

111TH CONGRESS
1ST SESSION

H.R. _____

To enact title 54, United States Code, “National Park System”, as positive law.

IN THE HOUSE OF REPRESENTATIVES

— —, 2009

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enact title 54, United States Code, “National Park System”, as positive law.

1 *Be it enacted by the Senate and House of Representatives of the United*

2 *States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Purpose; conformity with original intent.
- Sec. 3. Enactment of title 54, United States Code.
- Sec. 4. Conforming amendments.
- Sec. 5. Conforming cross-references.
- Sec. 6. Transitional and savings provisions.
- Sec. 7. Repeals.

1 **SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.**

2 (a) PURPOSE.—The purpose of this Act is to codify certain existing laws
 3 relating to the National Park System as title 54, United States Code, “Na-
 4 tional Park System”.

5 (b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws
 6 by this Act, the intent is to conform to the understood policy, intent, and
 7 purpose of Congress in the original enactments, with such amendments and
 8 corrections as will remove ambiguities, contradictions, and other imperfec-
 9 tions, in accordance with section 205(c)(1) of House Resolution No. 988,
 10 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C.
 11 285b(1)).

12 **SEC. 3. ENACTMENT OF TITLE 54, UNITED STATES CODE.**

13 Title 54, United States Code, “National Park System”, is enacted as fol-
 14 lows:

TITLE 54—NATIONAL PARK SYSTEM

Subtitle I—National Park Service

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2061. Miscellaneous 206101

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2071. National Trust for Historic Preservation in the United States 207101
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2075. American Battlefield Protection Program 207501
2077. National Underground Railroad Network to Freedom 207701
2079. National Women’s Rights History Project 207901
2081. Preservation of Historical and Archaeological Data 208101
2083. National Maritime Heritage 208301
2085. Preserve America Program 208501
2087. Save America’s Treasures Program 208701
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Subtitle I—National Park Service

DIVISION A—ESTABLISHMENT AND GENERAL ADMINISTRATION

CHAPTER 1001—GENERAL PROVISIONS

1
2
3
4

Sec.

100101. Findings and purpose.

100102. Definitions.

5 **§ 100101. Findings and purpose**

6 (a) FINDINGS.—Congress declares that—

7 (1) the National Park System, which began with establishment of
8 Yellowstone National Park in 1872, has since grown to include super-
9 lative natural, historic, and recreation areas in every major region of
10 the United States and its territories and possessions;

11 (2) these areas, though distinct in character, are united through
12 their interrelated purposes and resources into one National Park Sys-
13 tem as cumulative expressions of a single national heritage;

14 (3) individually and collectively, these areas derive increased national
15 dignity and recognition of their superb environmental quality through
16 their inclusion jointly with each other in the System preserved and

1 managed for the benefit and inspiration of all the people of the United
2 States; and

3 (4) it is the purpose of this section and sections 100501 and 100911
4 of this title to include all these areas in the System and to clarify the
5 authorities applicable to the System.

6 (b) PURPOSE.—Congress directs that the promotion and regulation of the
7 various System units shall be consistent with and founded in the purpose
8 established by section 100301(b) of this title, to the common benefit of all
9 the people of the United States. The authorization of activities shall be con-
10 structed and the protection, management, and administration of the System
11 units shall be conducted in light of the high public value and integrity of
12 the System and shall not be exercised in derogation of the values and pur-
13 poses for which these various areas have been established, except as directly
14 and specifically provided by Congress.

15 **§ 100102. Definitions**

16 In this title:

17 (1) DIRECTOR.—The term “Director” means the Director of the Na-
18 tional Park Service.

19 (2) SECRETARY.—The term “Secretary” means the Secretary of the
20 Interior.

21 (3) SERVICE.—The term “Service” means the National Park Serv-
22 ice.

23 (4) SYSTEM.—The term “System” means the areas of land and
24 water described in section 100501 of this title.

25 (5) SYSTEM UNIT.—The term “System unit” means one of the areas
26 described in section 100501 of this title.

27 **CHAPTER 1003—ESTABLISHMENT, DIRECTORS, AND**
28 **OTHER EMPLOYEES**

Sec.

100301. Establishment and purpose.

100302. Directors and other employees.

100303. Effect on other laws.

29 **§ 100301. Establishment and purpose**

30 (a) ESTABLISHMENT.—There is in the Department of the Interior a serv-
31 ice to be called the National Park Service.

32 (b) PURPOSE.—The Secretary shall promote and regulate the use of the
33 System by means and measures that conform to the fundamental purpose
34 of the System units, which purpose is to conserve the scenery and the natu-
35 ral and historic objects and the wildlife in, and to provide for the enjoyment
36 of, the System units in the manner and by the means that will leave them
37 unimpaired for the enjoyment of future generations.

1 **§ 100302. Directors and other employees**

2 (a) DIRECTOR.—

3 (1) APPOINTMENT.—The Service shall be under the charge of a di-
4 rector who shall be appointed by the President, by and with the advice
5 and consent of the Senate.

6 (2) QUALIFICATIONS.—The Director shall have substantial experi-
7 ence and demonstrated competence in land management and natural or
8 cultural resource conservation.

9 (3) AUTHORITY.—Under the direction of the Secretary, the Director
10 shall have the supervision, management, and control of System units.
11 In the supervision, management, and control of System units contig-
12 uous to national forests the Secretary of Agriculture may cooperate
13 with the Service to such extent as may be requested by the Secretary.

14 (b) DEPUTY DIRECTORS.—The Director shall select 2 Deputy Directors.
15 The first Deputy Director shall have responsibility for Service operations,
16 and the second Deputy Director shall have responsibility for other programs
17 assigned to the Service.

18 (c) OTHER EMPLOYEES.—The Service shall have such subordinate offi-
19 cers, clerks, and employees as may be appropriated for by Congress.

20 **§ 100303. Effect on other laws**

21 This chapter and sections 100901(a), 100906, 102101, and 102102 of
22 this title do not affect or modify the Act of February 15, 1901 (16 U.S.C.
23 79).

24 **CHAPTER 1005—PLANNING AND DEVELOPMENT**

Sec.

- 100501. Areas included in System.
- 100502. Study and planning of park, parkway, and recreational-area facilities.
- 100503. System development program.
- 100504. Periodic review of System.
- 100505. Boundary changes of System units.
- 100506. Additional areas for System.

25 **§ 100501. Areas included in System**

26 The System shall include any area of land and water administered by the
27 Secretary through the Service for park, monument, historic, parkway, rec-
28 reational, or other purposes.

29 **§ 100502. Study and planning of park, parkway, and rec-**
30 **reational-area facilities**

31 (a) IN GENERAL.—

32 (1) DEFINITION.—In this subsection, the term “State” includes
33 Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

34 (2) STUDY.—The Secretary shall cause the Service to make a com-
35 prehensive study, other than on land under the jurisdiction of the Sec-
36 retary of Agriculture, of the public park, parkway, and recreational

1 area programs of the United States, States, and political subdivisions
 2 of States and of areas of land throughout the United States that are
 3 or may be chiefly valuable as public park, parkway, or recreational
 4 areas. A study shall not be made in any State without the consent and
 5 approval of the State officials, boards, or departments having jurisdic-
 6 tion over the land. The study shall be such as, in the judgment of the
 7 Secretary, will provide data helpful in developing a plan for coordinated
 8 and adequate public park, parkway, and recreational-area facilities for
 9 the people of the United States.

10 (3) COOPERATION AND AGREEMENTS WITH OTHER ENTITIES.—In
 11 making the study and to accomplish the purposes of this section, the
 12 Secretary, through the Service—

13 (A) shall seek and accept the cooperation and assistance of Fed-
 14 eral departments or agencies having jurisdiction of land belonging
 15 to the United States; and

16 (B) may cooperate and make agreements with and seek and ac-
 17 cept the assistance of—

18 (i) other Federal agencies and instrumentalities; and

19 (ii) States, political subdivisions of States, and agencies
 20 and instrumentalities of either of them.

21 (4) STATE PLANNING.—For the purpose of developing coordinated
 22 and adequate public park, parkway, and recreational-area facilities for
 23 the people of the United States, the Secretary may aid States and po-
 24 litical subdivisions of States in planning public park, parkway, and rec-
 25 reational-areas and in cooperating with one another to accomplish these
 26 ends. Aid shall be made available through the Service acting in co-
 27 operation with such State agencies or agencies of political subdivisions
 28 of States as the Secretary considers best.

29 (b) CONSENT OF CONGRESS TO AGREEMENTS BETWEEN STATES.—The
 30 consent of Congress is given to any 2 or more States to negotiate and enter
 31 into compacts or agreements with one another with reference to planning,
 32 establishing, developing, improving, and maintaining any park, parkway, or
 33 recreational area. No compact or agreement shall be effective until approved
 34 by the legislatures of the States that are parties to the compact or agree-
 35 ment and by Congress.

36 **§ 100503. System development program**

37 General management plans for the preservation and use of each System
 38 unit, including areas within the national capital area, shall be prepared and
 39 revised in a timely manner by the Director. On January 1 of each year,
 40 the Secretary shall submit to Congress a list indicating the current status

1 of completion or revision of general management plans for each System
2 unit. General management plans for each System unit shall include—

3 (1) measures for the preservation of the area's resources;

4 (2) indications of types and general intensities of development (in-
5 cluding visitor circulation and transportation patterns, systems, and
6 modes) associated with public enjoyment and use of the area, including
7 general locations, timing of implementation, and anticipated costs;

8 (3) identification of and implementation commitments for visitor car-
9 rying capacities for all areas of the System unit; and

10 (4) indications of potential modifications to the external boundaries
11 of the System unit, and the reasons for the modifications.

12 **§ 100504. Periodic review of System**

13 (a) **AUTHORITY OF SECRETARY TO CONDUCT REVIEW.**—The Secretary
14 shall conduct a systematic and comprehensive review of certain aspects of
15 the System and on a periodic basis (but not less often than every 3 years)
16 submit to the Committee on Natural Resources and the Committee on Ap-
17 propriations of the House of Representatives and the Committee on Energy
18 and Natural Resources and the Committee on Appropriations of the Senate
19 a report on the findings of the review, together with recommendations as
20 the Secretary determines to be necessary.

21 (b) **CONSULTATION.**—In conducting and preparing the report, the Sec-
22 retary shall consult with appropriate officials of affected Federal, State, and
23 local agencies and national, regional, and local organizations. The consulta-
24 tion shall include holding public hearings that the Secretary determines to
25 be appropriate to provide a full opportunity for public comment.

