) Development of guidelines for a national park system capital improvement and maintenance program for all concession occupied facilities.
- (C) Making recommendations to the Director of the National Park Service regarding the conduct of annual audits of concession fee expenditures.

(b) **OTHER MANAGEMENT ELEMENTS.**—The Secretary shall also consider, taking into account the recommendations of the Advisory Board, contracting out other elements of the concessions management program, as appropriate.

(c) **CONDITION.**—Nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concessions contracts and activities pursuant to this title and the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.). The Secretary reserves the right to make the final decision or contract approval on contracting services dealing with the management of the National Park Service concessions program under this section.

16 USC 5960.

SEC. 411. MULTIPLE CONTRACTS WITHIN A PARK.

If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guiding, river running, or other similar services at the same approximate location or resource within a specific national park, the Secretary shall establish a comparable franchise fee structure for all such same or similar contracts, except that the terms and conditions

of any existing concessions contract shall not be subject to modification or open to renegotiation by the Secretary because of an award of a new contract at the same approximate location or resource.

SEC. 412. SPECIAL RULE FOR TRANSPORTATION CONTRACTING SERVICES. 16 USC 5961.

Notwithstanding any other provision of law, a service contract entered into by the Secretary for the provision solely of transportation services in a unit of the National Park System shall be no more than 10 years in length, including a base period of 5 years and annual extensions for an additional 5-year period based on satisfactory performance and approval by the Secretary.

SEC. 413. USE OF NONMONETARY CONSIDERATION IN CONCESSIONS CONTRACTS. 16 USC 5962.

Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this title.

SEC. 414. RECORDKEEPING REQUIREMENTS. 16 USC 5963.

(a) **IN GENERAL.**—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessions contract have been and are being faithfully performed, and the Secretary and any duly authorized representative of the Secretary shall, for the purpose of audit and examination, have access to such records and to other books, documents, and papers of the concessioner pertinent to the contract and all terms and conditions thereof.

(b) **ACCESS TO RECORDS.**—The Comptroller General or any duly authorized representative of the Comptroller General shall, until the expiration of 5 calendar years after the close of the business year of each concessioner or subconcessioner, have access to and the right to examine any pertinent books, papers, documents and records of the concessioner or subconcessioner related to the contract or contracts involved.

SEC. 415. REPEAL OF NATIONAL PARK SERVICE CONCESSIONS POLICY ACT.

(a) **REPEAL.**—Public Law 89-249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.) is repealed. The repeal of such Act shall not affect the validity of any concessions contract or permit entered into under such Act, but the provisions of this title shall apply to any such contract or permit except to the extent such provisions are inconsistent with the terms and conditions of any such contract or permit. References in this title to concessions contracts awarded under authority of such Act also apply to concessions permits awarded under such authority. 16 USC 20 note.

(b) **CONFORMING AMENDMENTS.**—(1) The fourth sentence of section 3 of the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 3), is amended—

(A) by striking all through “no natural” and inserting “No natural,”; and

(B) by striking the last proviso in its entirety.

(2) Section 12 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-7) is amended by striking subsection (c).

- (3) The second paragraph under the heading “NATIONAL PARK SERVICE” in the Act of July 31, 1953 (67 Stat. 261, 271), is repealed.
- 16 USC 17b-1. (c) ANILCA.—Nothing in this title amends, supersedes, or
16 USC 5951 otherwise affects any provision of the Alaska National Interest
note. Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.
- 16 USC 5964. **SEC. 416. PROMOTION OF THE SALE OF INDIAN, ALASKA NATIVE, NATIVE SAMOAN, AND NATIVE HAWAIIAN HANDICRAFTS.**
- (a) IN GENERAL.—Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where such trade currently does not exist.
- (b) EXEMPTION FROM FRANCHISE FEE.—In furtherance of these purposes, the revenue derived from the sale of United States Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts shall be exempt from any franchise fee payments under this title.
- 16 USC 5965. **SEC. 417. REGULATIONS.**
- As soon as practicable after the effective date of this title, the Secretary shall promulgate regulations appropriate for its implementation. Among other matters, such regulations shall include appropriate provisions to ensure that concession services and facilities to be provided in a unit of the National Park System are not segmented or otherwise split into separate concessions contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concessions contract below \$500,000. The Secretary shall also promulgate regulations which further define the term “United States Indian, Alaskan Native, and Native Hawaiian handicrafts” for the purposes of this title.
- 16 USC 5966. **SEC. 418. COMMERCIAL USE AUTHORIZATIONS.**
- (a) IN GENERAL.—To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to visitors to units of the National Park System through a commercial use authorization. Such authorizations shall not be considered as concessions contracts pursuant to this title nor shall other sections of this title be applicable to such authorizations except where expressly so stated.
- (b) CRITERIA FOR ISSUANCE OF AUTHORIZATIONS.—
- (1) REQUIRED DETERMINATIONS.—The authority of this section may be used only to authorize provision of services that the Secretary determines will have minimal impact on resources and values of the unit of the National Park System and are consistent with the purpose for which the unit was established and with all applicable management plans and park policies and regulations.
- (2) ELEMENTS OF AUTHORIZATION.—The Secretary shall—
- (A) require payment of a reasonable fee for issuance of an authorization under this section, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