26 (c) **CONTENTS OF REPORT.**—The report shall contain the following:

27 (1) A comprehensive listing of all authorized but unacquired parcels
28 of land within the exterior boundaries of each System unit as of No-
29 vember 28, 1990.

30 (2) A priority listing of all those unacquired parcels by System unit
31 and for the System as a whole. The list shall describe the acreage and
32 ownership of each parcel, the estimated cost of acquisition for each par-
33 cel (subject to any statutory acquisition limitations for the land), and
34 the basis for the estimate.

35 (3) An analysis and evaluation of the current and future needs of
36 each System unit for resource management, interpretation, construc-
37 tion, operation and maintenance, personnel, and housing, together with
38 an estimate of the costs.

1 **§ 100505. Boundary changes of System units**

2 (a) CRITERIA FOR EVALUATION.—The Secretary shall maintain criteria
3 to evaluate any proposed changes to the boundaries of System units, includ-
4 ing—

5 (1) analysis of whether or not an existing boundary provides for the
6 adequate protection and preservation of the natural, historic, cultural,
7 scenic and recreational resources integral to the System unit;

8 (2) an evaluation of each parcel proposed for addition or deletion to
9 a System unit based on the analysis under paragraph (1); and

10 (3) an assessment of the impact of potential boundary adjustments
11 taking into consideration the factors in section 100504(e)(3) of this
12 title and the effect of the adjustments on the local communities and
13 surrounding area.

14 (b) PROPOSAL OF SECRETARY.—In proposing a boundary change to a
15 System unit, the Secretary shall—

16 (1) consult with affected agencies of State and local governments,
17 surrounding communities, affected landowners, and private national,
18 regional, and local organizations;

19 (2) apply the criteria developed pursuant to subsection (a) and ac-
20 company the proposal with a statement reflecting the results of the ap-
21 plication of the criteria; and

22 (3) include with the proposal an estimate of the cost for acquiring
23 any parcels proposed for acquisition, the basis for the estimate, and a
24 statement on the relative priority for the acquisition of each parcel
25 within the priorities for acquisition of other parcels for the System unit
26 and for the System.

27 **§ 100506. Additional areas for System**

28 (a) MONITORING AREAS FOR INCLUSION IN SYSTEM.—The Secretary
29 shall investigate, study, and continually monitor the welfare of areas whose
30 resources exhibit qualities of national significance and that may have poten-
31 tial for inclusion in the System.

32 (b) SUBMISSION OF LIST OF AREAS RECOMMENDED FOR STUDY FOR PO-
33 TENTIAL INCLUSION.—

34 (1) WHEN LIST IS TO BE SUBMITTED.—At the beginning of each cal-
35 endar year, with the annual budget submission, the Secretary shall sub-
36 mit to the Committee on Natural Resources of the House of Represent-
37 atives and the Committee on Energy and Natural Resources of the
38 Senate a list of areas recommended for study for potential inclusion in
39 the System.

40 (2) FACTORS TO BE CONSIDERED.—In developing the list to be sub-
41 mitted under this subsection, the Secretary shall consider—

1 (A) the areas that have the greatest potential to meet the estab-
2 lished criteria of national significance, suitability, and feasibility;

3 (B) themes, sites, and resources not already adequately rep-
4 resented in the System; and

5 (C) public petitions and Congressional resolutions.

6 (3) ACCOMPANYING SYNOPSIS.—Accompanying the annual listing of
7 areas shall be a synopsis, for each report previously submitted, of the
8 current and changed condition of the resource integrity of the area and
9 other relevant factors, compiled as a result of continual periodic mon-
10 itoring and embracing the period since the previous submission or ini-
11 tial report submission one year earlier.

12 (4) CONGRESSIONAL AUTHORIZATION REQUIRED.—No study of the
13 potential of an area for inclusion in the System may be initiated except
14 as provided by specific authorization of an Act of Congress.

15 (5) AUTHORITY TO CONDUCT CERTAIN ACTIVITIES NOT LIMITED.—
16 This section and sections 100902(1), 101702(b) and (c), and 102103
17 of this title do not limit the authority of the Service to conduct prelimi-
18 nary resource assessments, gather data on potential study areas, pro-
19 vide technical and planning assistance, prepare or process nominations
20 for administrative designations, update previous studies, or complete
21 reconnaissance surveys of individual areas requiring a total expenditure
22 of less than \$25,000.

23 (6) STUDY OF RIVERS OR TRAILS NOT AFFECTED.—This section
24 does not apply to or affect or alter the study of—

25 (A) any river segment for potential addition to the national wild
26 and scenic rivers system; or

27 (B) any trail for potential addition to the national trails system.

28 (c) STUDY OF AREAS FOR POTENTIAL INCLUSION.—

29 (1) STUDY TO BE COMPLETED WITHIN 3 YEARS.—The Secretary
30 shall complete the study for each area for potential inclusion in the
31 System within 3 complete fiscal years following the date on which
32 funds are first made available for that purpose.

33 (2) OPPORTUNITY FOR PUBLIC INVOLVEMENT REQUIRED.—Each
34 study under this section shall be prepared with appropriate opportunity
35 for public involvement, including at least one public meeting in the vi-
36 cinity of the area under study, and after reasonable efforts to notify
37 potentially affected landowners and State and local governments.

38 (3) CONSIDERATIONS.—In conducting the study, the Secretary shall
39 consider whether the area under study—

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

4 (B) is a suitable and feasible addition to the System.

5 (4) SCOPE OF STUDY.—Each study—

6 (A) with regard to the area being studied, shall consider—

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

8 (ii) the threats to those resources;

9 (iii) whether similar resources are already protected in the
10 System or in other public or private ownership;

11 (iv) the public use potential;

12 (v) the interpretive and educational potential;

13 (vi) costs associated with acquisition, development, and op-
14 eration;

15 (vii) the socioeconomic impacts of any designation;

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

17 (ix) whether the area is of appropriate configuration to en-
18 sure long-term resource protection and visitor use;

19 (B) shall consider whether direct Service management or alter-
20 native protection by other public agencies or the private sector is
21 appropriate for the area;

22 (C) shall identify what alternative or combination of alternatives
23 would in the professional judgment of the Director be most effec-
24 tive and efficient in protecting significant resources and providing
25 for public enjoyment; and

26 (D) may include any other information that the Secretary con-
27 siders to be relevant.

28 (5) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT OF
29 1969.—Each study shall be completed in compliance with the National
30 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

31 (6) RECOMMENDATION OF PREFERRED MANAGEMENT OPTION.—The
32 letter transmitting each completed study to Congress shall contain a
33 recommendation regarding the Secretary's preferred management op-
34 tion for the area.

35 (d) LIST OF AREAS PREVIOUSLY STUDIED.—

36 (1) WHEN LIST IS TO BE SUBMITTED.—At the beginning of each cal-
37 endar year, with the annual budget submission, the Secretary shall sub-
38 mit to the Committee on Natural Resources of the House of Represent-
39 atives and the Committee on Energy and Natural Resources of the
40 Senate, in numerical order of priority for addition to the System—

1 (A) a list of areas that have been previously studied that con-
2 tain primarily historical resources; and

3 (B) a list of areas that have been previously studied that con-
4 tain primarily natural resources.

5 (2) CONSIDERATIONS.—In developing the lists, the Secretary should
6 consider threats to resource values, cost escalation factors, and other
7 factors listed in subsection (c).

8 (3) AREAS ELIGIBLE FOR INCLUSION.—The Secretary should include
9 on the lists only areas for which the supporting data are current and
10 accurate.

11 (e) LIST OF AREAS THAT EXHIBIT DANGER OR THREATS TO THE IN-
12 TEGRITY OF THEIR RESOURCES.—At the beginning of each fiscal year, the
13 Secretary shall submit to the Speaker of the House of Representatives and
14 the President of the Senate a complete and current list of all areas listed
15 on the Registry of Natural Landmarks, and areas of national significance
16 listed on the National Register of Historic places, that exhibit known or an-
17 ticipated damage or threats to the integrity of their resources, with nota-
18 tions as to the nature and severity of the damage or threats.

19 (f) REPORTS AND LISTINGS PRINTED AS HOUSE DOCUMENTS.—Each re-
20 port and annual listing described in this section shall be printed as a House
21 document. If adequate supplies of previously printed identical reports re-
22 main available, newly submitted identical reports shall be omitted from
23 printing on receipt by the Speaker of the House of Representatives of a
24 joint letter from the chairman of the Committee on Natural Resources of
25 the House of Representatives and the chairman of the Committee on En-
26 ergy and Natural Resources of Senate indicating that to be the case.

27 (g) DESIGNATION OF OFFICE.—The Secretary shall designate a single of-
28 fice to prepare all new area studies and to implement other functions under
29 this section.

30 (h) AUTHORIZATION OF APPROPRIATIONS.—

31 (1) STUDIES OF POTENTIAL NEW SYSTEM UNITS AND MONITORING
32 THE WELFARE OF SYSTEM UNIT RESOURCES.—To carry out studies for
33 potential new System units and for monitoring the welfare of historical
34 and natural resources referred to in subparagraphs (A) and (B) of sub-
35 section (d)(1), there is authorized to be appropriated not to exceed
36 \$1,000,000 for each fiscal year.

37 (2) MONITORING WELFARE AND INTEGRITY OF NATIONAL LAND-
38 MARKS.—To monitor the welfare and integrity of the national land-
39 marks, there is authorized to be appropriated not to exceed \$1,500,000
40 for each fiscal year.

1 (3) CARRYING OUT SUBSECTIONS (b), (c), and (g).—To carry out
 2 subsections (b), (c), and (g), there is authorized to be appropriated
 3 \$2,000,000 for each fiscal year.

4 **CHAPTER 1007—MANAGEMENT**

Subchapter I—Maintenance

Sec.

100701. Maintenance management system.

Subchapter II—Service Career Development, Training, and Management

100711. Protection, interpretation, and research in System.

100712. Service employee training.

100713. Management development and training.

100714. System unit accountability and budgets.

Subchapter III—System Resource Inventory and Management

100721. Purposes.

100722. Research mandate.

100723. Cooperative agreements.

100724. Inventory and monitoring program.

100725. Availability of System units for scientific study.

100726. Integration of study results into management decisions.

100727. Confidentiality of information.

5 **Subchapter I—Maintenance**

6 **§ 100701. Maintenance management system**

7 The Service shall implement a maintenance management system in the
 8 maintenance and operations programs of the System. The system shall in-
 9 clude the following elements:

10 (1) A workload inventory of assets including detailed information
 11 that quantifies for all assets (including buildings, roads, utility systems,
 12 and grounds that must be maintained) the characteristics affecting the
 13 type of maintenance work performed.