(B) require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(C) take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(D) have no authority under this section to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the park.

(c) **LIMITATIONS.**—Any authorization issued under this section shall be limited to—

(1) commercial operations with annual gross receipts of not more than \$25,000 resulting from services originating and provided solely within a unit of the National Park System pursuant to such authorization;

(2) the incidental use of resources of the unit by commercial operations which provide services originating and terminating outside of the boundaries of the unit; or

(3) such uses by organized children's camps, outdoor clubs and nonprofit institutions (including back country use) and such other uses as the Secretary determines appropriate.

Nonprofit institutions are not required to obtain commercial use authorizations unless taxable income is derived by the institution from the authorized use.

(d) **PROHIBITION ON CONSTRUCTION.**—An authorization issued under this section shall not provide for the construction of any structure, fixture, or improvement on federally-owned lands within the boundaries of a unit of the National Park System.

(e) **DURATION.**—The term of any authorization issued under this section shall not exceed 2 years. No preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

(f) **OTHER CONTRACTS.**—A person, corporation, or other entity seeking or obtaining an authorization pursuant to this section shall not be precluded from also submitting proposals for concessions contracts.

SEC. 419. SAVINGS PROVISION.

(a) **TREATMENT OF GLACIER BAY CONCESSION PERMITS PROSPECTUS.**—Nothing contained in this title shall authorize or require the Secretary to withdraw, revise, amend, modify, or reissue the February 19, 1998, Prospectus Under Which Concession Permits Will be Open for Competition for the Operation of Cruise Ship Services Within Glacier Bay National Park and Preserve (in this section referred to as the "1998 Glacier Bay Prospectus"). The award of concession permits pursuant to the 1998 Glacier Bay Prospectus shall be under provisions of existing law at the time the 1998 Glacier Bay Prospectus was issued.

(b) **PREFERENTIAL RIGHT OF RENEWAL.**—Notwithstanding any provision of this title, the Secretary, in awarding future Glacier Bay cruise ship concession permits covering cruise ship entries for which a preferential right of renewal existed prior to the effective

16 USC 5951
note.

Expiration date. date of this title, shall provide for such cruise ship entries a preferential right of renewal, as described in subparagraphs (C) and (D) of section 403(7). Any Glacier Bay concession permit awarded under the authority contained in this subsection shall expire by December 31, 2009.

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

16 USC 5981.

SEC. 501. FEES.

Notwithstanding any other provision of law, where the National Park Service or an entity under a service contract with the National Park Service provides transportation to all or a portion of any unit of the National Park System, the Secretary may impose a reasonable and appropriate charge to the public for the use of such transportation services in addition to any admission fee required to be paid. Collection of both the transportation and admission fees may occur at the transportation staging area or any other reasonably convenient location determined by the Secretary. The Secretary may enter into agreements with public or private entities, who qualify to the Secretary's satisfaction, to collect the transportation and admission fee. Such transportation fees collected as per this section shall be retained by the unit of the National Park System at which the transportation fee was collected and the amount retained shall be expended only for costs associated with the transportation systems at the unit where the charge was imposed.

Contracts
16 USC 5982.

SEC. 502. DISTRIBUTION OF GOLDEN EAGLE PASSPORT SALES.

Not later than 6 months after the date of enactment of this title, the Secretary of the Interior and the Secretary of Agriculture shall enter into an agreement providing for an apportionment among each agency of all proceeds derived from the sale of Golden Eagle Passports by private vendors. Such proceeds shall be apportioned to each agency on the basis of the ratio of each agency's total revenue from admission fees collected during the previous fiscal year to the sum of all revenue from admission fees collected during the previous fiscal year for all agencies participating in the Golden Eagle Passport Program.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

16 USC 5991.

SEC. 601. PURPOSES.