14 (2) A set of maintenance tasks that describe the maintenance work
 15 in each System unit.

16 (3) A description of work standards including—

17 (A) frequency of maintenance;

18 (B) measurable quality standard to which assets should be
 19 maintained;

20 (C) methods for accomplishing work;

21 (D) required labor, equipment, and material resources; and

22 (E) expected worker production for each maintenance task.

23 (4) A work program and performance budget that develops an an-
 24 nual work plan identifying maintenance needs and financial resources
 25 to be devoted to each maintenance task.

26 (5) A work schedule that identifies and prioritizes tasks to be done
 27 in a specific time period and specifies required labor resources.

1 (6) Work orders specifying job authorizations and a record of work
2 accomplished that can be used to record actual labor and material
3 costs.

4 (7) Reports and special analyses that compare planned versus actual
5 accomplishments and costs and that can be used to evaluate mainte-
6 nance operations.

7 **Subchapter II—Service Career Development, Training, and**
8 **Management**

9 **§ 100711. Protection, interpretation, and research in System**

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

15 **§ 100712. Service employee training**

16 The Secretary shall develop a comprehensive training program for em-
17 ployees in all professional careers in the workforce of the Service for the
18 purpose of ensuring that the workforce has available the best, up-to-date
19 knowledge, skills, and abilities with which to manage, interpret, and protect
20 the resources of the System.

21 **§ 100713. Management development and training**

22 The Secretary shall maintain a clear plan for management training and
23 development under which career professional Service employees from any
24 appropriate academic field may obtain sufficient training, experience, and
25 advancement opportunity to enable those qualified to move into System unit
26 management positions, including the position of superintendent of a System
27 unit.

28 **§ 100714. System unit accountability and budgets**

29 (a) STRATEGIC AND PERFORMANCE PLANS.—Each System unit shall pre-
30 pare and make available to the public a 5-year strategic plan and an annual
31 performance plan. The plans shall reflect the Service policies, goals, and
32 outcomes represented in the Service-wide strategic plan prepared pursuant
33 to section 306 of title 5.

34 (b) ANNUAL BUDGET.—

35 (1) IN GENERAL.—As a part of the annual performance plan for a
36 System unit prepared pursuant to subsection (a), following receipt of
37 the appropriation for the unit from the Operations of the National
38 Park System account (but not later than January 1 of each year), the
39 superintendent of the System unit shall develop and make available to
40 the public the budget for the current fiscal year for that System unit.

41 (2) CONTENTS.—The budget shall include—

1 (A) funding allocations for resource preservation (including re-
2 source management), visitor services (including maintenance, in-
3 terpretation, law enforcement, and search and rescue), and admin-
4 istration; and

5 (B) allocations into each of the categories in subparagraph (A)
6 of all funds retained from fees collected for that year, including
7 special use permits, concession franchise fees, and recreation use
8 and entrance fees.

9 **Subchapter III—System Resource Inventory and** 10 **Management**

11 **§ 100721. Purposes**

12 The purposes of this subchapter are—

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

14 (2) to enhance management and protection of System resources by
15 providing clear authority and direction for the conduct of scientific
16 study in the System and to use the information gathered for manage-
17 ment purposes;

18 (3) to ensure appropriate documentation of resource conditions in
19 the System;

20 (4) to encourage others to use the System for study to the benefit
21 of System management as well as broader scientific value, where such
22 study is consistent with chapter 1003 and sections 100901(a), 100906,
23 102101, and 102102 of this title; and

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

26 **§ 100722. Research mandate**

27 The Secretary shall ensure that management of System units is enhanced
28 by the availability and utilization of a broad program of the highest quality
29 science and information.

30 **§ 100723. Cooperative agreements**

31 The Secretary shall enter into cooperative agreements with colleges and
32 universities, including land grant schools, in partnership with other Federal
33 and State agencies, to establish cooperative study units to conduct multi-
34 disciplinary research and develop integrated information products on the re-
35 sources of the System, or the larger region of which System units are a
36 part.

37 **§ 100724. Inventory and monitoring program**

38 The Secretary shall undertake a program of inventory and monitoring of
39 System resources to establish baseline information and to provide informa-
40 tion on the long-term trends in the condition of System resources. The mon-

1 itoring program shall be developed in cooperation with other Federal mon-
2 itoring and information collection efforts to ensure a cost-effective approach.

3 **§ 100725. Availability of System units for scientific study**

4 (a) IN GENERAL.—The Secretary may solicit, receive, and consider re-
5 quests from Federal or non-Federal public or private agencies, organiza-
6 tions, individuals, or other entities for the use of any System unit for pur-
7 poses of scientific study.

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

10 (1) is consistent with applicable laws and Service management poli-
11 cies; and

12 (2) will be conducted in such a manner as to pose no threat to the
13 System unit resources or public enjoyment derived from System unit
14 resources.

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

18 (d) BENEFIT-SHARING ARRANGEMENTS.—The Secretary may enter into
19 equitable, efficient benefit-sharing arrangements with the research commu-
20 nity and private industry.

21 **§ 100726. Integration of study results into management deci-**
22 **sions**

23 The Secretary shall take such measures as are necessary to ensure the
24 full and proper utilization of the results of scientific study for System unit
25 management decisions. In each case in which an action undertaken by the
26 Service may cause a significant adverse effect on a System unit resource,
27 the administrative record shall reflect the manner in which System unit re-
28 source studies have been considered. The trend in the condition of resources
29 of the System shall be a significant factor in the annual performance eval-
30 uation of each superintendent of a System unit.

31 **§ 100727. Confidentiality of information**

32 Information concerning the nature and specific location of a System re-
33 source that is endangered, threatened, rare, or commercially valuable, of
34 mineral or paleontological objects within System units, or of objects of cul-
35 tural patrimony within System units, may be withheld from the public in
36 response to a request under section 552 of title 5 unless the Secretary de-
37 termines that—

38 (1) disclosure of the information would further the purposes of the
39 System unit in which the resource or object is located and would not
40 create an unreasonable risk of harm, theft, or destruction of the re-

1 source or object, including individual organic or inorganic specimens;
 2 and
 3 (2) disclosure is consistent with other laws protecting the resource
 4 or object.

5 **CHAPTER 1009—ADMINISTRATION**

Sec.

- 100901. Regulations.
- 100902. Authority of Secretary to carry out certain activities.
- 100903. Central warehouses at System units.
- 100904. Services or other accommodations for public.
- 100905. Care, removal, and burial of indigents.
- 100906. Destruction of animals and plant life.
- 100907. Hire of work animals, vehicles, and equipment with or without personal services.
- 100908. Preparation of mats for reproduction of photographs.
- 100909. Advisory committees.
- 100910. Relinquishment of legislative jurisdiction.
- 100911. Applicability of other laws.

6 **§ 100901. Regulations**

7 (a) USE AND MANAGEMENT OF SYSTEM UNITS.—The Secretary shall
 8 make such regulations as the Secretary considers necessary or proper for
 9 the use and management of System units. A person that violates any regula-
 10 tion authorized by this subsection and chapter 1003 and sections 100906,
 11 102101, and 102102 of this title shall be fined under title 18, imprisoned
 12 not more than 6 months, or both, and be adjudged to pay all cost of the
 13 proceedings.

14 (b) BOATING AND OTHER ACTIVITIES ON OR RELATING TO BODIES OF
 15 WATER.—To facilitate the administration of the System, the Secretary,
 16 under such terms and conditions as the Secretary considers advisable, may
 17 prescribe and enforce regulations concerning boating and other activities on
 18 or relating to bodies of water located within System units, including bodies
 19 of water subject to the jurisdiction of the United States. Any regulation
 20 adopted pursuant to this subsection shall be complementary to, and not in
 21 derogation of, the authority of the Coast Guard to regulate the use of bodies
 22 of water subject to the jurisdiction of the United States.

23 **§ 100902. Authority of Secretary to carry out certain activi-** 24 **ties**

25 To facilitate the administration of the System, the Secretary, under such
 26 terms and conditions as the Secretary may consider advisable, may carry
 27 out the following activities:

28 (1) SERVICES, RESOURCES, OR WATER CONTRACTS.—The Secretary
 29 may enter into contracts that provide for the sale or lease to persons,
 30 States, or political subdivisions of States, of services, resources, or
 31 water available within a System unit, as long as the activity does not
 32 jeopardize or unduly interfere with the primary natural or historic re-

1 source of the System unit, if the person, State, or political subdivi-
2 sion—

3 (A) provides public accommodations or services within the im-
4 mediate vicinity of the System unit to individuals visiting the Sys-
5 tem unit; and

6 (B) demonstrates to the Secretary that there are no reasonable
7 alternatives by which to acquire or perform the necessary services,
8 resources, or water.

9 (2) VEHICULAR AIR CONDITIONING.—The Secretary may acquire,
10 and have installed, air conditioning units for any Government-owned
11 passenger motor vehicles used by the Service, where assigned duties ne-
12 cessitate long periods in automobiles or in regions of the United States
13 where high temperatures and humidity are common and prolonged.

14 (3) UTILITY FACILITIES.—The Secretary may erect and maintain
15 fire protection facilities, water lines, telephone lines, electric lines, and
16 other utility facilities adjacent to any System unit, where necessary, to
17 provide service in the System unit.

18 (4) SUPPLIES AND RENTAL OF EQUIPMENT.—The Secretary may
19 furnish, on a reimbursement of appropriation basis, supplies, and rent
20 equipment, to persons and agencies that, in cooperation with and sub-
21 ject to the approval of the Secretary, render services or perform func-
22 tions that facilitate or supplement the activities of the Department of
23 the Interior in the administration of the System. The reimbursements
24 may be credited to the appropriation current at the time reimburse-
25 ments are received.

26 (5) CONTRACTS FOR UTILITY FACILITIES.—The Secretary may con-
27 tract, under terms and conditions that the Secretary considers to be
28 in the interest of the Federal Government, for the sale, operation,
29 maintenance, repair, or relocation of Government-owned electric and
30 telephone lines and other utility facilities used for the administration
31 and protection of the System, regardless of whether the lines and facili-
32 ties are located within or outside the System.

33 (6) RIGHTS-OF-WAY.—The Secretary may acquire—

34 (A) rights-of-way as may be necessary to construct, improve,
35 and maintain roads within the authorized boundaries of any Sys-
36 tem unit; and

37 (B) land and interests in land adjacent to the rights-of-way,
38 when—

39 (i) considered necessary by the Secretary—

40 (I) to provide adequate protection of natural features;

41 or

1 (II) to avoid traffic and other hazards resulting from
2 private road access connections; or

3 (ii) the acquisition of adjacent residual tracts, which other-
4 wise would remain after acquiring the rights-of-way, would be
5 in the public interest.

6 (7) OPERATION AND MAINTENANCE OF MOTOR AND OTHER EQUIP-
7 MENT.—

8 (A) IN GENERAL.—The Secretary may operate, repair, main-
9 tain, and replace motor and other equipment on a reimbursable
10 basis when the equipment is used on Federal projects of the Sys-
11 tem, chargeable to other appropriations, or on work of other Fed-
12 eral agencies, when requested by the agencies.

13 (B) REIMBURSEMENT.—Reimbursement shall be—

14 (i) made from appropriations applicable to the work on
15 which the equipment is used at rental rates established by the
16 Secretary, based on actual or estimated cost of operation, re-
17 pair, maintenance, depreciation, and equipment management
18 control; and

19 (ii) credited to appropriations currently available at the
20 time adjustment is effected.

21 (C) RENTAL OF EQUIPMENT FOR FIRE CONTROL PURPOSES.—

22 The Secretary may rent equipment for fire control purposes to
23 State, county, private, or other non-Federal agencies that cooper-
24 ate with the Secretary in the administration of the System and
25 other areas in fire control. The rental shall be under the terms
26 of written cooperative agreements. The amount collected for the
27 rentals shall be credited to appropriations currently available at
28 the time payment is received.

29 **§ 100903. Central warehouses at System units**

30 (a) AUTHORITY OF SECRETARY.—The Secretary, in the administration of
31 the System, may maintain central warehouses at System units.

32 (b) APPROPRIATIONS.—

33 (1) AVAILABILITY.—Appropriations made for the administration,
34 protection, maintenance, and improvement of System units shall be
35 available for the purchase of supplies and materials to be kept in cen-
36 tral warehouses for distribution at cost, including transportation and
37 handling, to projects under specific appropriations.

38 (2) TRANSFERS BETWEEN APPROPRIATIONS.—

39 (A) AUTHORIZATION.—Transfers between the various appro-
40 priations made for System units are authorized for the purpose of
41 charging the cost of supplies and materials, including transpor-

1 unit that, in the opinion of the Secretary, would be of interest to the people
2 of the United States and foreign nations. The mats may be furnished, with-
3 out charge and under regulations the Secretary may prescribe, to the pub-
4 lishers of magazines, newspapers, and any other publications that may carry
5 photographic reproductions.

6 **§ 100909. Advisory committees**

7 (a) ESTABLISHMENT.—To facilitate the administration of the System, the
8 Secretary, under such terms and conditions as the Secretary may consider
9 advisable, may appoint and establish such advisory committees in regard to
10 the functions of the Service as the Secretary considers advisable.

11 (b) CHARTER EXCEPTION.—Section 14(b) of the Federal Advisory Com-
12 mittee Act (5 U.S.C. App.) is waived with respect to any advisory commis-
13 sion or advisory committee established by law in connection with any Sys-
14 tem unit during the period for which the commission or committee is au-
15 thorized by law.

16 (c) SERVICE OF MEMBERS.—Any member of any advisory commission or
17 advisory committee established in connection with any System unit may
18 serve after the expiration of the member's term until a successor is ap-
19 pointed.

20 (d) COMPENSATION AND TRAVEL EXPENSES.—Members of an advisory
21 committee established under subsection (a) shall receive no compensation
22 for their services as such but shall be allowed necessary travel expenses as
23 authorized by section 5703 of title 5.

24 **§ 100910. Relinquishment of legislative jurisdiction**

25 (a) IN GENERAL.—Notwithstanding any other provision of law, the Sec-
26 retary may relinquish to a State or a territory or possession of the United
27 States part of the legislative jurisdiction of the United States over System
28 land or interests in land in that State, territory, or possession. Relinquish-
29 ment may be accomplished—

30 (1) by filing with the chief executive officer of the State, territory,
31 or possession a notice of relinquishment to take effect on acceptance;

32 or

33 (2) as the laws of the State, territory, or possession may otherwise
34 provide.

35 (b) SUBMISSION OF AGREEMENT TO CONGRESS.—Prior to consummating
36 a relinquishment under subsection (a), the Secretary shall submit the pro-
37 posed agreement to the Committee on Energy and Natural Resources of the
38 Senate and the Committee on Natural Resources of the House of Represent-
39 atives. The Secretary shall not finalize the agreement until 60 calendar days
40 after the submission has elapsed.

(c) CONCURRENT LEGISLATIVE JURISDICTION.—The Secretary shall diligently pursue the consummation of arrangements with each State, territory, or possession within which a System unit is located so that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within System units.

§ 100911. Applicability of other laws

(a) IN GENERAL.—This section and sections 100501, 100902(3) to (7), 101301(1)(B), 101901(2), and 102911 of this title, and the various authorities relating to the administration and protection of System units, including the provisions of law listed in subsection (b), shall, to the extent that those provisions are not in conflict with any such specific provision, be applicable to System units, and any reference in any of these provisions to a System unit does not limit those provisions to that System unit.

(b) APPLICABLE PROVISIONS.—The provisions of law referred to in subsection (a) are—

(1) chapter 1003, sections 100901(a), 100904 to 100906, 101101, 101102, 101511, 102101, 102102, 102912, and 103301, and chapter 1053 of this title;

(2) the Act of March 4, 1911 (43 U.S.C. 961); and

(3) chapter 2001 of this title.

CHAPTER 1011—DONATIONS

Subchapter I—Authority of Secretary

Sec.

101101. Authority to accept land, rights-of-way, buildings, other property, and money.

101102. Authority to accept and use funds to consolidate Federal land ownership.

Subchapter II—National Park Foundation

101111. Purposes and establishment of Foundation.

101112. Board.

101113. Gifts, devises, or bequests.

101114. Disposition of property or income.

101115. Corporate succession and powers and duties acting as trustee; personal liability for malfeasance.

101116. Corporate powers.

101117. Authority of Board.

101118. Tax exemptions; contributions toward costs of local government; contributions, gifts, or transfers to or for use of United States.

101119. Liability of United States.

101120. Promotion of local fundraising support.

Subchapter I—Authority of Secretary

§ 101101. Authority to accept land, rights-of-way, buildings, other property, and money

The Secretary in the administration of the Service may accept—

(1) patented land, rights-of-way over patented land or other land, buildings, or other property within a System unit; and

(2) money that may be donated for the purposes of the System.

1 **§ 101102. Authority to accept and use funds to consolidate**
 2 **Federal land ownership**

3 (a) IN GENERAL.—The Secretary may—

4 (1) accept and use funds that may be donated in order to consolidate
 5 Federal land ownership within the existing boundaries of any System
 6 unit; and

7 (2) encourage the donation of funds for that purpose, subject to the
 8 condition that donated funds are to be expended for purposes of this
 9 section only if Federal funds in an amount equal to the amount of the
 10 donated funds are appropriated for the purposes of this section.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
 12 appropriated for each fiscal year such amounts as are necessary to match
 13 funds that are donated for those purposes, not to exceed \$500,000.

14 (c) LIMIT ON ANNUAL AMOUNT.—The amount that may be appropriated
 15 annually for purposes of this section shall be limited to \$500,000.

16 **Subchapter II—National Park Foundation**

17 **§ 101111. Purpose and establishment of Foundation**

18 To encourage private gifts of real and personal property, or any income
 19 from, or other interest in, the property, for the benefit of, or in connection
 20 with, the Service, its activities, or its services, and thereby to further the
 21 conservation of natural, scenic, historic, scientific, educational, inspirational,
 22 or recreational resources for future generations of Americans, there is estab-
 23 lished a charitable and nonprofit corporation to be known as the National
 24 Park Foundation to accept and administer those gifts.

25 **§ 101112. Board**

26 (a) MEMBERSHIP.—The National Park Foundation shall consist of a
 27 Board having as members the Secretary, the Director, ex officio, and no
 28 fewer than 6 private citizens of the United States appointed by the Sec-
 29 retary.

30 (b) TERM OF OFFICE AND VACANCIES.—The term of the private citizen
 31 members of the Board is 6 years. If a successor is chosen to fill a vacancy
 32 occurring prior to the expiration of a term, the successor shall be chosen
 33 only for the remainder of that term.

34 (c) CHAIRMAN AND SECRETARY.—The Secretary shall be the Chairman
 35 of the Board and the Director shall be the Secretary of the Board.

36 (d) BOARD MEMBERSHIP NOT AN OFFICE.—Membership on the Board
 37 shall not be an office within the meaning of the statutes of the United
 38 States.

39 (e) QUORUM.—A majority of the members of the Board serving at any
 40 time shall constitute a quorum for the transaction of business.

1 (f) SEAL.—The National Park Foundation shall have an official seal,
2 which shall be judicially noticed.

3 (g) MEETINGS.—The Board shall meet at the call of the Chairman and
4 there shall be at least one meeting each year.

5 (h) COMPENSATION AND REIMBURSEMENT.—No compensation shall be
6 paid to the members of the Board for their services as members, but they
7 shall be reimbursed for actual and necessary traveling and subsistence ex-
8 penses incurred by them in the performance of their duties as members out
9 of National Park Foundation funds available to the Board for those pur-
10 poses.

11 **§ 101113. Gifts, devises, or bequests**

12 (a) AUTHORITY TO ACCEPT GIFTS, DEVISES, OR BEQUESTS.—

13 (1) IN GENERAL.—The National Park Foundation may accept, re-
14 ceive, solicit, hold, administer, and use any gifts, devises, or bequests,
15 either absolutely or in trust of real or personal property, or any income
16 from, or other interest in, the gift, devise, or bequest, for the benefit
17 of, or in connection with, the Service, its activities, or its services.

18 (2) GIFT, DEVISE, OR BEQUEST THAT IS ENCUMBERED, RE-
19 STRICTED, OR SUBJECT TO BENEFICIAL INTERESTS.—A gift, devise, or
20 bequest may be accepted by the National Park Foundation even though
21 it is encumbered, restricted, or subject to beneficial interests of private
22 persons if any current or future interest in the gift, devise, or bequest
23 is for the benefit of the Service, its activities, or its services.

24 (b) WHEN GIFT, DEVISE, OR BEQUEST MAY NOT BE ACCEPTED.—The
25 National Park Foundation may not accept any gift, devise, or bequest that
26 entails any expenditure other than from the resources of the Foundation.