The purposes of this title are—

- (1) to develop a national park passport that includes a collectible stamp to be used for admission to units of the National Park System; and
- (2) to generate revenue for support of the National Park System.

SEC. 602. NATIONAL PARK PASSPORT PROGRAM.

16 USC 5992.

(a) PROGRAM.—The Secretary shall establish a national park passport program. A national park passport shall include a collectible stamp providing the holder admission to all units of the National Park System.

(b) EFFECTIVE PERIOD.—A national park passport stamp shall be effective for a period of 12 months from the date of purchase.

(c) TRANSFERABILITY.—A national park passport and stamp shall not be transferable.

SEC. 603. ADMINISTRATION.

16 USC 5993.

(a) STAMP DESIGN COMPETITION.—(1) The Secretary shall hold an annual competition for the design of the collectible stamp to be affixed to the national park passport.

(2) Each competition shall be open to the public and shall be a means to educate the American people about the National Park System.

(b) SALE OF PASSPORTS AND STAMPS.—(1) National park passports and stamps shall be sold through the National Park Service and may be sold by private vendors on consignment in accordance with guidelines established by the Secretary.

(2) A private vendor may be allowed to collect a commission on each national park passport (including stamp) sold, as determined by the Secretary.

(3) The Secretary may limit the number of private vendors of national park passports (including stamps).

(c) USE OF PROCEEDS.—

(1) The Secretary may use not more than 10 percent of the revenues derived from the sale of national park passports (including stamps) to administer and promote the national park passport program and the National Park System.

(2) Net proceeds from the sale of national park passports shall be deposited in a special account in the Treasury of the United States and shall remain available until expended, without further appropriation, for high priority visitor service or resource management projects throughout the National Park System.

(d) AGREEMENTS.—The Secretary may enter into cooperative agreements with the National Park Foundation and other interested parties to provide for the development and implementation of the national park passport program and the Secretary shall take such actions as are appropriate to actively market national park passports and stamps.

(e) FEE.—The fee for a national park passport and stamp shall be \$50.

SEC. 604. FOREIGN SALES OF GOLDEN EAGLE PASSPORTS.

16 USC 5994.

The Secretary of Interior shall—

(1) make Golden Eagle Passports issued under section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(1)(A)) or the Recreational Fee Demonstration Program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104-134; 16 U.S.C. 4601-6a note), available to foreign visitors to the United States; and

(2) make such Golden Eagle Passports available for purchase outside the United States, through commercial tourism channels and consulates or other offices of the United States.

16 USC 5995.

SEC. 605. EFFECT ON OTHER LAWS AND PROGRAMS.

(a) **PARK PASSPORT NOT REQUIRED.**—A national park passport shall not be required for—

(1) a single visit to a national park that charges a single visit admission fee under section 4(a)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(2)) or the Recreational Fee Demonstration Program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104-134; 16 U.S.C. 4601-6a note); or

(2) an individual who has obtained a Golden Age or Golden Access Passport under paragraph (4) or (5) of section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)).

(b) **GOLDEN EAGLE PASSPORTS.**—A Golden Eagle Passport issued under section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(1)(A)) or such Recreational Fee Demonstration Program (16 U.S.C. 4601-6a note) shall be honored for admission to each unit of the National Park System.

(c) **ACCESS.**—A national park passport shall provide access to each unit of the National Park System under the same conditions, rules, and regulations as apply to access with a Golden Eagle Passport as of the date of enactment of this title.

(d) **LIMITATIONS.**—A national park passport may not be used to obtain access to other Federal recreation fee areas outside of the National Park System.

(e) **EXEMPTIONS AND FEES.**—A national park passport does not exempt the holder from or provide the holder any discount on any recreation use fee imposed under section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)) or such Recreational Fee Demonstration Program (16 U.S.C. 4601-6a note).

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

SEC. 701. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

Public Law 90-209 (commonly known as the National Park Foundation Act; 16 U.S.C. 19 et seq.) is amended by adding at the end the following new section:

16 USC 19o.

“SEC. 11. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

“(a) **ESTABLISHMENT.**—The Foundation shall design and implement a comprehensive program to assist and promote philanthropic programs of support at the individual national park unit level.

“(b) **IMPLEMENTATION.**—The program under subsection (a) shall be implemented to—

“(1) assist in the creation of local nonprofit support organizations; and

“(2) provide support, national consistency, and management-improving suggestions for local nonprofit support organizations.