27 (c) INTEREST IN REAL PROPERTY.—For purposes of this section, an in-
28 terest in real property includes easements or other rights for preservation,
29 conservation, protection, or enhancement by and for the public of natural,
30 scenic, historic, scientific, educational, inspirational, or recreational re-
31 sources.

32 **§ 101114. Disposition of property or income**

33 (a) AUTHORITY TO DISPOSE OR DEAL WITH PROPERTY OR INCOME.—
34 Except as otherwise required by the instrument of transfer, the National
35 Park Foundation may sell, lease, invest, reinvest, retain, or otherwise dis-
36 pose of or deal with any property or income from the property as the Board
37 may determine.

38 (b) RESTRICTION.—The National Park Foundation shall not engage in
39 any business or make any investment that may not lawfully be made by a
40 trust company in the District of Columbia, except that the Foundation may

1 make any investment authorized by the instrument of transfer, and may re-
2 tain any property accepted by the Foundation.

3 (c) USE OF SERVICES AND FACILITIES OF THE DEPARTMENTS OF THE
4 INTERIOR AND JUSTICE.—The National Park Foundation may utilize the
5 services and facilities of the Department of the Interior and the Department
6 of Justice, and the services and facilities may be made available on request
7 to the extent practicable with or without reimbursement. Amounts reim-
8 bursed to either Department shall be returned by the Department to the
9 account from which the funds for which the reimbursement is made were
10 drawn and may, without further appropriation, be expended for any purpose
11 for which the account is authorized.

12 **§ 101115. Corporate succession and powers and duties act-**
13 **ing as trustee; personal liability for malfeasance**

14 (a) PERPETUAL SUCCESSION.—The National Park Foundation shall have
15 perpetual succession.

16 (b) POWERS AND DUTIES OF TRUSTEE.—The National Park Foundation
17 shall have all the usual powers and obligations of a corporation acting as
18 a trustee, including the power to sue and to be sued in its own name.

19 (c) PERSONAL LIABILITY OF BOARD MEMBERS.—The members of the
20 Board shall not be personally liable, except for malfeasance.

21 **§ 101116. Corporate powers**

22 The National Park Foundation shall have the power to enter into con-
23 tracts, to execute instruments, and generally to do any and all lawful acts
24 necessary or appropriate to its purposes.

25 **§ 101117. Authority of Board**

26 In carrying out this chapter, the Board may—

27 (1) adopt bylaws and regulations necessary for the administration of
28 its functions; and

29 (2) contract for any necessary services.

30 **§ 101118. Tax exemptions; contributions toward costs of**
31 **local government; contributions, gifts, or transfers**
32 **to or for use of United States**

33 (a) TAX EXEMPTION.—The National Park Foundation and any income
34 or property received or owned by it, and all transactions relating to that
35 income or property, shall be exempt from all Federal, State, and local tax-
36 ation.

37 (b) CONTRIBUTIONS IN LIEU OF TAXES.—The National Park Founda-
38 tion, in the discretion of its directors, may—

39 (1) contribute toward the costs of local government in amounts not
40 in excess of those which it would be obligated to pay that government

1 if it were not exempt from taxation by virtue of subsection (a) or by
2 virtue of its being a charitable and nonprofit corporation; and

3 (2) agree to contribute with respect to property transferred to it and
4 the income derived from the property if the agreement is a condition
5 of the transfer.

6 (c) TRANSFERS DEEMED TO BE TO OR FOR THE USE OF UNITED
7 STATES.—Contributions, gifts, and other transfers made to or for the use
8 of the Foundation shall be deemed to be contributions, gifts, or transfers
9 to or for the use of the United States.

10 **§ 101119. Liability of United States**

11 The United States shall not be liable for any debts, defaults, acts, or
12 omissions of the National Park Foundation.

13 **§ 101120. Promotion of local fundraising support**

14 (a) PROGRAM.—The National Park Foundation shall design and imple-
15 ment a comprehensive program to assist and promote philanthropic pro-
16 grams of support at the individual System unit level.

17 (b) IMPLEMENTATION.—The program under subsection (a) shall be im-
18 plemented to—

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

21 (2) provide support, national consistency, and management-improv-
22 ing suggestions for local nonprofit support organizations.

23 (c) PROGRAM.—The program under subsection (a)—

24 (1) shall include the greatest number of System units as is prac-
25 ticable; and

26 (2) at a minimum shall include—

27 (A) a standard adaptable organizational design format to estab-
28 lish and sustain responsible management of a local nonprofit sup-
29 port organization for support of a System unit;

30 (B) standard and legally tenable bylaws and recommended
31 money-handling procedures that can easily be adapted as applied
32 to individual System units; and

33 (C) a standard training curriculum to orient and expand the op-
34 erating expertise of personnel employed by local nonprofit support
35 organizations.

36 (d) ANNUAL REPORT.—The National Park Foundation shall report the
37 progress of the program under subsection (a) in the annual report of the
38 Foundation.

39 (e) AFFILIATIONS.—

40 (1) CHARTER OR CORPORATE BYLAWS.—Nothing in this section re-
41 quires—

1 (A) a nonprofit support organization or friends group to modify
 2 current practices or to affiliate with the National Park Founda-
 3 tion; or

4 (B) a local nonprofit support organization, established as a re-
 5 sult of this section, to be bound through its charter or corporate
 6 bylaws to be permanently affiliated with the National Park Founda-
 7 tion.

8 (2) ESTABLISHMENT.—An affiliation with the National Park Founda-
 9 tion shall be established only at the discretion of the governing board
 10 of a nonprofit organization.

11 **CHAPTER 1013—EMPLOYEES**

Subchapter I—General Provisions

Sec.

- 101301. Authority of Secretary to carry out certain activities.
- 101302. Medical attention for employees.
- 101303. Personal equipment and property.
- 101304. Travel expenses of System employees and dependents of deceased employees.
- 101305. Uniform allowance.

Subchapter II—Housing Improvement

- 101311. Purposes.
- 101312. Definitions.
- 101313. General authority of Secretary.
- 101314. Criteria for providing housing.
- 101315. Authorization for housing agreements.
- 101316. Housing programs.
- 101317. Contracts for the management of field employee quarters.
- 101318. Leasing of seasonal employee quarters.
- 101319. General leasing provisions.
- 101320. Assessment and priority listing.
- 101321. Use of funds.

Subchapter I—General Provisions

12 **§ 101301. Authority of Secretary to carry out certain activi-** 13 **ties**

14 To facilitate the administration of the System, the Secretary, under such
 15 terms and conditions as the Secretary may consider advisable, may carry
 16 out the following activities:
 17

18 (1) TRANSPORTATION.—

19 (A) IN GENERAL.—The Secretary may provide transportation of
 20 employees located at an isolated area of the System and to mem-
 21 bers of their families, if—

22 (i) the area is not adequately served by commercial trans-
 23 portation; and

24 (ii) the transportation is incidental to official transpor-
 25 tation services.

26 (B) EMPLOYEES OF CARLSBAD CAVERNS NATIONAL PARK.—

27 (i) IN GENERAL.—The Secretary may provide transpor-
 28 tation to and from work, outside regular working hours, of

1 employees of Carlsbad Caverns National Park, residing in or
 2 near Carlsbad, New Mexico. The transportation shall be be-
 3 tween the park and the city, or intervening points, at reason-
 4 able rates to be determined by the Secretary, taking into con-
 5 sideration, among other factors, comparable rates charged by
 6 transportation companies in the locality for similar services.

7 (ii) AMOUNTS COLLECTED TO BE CREDITED TO CURRENT
 8 APPROPRIATION.—Amounts collected for the transportation
 9 shall be credited to the appropriation current at the time pay-
 10 ment is received.

11 (iii) WHEN TRANSPORTATION MAY NOT BE OFFERED—If
 12 adequate transportation facilities are available, or shall be
 13 available by any common carrier, at reasonable rates, the fa-
 14 cilities contemplated by clause (i) shall not be offered.

15 (2) RECREATION FACILITIES, EQUIPMENT, AND SERVICES.—The
 16 Secretary may provide recreation facilities, equipment, and services for
 17 use by employees and their families located at an isolated area of the
 18 System.

19 (3) FIELD AND SPECIAL PURPOSE EQUIPMENT.—The Secretary may
 20 purchase field and special purpose equipment required by employees for
 21 the performance of assigned functions. The purchased equipment shall
 22 be regarded and listed as System equipment.

23 (4) MEALS AND LODGING.—The Secretary may provide meals and
 24 lodging, as the Secretary considers appropriate, for members of the
 25 United States Park Police and other employees of the Service, as the
 26 Secretary may designate, serving temporarily on extended special duty
 27 in System units. For this purpose the Secretary may use funds appro-
 28 priated for the expenses of the Department of the Interior.

29 **§ 101302. Medical attention for employees**

30 (a) IN GENERAL.—In the administration of the Service, the Secretary
 31 may contract for medical attention and service for employees and to make
 32 necessary payroll deductions agreed to by the employees for that medical at-
 33 tention and service.

34 (b) EMPLOYEES LOCATED AT ISOLATED SITUATIONS.—The Secretary
 35 may provide, out of amounts appropriated for the general expense of the
 36 System units, medical attention for employees of the Service located at iso-
 37 lated situations, including—

38 (1) moving the employees to hospitals or other places where medical
 39 assistance is available; and

(2) in case of death, to remove the bodies of deceased employees to the nearest place where they can be prepared for shipment or for burial.

§ 101303. Personal equipment and property

(a) PURCHASE OF PERSONAL EQUIPMENT AND SUPPLIES.—The Secretary may purchase personal equipment and supplies for employees of the Service and make deductions for the equipment and supplies from amounts appropriated for salary payments or otherwise due the employees.

(b) LOST, DAMAGED, OR DESTROYED PROPERTY.—The Secretary, in the administration of the Service, may reimburse employees and other owners of horses, vehicles, and other equipment lost, damaged, or destroyed while in the custody of the employee or the Department of the Interior, under authorization, contract, or loan, for necessary firefighting, trail, or other official business. Reimbursement shall be made from any available funds in the appropriation to which the hire of the equipment would be properly chargeable.

(c) EQUIPMENT REQUIRED TO BE FURNISHED BY FIELD EMPLOYEES.—The Secretary may—

(1) require field employees of the Service to furnish horses, motor and other vehicles, and miscellaneous equipment necessary for the performance of their official work; and

(2) provide, at Federal Government expense, forage, care, and housing for animals, and housing or storage and fuel for vehicles and other equipment required to be furnished.

(d) HIRE, RENTAL, AND PURCHASE OF PROPERTY.—The Secretary, under regulations the Secretary may prescribe, may authorize the hire, rental, or purchase of property from employees of the Service whenever it would promote the public interest to do so.

§ 101304. Travel expenses of System employees and dependents of deceased employees

In the administration of the System, the Secretary may, under regulations the Secretary may prescribe, pay the travel expenses (including the costs of packing, crating, and transporting (including draying) personal property) of—

(1) employees, on permanent change of station of the employees; and

(2) dependents of deceased employees—

(A) to the nearest housing reasonably available that is of a standard not less than that which is vacated, including compensation for not to exceed 60 days rental cost, in the case of an employee who occupied Federal Government housing and whose death requires the housing to be promptly vacated; and

1 (B) to the nearest port of entry in the conterminous 48 States
 2 in the case of an employee whose last permanent station was out-
 3 side the conterminous 48 States.

4 **§ 101305. Uniform allowance**

5 Notwithstanding section 5901(a) of title 5, the uniform allowance for uni-
 6 formed employees of the Service may be up to \$400 annually.

7 **Subchapter II—Housing Improvement**

8 **§ 101311. Purposes**

9 The purposes of this subchapter are—

10 (1) to develop where necessary an adequate supply of quality housing
 11 units for field employees of the Service within a reasonable timeframe;

12 (2) to expand the alternatives available for construction and repair
 13 of essential Federal Government housing;

14 (3) to rely on the private sector to finance or supply housing in ear-
 15 rying out this subchapter, to the maximum extent possible, to reduce
 16 the need for Federal appropriations;

17 (4) to ensure that adequate funds are available to provide for long-
 18 term maintenance needs of field employee housing; and

19 (5) to eliminate unnecessary Federal Government housing and locate
 20 such housing as is required in a manner so that primary resource val-
 21 ues are not impaired.

22 **§ 101312. Definitions**

23 In this subchapter:

24 (1) **FIELD EMPLOYEE.**—The term “field employee” means—

25 (A) an employee of the Service who is exclusively assigned by
 26 the Service to perform duties at a field unit, and the members of
 27 the employee’s family; and

28 (B) any other individual who is authorized to occupy Federal
 29 Government quarters under section 5911 of title 5, and for whom
 30 there is no feasible alternative to the provision of Federal Govern-
 31 ment housing, and the members of the individual’s family.

32 (2) **PRIMARY RESOURCE VALUES.**—The term “primary resource val-
 33 ues” means resources that are specifically mentioned in the enabling
 34 legislation for that field unit or other resource value recognized under
 35 Federal statute.

36 (3) **QUARTERS.**—The term “quarters” means quarters owned or
 37 leased by the Federal Government.

38 (4) **SEASONAL QUARTERS.**—The term “seasonal quarters” means
 39 quarters typically occupied by field employees who are hired on assign-
 40 ments of 6 months or less.

1 **§ 101313. General authority of Secretary**

2 (a) RENTAL HOUSING.—To enhance the ability of the Secretary to effec-
3 tively manage System units, the Secretary may where necessary and justi-
4 fied—

5 (1) make available employee housing, on or off land under the ad-
6 ministrative jurisdiction of the Service; and

7 (2) rent that housing to field employees at rates based on the reason-
8 able value of the housing in accordance with requirements applicable
9 under section 5911 of title 5.

10 (b) JOINT DEVELOPMENT AUTHORITY.—The Secretary may use authori-
11 ties granted by statute in combination with one another in the furtherance
12 of providing where necessary and justified affordable field employee housing.

13 (c) CONSTRUCTION LIMITATIONS ON FEDERAL LAND.—The Secretary
14 may not utilize any land for the purposes of providing field employee hous-
15 ing under this subchapter that will affect a primary resource value of the
16 area or adversely affect the mission of the Service.

17 (d) RENTAL RATES.—To the extent practicable, the Secretary shall estab-
18 lish rental rates for all quarters occupied by field employees of the Service
19 that are based on the reasonable value of the quarters in accordance with
20 requirements applicable under section 5911 of title 5.

21 **§ 101314. Criteria for providing housing**

22 The Secretary shall maintain criteria under which housing is provided to
23 employees of the Service. The Secretary shall examine the criteria with re-
24 spect the circumstances under which the Service requires an employee to oc-
25 cupy Federal Government quarters, so as to provide necessary services or
26 protect Federal Government property or because of a lack of availability of
27 non-Federal housing in a geographic area.

28 **§ 101315. Authorization for housing agreements**

29 The Secretary may, pursuant to the authorities contained in this sub-
30 chapter and subject to the appropriation of necessary funds in advance,
31 enter into housing agreements with housing entities under which the hous-
32 ing entities may develop, construct, rehabilitate, or manage housing, located
33 on or off public land, for rent to Service employees who meet the housing
34 eligibility criteria developed by the Secretary pursuant to this subchapter.

35 **§ 101316. Housing programs**

36 (a) JOINT PUBLIC-PRIVATE SECTOR HOUSING PROGRAM.—

37 (1) LEASE-TO-BUILD PROGRAM.—Subject to the appropriation of
38 necessary funds in advance, the Secretary may lease—

39 (A) Federal land and interests in land to qualified persons for
40 the construction of field employee quarters for any period not to
41 exceed 50 years; and

1 (B) developed and undeveloped non-Federal land for providing
2 field employee quarters.

3 (2) COMPETITIVE LEASING.—Each lease under paragraph (1)(A)
4 shall be awarded through the use of publicly advertised, competitively
5 bid, or competitively negotiated contracting procedures.

6 (3) TERMS AND CONDITIONS.—Each lease under paragraph (1)(A)—

7 (A) shall stipulate whether operation and maintenance of field
8 employee quarters is to be provided by the lessee, field employees,
9 or the Federal Government;

10 (B) shall require that the construction and rehabilitation of field
11 employee quarters be done in accordance with the requirements of
12 the Service and local applicable building codes and industry stand-
13 ards;

14 (C) shall contain additional terms and conditions as may be ap-
15 propriate to protect the Federal interest, including limits on rents
16 that the lessee may charge field employees for the occupancy of
17 quarters, conditions on maintenance and repairs, and agreements
18 on the provision of charges for utilities and other infrastructure;
19 and

20 (D) may be granted at less than fair market value if the Sec-
21 retary determines that the lease will improve the quality and avail-
22 ability of field employee quarters.

23 (4) CONTRIBUTIONS BY FEDERAL GOVERNMENT.—The Secretary
24 may make payments, subject to appropriations, or contributions in
25 kind, in advance or on a continuing basis, to reduce the costs of plan-
26 ning, construction, or rehabilitation of quarters on or off Federal land
27 under a lease under this subsection.

28 (b) RENTAL GUARANTEE PROGRAM.—

29 (1) GENERAL AUTHORITY.—Subject to the appropriation of nec-
30 essary funds in advance, the Secretary may enter into a lease-to-build
31 arrangement as set forth in subsection (a) with further agreement to
32 guarantee the occupancy of field employee quarters constructed or re-
33 habilitated under the lease. A guarantee made under this paragraph
34 shall be in writing.

35 (2) LIMITATIONS ON GUARANTEES.—

36 (A) SPECIFIC GUARANTEES.—The Secretary may not guaran-
37 tee—

38 (i) the occupancy of more than 75 percent of the units con-
39 structed or rehabilitated under the lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5.

(B) TOTAL OF OUTSTANDING GUARANTEES.—Outstanding guarantees shall not be in excess of \$3,000,000.

(3) AGREEMENT TO RENT TO FEDERAL GOVERNMENT EMPLOYEES.—A guarantee may be made under this subsection only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made.

(4) OPERATION AND MAINTENANCE.—A lease shall be void if the lessee fails to maintain a satisfactory level of operation and maintenance.

§ 101317. Contracts for the management of field employee quarters

Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of any duration for the management, repair, and maintenance of field employee quarters. The contract shall contain terms and conditions that the Secretary considers necessary or appropriate to protect the interests of the United States and ensure that necessary quarters are available to field employees.

§ 101318. Leasing of seasonal employee quarters

(a) GENERAL AUTHORITY.—The Secretary may lease quarters at or near a System unit for use as seasonal quarters for field employees if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near the System unit and that—

(1) the requirement for the seasonal field employee quarters is temporary; or

(2) leasing would be more cost-effective than construction of new seasonal field employee quarters.

(b) RENT.—The rent charged to field employees under the lease shall be a rate based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5.

(c) UNRECOVERED COSTS.—The Secretary may pay the unrecovered costs of leasing seasonal quarters under this section from annual appropriations for the year in which the lease is made.

§ 101319. General leasing provisions

(a) EXEMPTION FROM LEASING REQUIREMENTS.—Section 104701 of this title and section 1302 of title 40 shall not apply to leases issued by the Secretary under this section.

(b) PROCEEDS FROM LEASES.—The proceeds from any lease under section 101316(a)(1) of this title and any lease under section 101318 of this

1 title shall be retained by the Service and deposited in the special fund estab-
 2 lished for maintenance and operation of quarters.

3 **§ 101320. Assessment and priority listing**

4 The Secretary shall—

5 (1) complete a condition assessment for all field employee housing,
 6 including the physical condition of the housing and the necessity and
 7 suitability of the housing for carrying out the mission of the Service,
 8 using existing information; and

9 (2) develop a Service-wide priority listing, by structure, identifying
 10 the units in greatest need for repair, rehabilitation, replacement, or ini-
 11 tial construction.

12 **§ 101321. Use of funds**

13 (a) EXPENDITURE SHALL FOLLOW PRIORITY LISTING.—Expenditure of
 14 any funds authorized and appropriated for new construction, repair, or re-
 15 habilitation of housing under this chapter shall follow the housing priority
 16 listing established by the Secretary under section 101320 of this title, in
 17 sequential order, to the maximum extent practicable.

18 (b) NONCONSTRUCTION FUNDS IN ANNUAL BUDGET SUBMITTAL.—The
 19 President’s proposed budget to Congress shall include identification of non-
 20 construction funds to be spent for Service housing maintenance and oper-
 21 ations that are in addition to rental receipts collected.

22 **CHAPTER 1015—TRANSPORTATION**

Subchapter I—Airports

Sec.