“(c) PROGRAM.—The program under subsection (a) shall include the greatest number of national park units as is practicable.

“(d) REQUIREMENTS.—The program under subsection (a) shall include, at a minimum—

“(1) a standard adaptable organizational design format to establish and sustain responsible management of a local nonprofit support organization for support of a national park unit;

“(2) standard and legally tenable bylaws and recommended money-handling procedures that can easily be adapted as applied to individual national park units; and

“(3) a standard training curriculum to orient and expand the operating expertise of personnel employed by local nonprofit support organizations.

“(e) ANNUAL REPORT.—The Foundation shall report the progress of the program under subsection (a) in the annual report of the Foundation.

“(f) AFFILIATIONS.—

“(1) CHARTER OR CORPORATE BYLAWS.—Nothing in this section requires—

“(A) a nonprofit support organization or friends group to modify current practices or to affiliate with the Foundation; or

“(B) a local nonprofit support organization, established as a result of this section, to be bound through its charter or corporate bylaws to be permanently affiliated with the Foundation.

“(2) ESTABLISHMENT.—An affiliation with the Foundation shall be established only at the discretion of the governing board of a nonprofit organization.”.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. UNITED STATES PARK POLICE.

16 USC 6011.

(a) APPOINTMENT OF TASK FORCE.—Not later than 60 days after the date of enactment of this title, the Secretary shall appoint a multidisciplinary task force to fully evaluate the shortfalls, needs, and requirements of law enforcement programs in the National Park Service, including a separate analysis for the United States Park Police, which shall include a review of facility repair, rehabilitation, equipment, and communication needs.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of enactment of this title, the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Resources and Appropriations of the United States House of Representatives a report that includes—

(1) the findings and recommendations of the task force;

(2) complete justifications for any recommendations made;

and

(3) a complete description of any adverse impacts that would occur if any need identified in the report is not met.

Deadline.

SEC. 802. LEASES AND COOPERATIVE MANAGEMENT AGREEMENTS.

(a) **IN GENERAL.**—Section 3 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-2) is amended by adding at the end the following:

“(k) LEASES.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), the Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System.

“(2) PROHIBITED ACTIVITIES.—The Secretary may not use a lease under paragraph (1) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concessions contract, commercial use authorization, or similar instrument.

“(3) USE.—Buildings and associated property leased under paragraph (1)—

“(A) shall be used for an activity that is consistent with the purposes established by law for the unit in which the building is located;

“(B) shall not result in degradation of the purposes and values of the unit; and

“(C) shall be compatible with National Park Service programs.

“(4) RENTAL AMOUNTS.—

“(A) IN GENERAL.—With respect to a lease under paragraph (1)—

“(i) payment of fair market value rental shall be required; and

“(ii) section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b) shall not apply.

“(B) ADJUSTMENT.—The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

“(C) REGULATION.—The Secretary shall promulgate regulations implementing this subsection that includes provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

“(5) SPECIAL ACCOUNT.—

“(A) DEPOSITS.—Rental payments under a lease under paragraph (1) shall be deposited in a special account in the Treasury of the United States.

“(B) AVAILABILITY.—Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at units of the National Park System, including—

“(i) facility refurbishment;

“(ii) repair and replacement;

“(iii) infrastructure projects associated with park resource protection; and

“(iv) direct maintenance of the leased buildings and associated properties.

“(C) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account

that ensure accountability and demonstrated results consistent with this Act.

“(1) COOPERATIVE MANAGEMENT AGREEMENTS.—

“(1) IN GENERAL.—Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary may enter into an agreement with a State or local government agency to provide for the cooperative management of the Federal and State or local park areas. The Secretary may not transfer administration responsibilities for any unit of the National Park System under this paragraph.

“(2) PROVISION OF GOODS AND SERVICES.—Under a cooperative management agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used by the Secretary and the State or local governmental agency in the cooperative management of land.

“(3) ASSIGNMENT.—An assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal, State, or local employee for work in any Federal, State, or local land or an extension of such an assignment may be for any period of time determined by the Secretary and the State or local agency to be mutually beneficial.”.

(b) HISTORIC LEASE PROCESS SIMPLIFICATION.—The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.

16 USC 470h-3
note.

Approved November 13, 1998.

LEGISLATIVE HISTORY—S. 1693:

HOUSE REPORTS: No. 105-767 (Comm. on Resources).

SENATE REPORTS: No. 105-202 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 11, considered and passed Senate.

Oct. 13, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential statement.