101501. Airports in or near System units.

Subchapter II—Roads and Trails

101511. Roads and trails.

Subchapter III—Public Transportation Programs for System Units

101521. Findings and purpose.

101522. Transportation service and facility programs.

101523. Transportation projects.

101524. Procedures applicable to transportation plans and projects.

Subchapter IV—Fees

101531. Fee for use of transportation services.

23 **Subchapter I—Airports**

24 **§ 101501. Airports in or near System units**

25 (a) DEFINITIONS.—In this section, the terms “airport”, “project”,
 26 “project costs”, “public agency”, and “sponsor” have the meanings given
 27 the terms in subchapter I of chapter 471 of title 49.

28 (b) ACQUISITION, OPERATION, AND MAINTENANCE OF AIRPORTS.—

29 (1) AUTHORIZATION.—The Secretary may plan, acquire, establish,
 30 construct, enlarge, improve, maintain, equip, operate, regulate, and
 31 protect airports in the continental United States in, or in close proxim-

1 ity to, System units, when the Secretary determines that the airports
2 are necessary to the proper performance of the functions of the Depart-
3 ment of the Interior.

4 (2) INCLUSION IN NATIONAL PLAN.—The Secretary shall not ac-
5 quire, establish, or construct an airport under this section unless the
6 airport is included in the national plan of integrated airport systems
7 formulated by the Secretary of Transportation pursuant to section
8 47103 of title 49.

9 (3) OPERATION AND MAINTENANCE MUST ACCORD WITH STANDARDS
10 AND REGULATIONS OF SECRETARY OF TRANSPORTATION.—The oper-
11 ation and maintenance of airports under this section shall be in accord-
12 ance with the standards and regulations prescribed by the Secretary of
13 Transportation.

14 (c) AUTHORITY OF SECRETARY.—

15 (1) IN GENERAL.—To carry out this section, the Secretary may—

16 (A) acquire necessary land and interests in or over land;

17 (B) contract for the construction, improvement, operation, and
18 maintenance of airports and incidental facilities;

19 (C) enter into agreements with other public agencies providing
20 for the construction, operation, or maintenance of airports by
21 those agencies or jointly by the Secretary and those agencies on
22 mutually satisfactory terms; and

23 (D) enter into other agreements and take other action with re-
24 spect to the airports as may be necessary to carry out this section.

25 (2) CONSENT REQUIRED.—This section does not authorize the Sec-
26 retary to acquire any land, or interest in or over land, by purchase,
27 condemnation, grant, or lease, without first obtaining the consent of
28 the Governor of the State, and the consent of the State political sub-
29 division, in which the land is located.

30 (d) AUTHORIZATION TO SPONSOR AIRPORT PROJECTS.—To carry out
31 this section, the Secretary may—

32 (1) sponsor projects under subchapter I of chapter 471 of title 49
33 independently or jointly with other public agencies; and

34 (2) use, for payment of the sponsor's share of the project costs of
35 those projects, any funds that may be—

36 (A) contributed or otherwise made available to the Secretary for
37 those purposes; or

38 (B) appropriated or otherwise specifically authorized for that
39 purpose.

40 (e) JURISDICTION OVER AIRPORTS.—All airports under the jurisdiction
41 of the Secretary, unless otherwise specifically provided by law, shall be oper-

1 ated as public airports, available for public use on fair and reasonable terms
2 and without unjust discrimination.

3 **Subchapter II—Roads and Trails**

4 **§ 101511. Roads and trails**

5 (a) CONSTRUCTION.—The Secretary, in the administration of the Service,
6 may construct, reconstruct, and improve roads and trails, inclusive of nec-
7 essary bridges, in System units.

8 (b) APPROACH ROADS.—

9 (1) DESIGNATION.—When the Secretary determines it to be in the
10 public interest, the Secretary may designate, as System unit approach
11 roads and as supplementary parts of the highway systems of any Sys-
12 tem unit, roads whose primary value is to carry System unit travel and
13 that lead across land at least 90 percent owned by the Federal Govern-
14 ment and that will connect the highways within a System unit with a
15 convenient point on or leading to the National Highway System.

16 (2) LIMIT ON LENGTH OF APPROACH ROADS.—A designated ap-
17 proach road shall not exceed—

18 (A) 60 miles in length between a System unit gateway and a
19 point on or leading to the nearest convenient National Highway
20 System road; or

21 (B) 30 miles in length if the approach road is on the National
22 Highway System.

23 (3) COUNTY LIMIT.—Not to exceed 40 miles of any one approach
24 road shall be designated in any one county.

25 (c) CONSTRUCTION AND IMPROVEMENT OF ROADS AND TRAILS WITHIN
26 SYSTEM UNITS.—

27 (1) AUTHORITY OF SECRETARY.—

28 (A) IN GENERAL.—The Secretary may construct, reconstruct,
29 and improve roads and trails within System units.

30 (B) AUTHORITY NOT LIMITED.—This subsection and sub-
31 sections (a), (b), and (d) do not limit the authority of the Sec-
32 retary to construct, reconstruct, improve, and maintain roads and
33 trails within System units.

34 (2) SECRETARY OF COMMERCE.—Under agreement with the Sec-
35 retary, the Secretary of Commerce may carry out any provision of this
36 subsection.

37 (3) ALLOCATION.—Not to be exceed \$1,500,000 shall be allocated
38 annually for the construction, reconstruction, and improvement of Sys-
39 tem unit approach roads

40 (d) APPROVAL OF SECRETARY OF AGRICULTURE REQUIRED.—When an
41 approach road is proposed across or within any national forest, the Sec-

1 (b) PURPOSE.—The purpose of this subchapter is to make the System
 2 more accessible in a manner consistent with the preservation of System
 3 units and the conservation of energy by encouraging the use of transpor-
 4 tation modes other than personal motor vehicles for access to and within
 5 System units with minimum disruption to nearby communities through au-
 6 thorization of a pilot transportation program.

7 **§ 101522. Transportation service and facility programs**

8 (a) FORMULATION OF PLANS AND IMPLEMENTATION OF PROJECTS.—
 9 The Secretary may formulate transportation plans and implement transpor-
 10 tation projects where feasible pursuant to those plans for System units.

11 (b) CONTRACTS, OPERATIONS, AND ACQUISITIONS FOR IMPROVEMENT OF
 12 ACCESS TO SYSTEM UNITS.—

13 (1) AUTHORITY OF SECRETARY.—To carry out subsection (a), the
 14 Secretary may—

15 (A) contract with public or private agencies or carriers to pro-
 16 vide transportation services, capital equipment, or facilities to im-
 17 prove access to System units;

18 (B) operate those services directly in the absence of suitable and
 19 adequate agencies or carriers;

20 (C) acquire, by purchase, lease, or agreement, capital equipment
 21 for those services; and

22 (D) where necessary to carry out this subchapter, acquire, by
 23 lease, purchase, donation, exchange, or transfer, land, water, or an
 24 interest in land or water that is situated outside the boundary of
 25 a System unit.

26 (2) SPECIFIC PROVISIONS RELATED TO PROPERTY ACQUISITION.—

27 (A) ADMINISTRATION.—The acquired property shall be adminis-
 28 tered as part of the System unit.

29 (B) ACQUISITION OF LAND OR INTERESTS IN LAND OWNED BY
 30 STATE OR POLITICAL SUBDIVISION.—Any land or interests in land
 31 owned by a State or any of its political subdivisions may be ac-
 32 quired only by donation.

33 (C) ACQUISITION SUBJECT TO STATUTORY LIMITATIONS.—Any
 34 land acquisition shall be subject to any statutory limitations on
 35 methods of acquisition and appropriations as may be specifically
 36 applicable to the area.

37 (c) APPROPRIATION OF FEES COLLECTED AND DEPOSITED IN PLAN-
 38 NING, DEVELOPMENT, AND OPERATION OF RECREATIONAL FACILITIES AP-
 39 PROPRIATION ACCOUNT.—All fees directly collected by the Service in the op-
 40 eration of the facilities and services authorized by this subchapter shall be

1 deposited into the Planning, Development, and Operation of Recreation Fa-
2 cilities appropriation account to be subject to appropriation.

3 (d) ESTABLISHMENT OF INFORMATION PROGRAMS.—The Secretary shall
4 establish information programs to inform the public of available System unit
5 access opportunities and to promote the use of transportation modes other
6 than personal motor vehicles for access to and travel within the System
7 units.

8 (e) UNDERTAKING TRANSPORTATION FACILITIES AND SERVICES.—
9 Transportation facilities and services provided pursuant to this subchapter
10 may be undertaken by the Secretary directly or by contract without regard
11 to any requirement of Federal, State, or local law respecting determinations
12 of public convenience and necessity or other similar matters. The Secretary
13 or contractor shall consult with the appropriate State or local public service
14 commission or other body having authority to issue certificates of conven-
15 ience and necessity. A contractor shall be subject to applicable requirements
16 of that body unless the Secretary determines that the requirements would
17 not be consistent with the purposes and provisions of this subchapter.

18 (f) CONSTRUCTION OF GRANT OF AUTHORITY RESPECTING OPERATION
19 OF MOTOR VEHICLES EXCEPTED FROM STATUTORY COVERAGE.—No grant
20 of authority in this subchapter shall be deemed to expand the exemption of
21 section 13506(a)(9) of title 49.

22 **§ 101523. Transportation projects**

23 (a) ASSISTANCE OF HEADS OF OTHER FEDERAL DEPARTMENTS AND
24 AGENCIES IN FORMULATION AND IMPLEMENTATION.—To carry out this
25 subchapter, the Secretary of Transportation, the Secretary of Housing and
26 Urban Development, the Secretary of Health and Human Services, the Sec-
27 retary of Commerce, and the heads of other Federal departments or agen-
28 cies that the Secretary considers necessary shall assist the Secretary in the
29 formulation and implementation of transportation projects.

30 (b) COMPILATION OF STATUTES AND PROGRAMS.—The Secretary shall
31 maintain a compilation of Federal statutes and programs providing author-
32 ity for the planning, funding, or operation of transportation projects that
33 might be utilized by the Secretary to carry out this subchapter.

34 **§ 101524. Procedures applicable to transportation plans and**
35 **projects**

36 (a) DURING FORMULATION OF PLAN.—The Secretary shall, during the
37 formulation of any transportation plan authorized pursuant to section
38 101522 of this title—

- 39 (1) give public notice of intention to formulate the plan by publica-
40 tion in the Federal Register and in a newspaper or periodical having
41 general circulation in the vicinity of the affected System unit; and

1 (2) following the notice, hold a public meeting at a location conven-
2 nient to the affected System unit.

3 (b) PRIOR TO IMPLEMENTATION OF PROJECT.—Prior to the implementa-
4 tion of any project developed pursuant to the transportation plan formulated
5 pursuant to subsection (a), the Secretary shall—

6 (1) establish procedures, including public meetings, to give State and
7 local governments and the public adequate notice and an opportunity
8 to comment on the proposed transportation project; and

9 (2) when the proposed project would involve an expenditure in excess
10 of \$100,000 in any fiscal year, submit a detailed report to the Commit-
11 tee on Energy and Natural Resources of the Senate and the Committee
12 on Natural Resources of the House of Representatives.

13 (c) WAITING PERIOD.—When a report on a project is required under sub-
14 section (b)(2), the Secretary may proceed with the implementation of the
15 project only after 60 days (not counting days on which the Senate or House
16 of Representatives has adjourned for more than 3 consecutive days) have
17 elapsed following submission of the report.

18 **Subchapter IV—Fees**

19 **§ 101531. Fee for use of transportation services**

20 Notwithstanding any other provision of law, where the Service or an en-
21 tity under a service contract, cooperative agreement, or other contractual
22 agreement with the Service provides transportation to all or a portion of any
23 System unit, the Secretary may impose a reasonable and appropriate charge
24 to the public for the use of the transportation services in addition to any
25 admission fee required to be paid. Collection of the transportation and ad-
26 mission fees may occur at the transportation staging area or any other rea-
27 sonably convenient location determined by the Secretary. The Secretary may
28 enter into agreements, with public or private entities that qualify to the Sec-
29 retary’s satisfaction, to collect the transportation and admission fee. Trans-
30 portation fees collected pursuant to this section shall be retained by the Sys-
31 tem unit at which the transportation fee was collected, and the amount re-
32 tained shall be expended only for costs associated with the transportation
33 systems at the System unit where the charge was imposed.

34 **CHAPTER 1017—FINANCIAL AGREEMENTS**

Sec.

101701. Challenge cost-share agreement authority.

101702. Cooperative agreements.

101703. Reimbursable agreements.

35 **§ 101701. Challenge cost-share agreement authority**

36 (a) DEFINITIONS.—In this section:

37 (1) CHALLENGE COST-SHARE AGREEMENT.—The term “challenge
38 cost-share agreement” means any agreement entered into between the

1 Secretary and any cooperator for the purpose of sharing costs or serv-
 2 ices in carrying out authorized functions and responsibilities of the Sec-
 3 retary with respect to any System unit or System program, any affili-
 4 ated area, or any designated national scenic trail or national historic
 5 trail.

6 (2) COOPERATOR.—The term “cooperator” means any State or local
 7 government, public or private agency, organization, institution, corpora-
 8 tion, individual, or other entity.

9 (b) AUTHORITY TO ENTER INTO CHALLENGE COST-SHARE AGREE-
 10 MENTS.—The Secretary may negotiate and enter into challenge cost-share
 11 agreements with cooperators.

12 (c) SOURCE OF FEDERAL SHARE.—In carrying out challenge cost-share
 13 agreements, the Secretary may provide the Federal funding share from any
 14 funds available to the Service.

15 **§ 101702. Cooperative agreements**

16 (a) TRANSFER OF SERVICE APPROPRIATED FUNDS.—The Secretary may
 17 enter into cooperative agreements that involve the transfer of Service appro-
 18 priated funds to State, local, and tribal governments, other public entities,
 19 educational institutions, and private nonprofit organizations pursuant to
 20 section 6305 of title 31 to carry out public purposes of Service programs.

21 (b) COOPERATIVE RESEARCH AND TRAINING PROGRAMS.—

22 (1) IN GENERAL.—To facilitate the administration of the System,
 23 the Secretary, under such terms and conditions as the Secretary may
 24 consider advisable, may—

25 (A) enter into cooperative agreements with public or private
 26 educational institutions, States, and political subdivisions of States
 27 to develop adequate, coordinated, cooperative research and train-
 28 ing programs concerning the resources of the System; and

29 (B) pursuant to an agreement, accept from and make available
 30 to the cooperator technical and support staff, financial assistance
 31 for mutually agreed upon research projects, supplies and equip-
 32 ment, facilities, and administrative services relating to cooperative
 33 research units that the Secretary considers appropriate.

34 (2) EFFECT OF SUBSECTION.—This subsection does not waive any
 35 requirements for research projects that are subject to Federal procure-
 36 ment regulations.

37 (c) COOPERATIVE MANAGEMENT AGREEMENTS.—

38 (1) IN GENERAL.—To facilitate the administration of the System,
 39 the Secretary, under such terms and conditions as the Secretary con-
 40 siders advisable, may enter into an agreement with a State or local gov-
 41 ernment agency to provide for the cooperative management of the Fed-

1 eral and State or local park areas where a System unit is located adja-
 2 cent to or near a State or local park area, and cooperative management
 3 between the Service and a State or local government agency of a por-
 4 tion of either the System unit or State or local park will allow for more
 5 effective and efficient management of the System unit and State or
 6 local park. The Secretary may not transfer administration responsibil-
 7 ities for any System unit under this paragraph.

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

13 (3) ASSIGNMENT OF EMPLOYEE.—An assignment arranged by the
 14 Secretary under section 3372 of title 5 of a Federal, State, or local em-
 15 ployee for work on any Federal, State, or local land or an extension
 16 of the assignment may be for any period of time determined by the
 17 Secretary and the State or local agency to be mutually beneficial.

18 (d) COOPERATIVE AGREEMENTS FOR SYSTEM UNIT NATURAL RESOURCE
 19 PROTECTION.—

20 (1) IN GENERAL.—The Secretary may enter into cooperative agree-
 21 ments with State, local, or tribal governments, other Federal agencies,
 22 other public entities, educational institutions, private nonprofit organi-
 23 zations, or participating private landowners for the purpose of protect-
 24 ing natural resources of System units through collaborative efforts on
 25 land inside and outside the System units.

26 (2) TERMS AND CONDITIONS.—A cooperative agreement entered into
 27 under paragraph (1) shall provide clear and direct benefits to System
 28 unit natural resources and—

29 (A) provide for—

30 (i) the preservation, conservation, and restoration of coastal
 31 and riparian systems, watersheds, and wetlands;

32 (ii) preventing, controlling, or eradicating invasive exotic
 33 species that are within a System unit or adjacent to a System
 34 unit; or

35 (iii) restoration of natural resources, including native wild-
 36 life habitat or ecosystems;

37 (B) include a statement of purpose demonstrating how the
 38 agreement will—

39 (i) enhance science-based natural resource stewardship at
 40 the System unit; and

41 (ii) benefit the parties to the agreement;

1 (C) specify any staff required and technical assistance to be pro-
 2 vided by the Secretary or other parties to the agreement in sup-
 3 port of activities inside and outside the System unit that will—

4 (i) protect natural resources of the System unit; and

5 (ii) benefit the parties to the agreement;

6 (D) identify any materials, supplies, or equipment and any other
 7 resources that will be contributed by the parties to the agreement
 8 or by other Federal agencies;

9 (E) describe any financial assistance to be provided by the Sec-
 10 retary or the partners to implement the agreement;

11 (F) ensure that any expenditure by the Secretary pursuant to
 12 the agreement is determined by the Secretary to support the pur-
 13 poses of natural resource stewardship at a System unit; and

14 (G) include such other terms and conditions as are agreed to
 15 by the Secretary and the other parties to the agreement.

16 (3) LIMITATIONS.—The Secretary shall not use any funds associated
 17 with an agreement entered into under paragraph (1) for the purposes
 18 of land acquisition, regulatory activity, or the development, mainte-
 19 nance, or operation of infrastructure, except for ancillary support faci-
 20 lities that the Secretary determines to be necessary for the completion
 21 of projects or activities identified in the agreement.

22 (4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to
 23 be appropriated such sums as are necessary to carry out this sub-
 24 section.

25 **§ 101703. Reimbursable agreements**

26 (a) IN GENERAL.—In carrying out work under reimbursable agreements
 27 with any State, local, or tribal government, the Secretary, without regard
 28 to any provision of law or a regulation—

29 (1) may record obligations against accounts receivable from those
 30 governments; and

31 (2) shall credit amounts received from those governments to the ap-
 32 propriate account.

33 (b) WHEN AMOUNTS SHALL BE CREDITED.—Amounts shall be credited
 34 within 90 days of the date of the original request by the Service for pay-
 35 ment.

36 **CHAPTER 1019—CONCESSIONS**

Subchapter I—Authority of Secretary

Sec.

101901. Authority of Secretary to carry out certain activities.

Subchapter II—Concession Management

101911. Definitions.

101912. Findings and declaration of policy.

- 101913. Award of concession contracts.
- 101914. Terms of concession contracts.
- 101915. Protection of concessioner investment.
- 101916. Reasonableness of rates and charges.
- 101917. Franchise fees.
- 101918. Transfer or conveyance of concession contracts or leasehold surrender interests.
- 101919. National Park Service Concessions Management Advisory Board.
- 101920. Contracting for services.
- 101921. Multiple contracts within a System unit.
- 101922. Special rule for service contract to provide transportation services.
- 101923. Use of nonmonetary consideration in concession contracts.
- 101924. Recordkeeping requirements.
- 101925. Promotion of sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handiercrafts.
- 101926. Commercial use authorizations.
- 101927. Regulations.

Subchapter I—Authority of Secretary

§ 101901. Authority of Secretary to carry out certain activities

To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary considers advisable, may carry out the following activities:

(1) SALE OF PRODUCTS AND SERVICES PRODUCED IN THE CONDUCT OF LIVING EXHIBITS AND INTERPRETATIVE DEMONSTRATIONS.—

(A) IN GENERAL.—The Secretary may—

(i) sell at fair market value, without regard to the requirements of chapters 1 to 11 of title 40 and subtitle III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), products and services produced in the conduct of living exhibits and interpretive demonstrations in System units;

(ii) enter into contracts (including cooperative arrangements) with respect to those living exhibits and interpretive demonstrations; and

(iii) subject to subparagraph (B), credit the proceeds from those sales and contracts to the appropriation bearing the cost of the exhibits and demonstrations.

(B) GLACIER BAY NATIONAL PARK.—

(i) DEFINITIONS.—In this subparagraph—

(I) CERTAIN PERMITTEE.—The term “certain permittee” means a permittee that provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights.

(II) PERMITTEE.—The term “permittee” means a concessionaire providing visitor services within Glacier Bay.

1 (ii) LIMITATION ON USE OF FEES.—Sixty percent of the
2 fees paid by permittees for the privilege of entering into Gla-
3 cier Bay shall be deposited in a special account and shall be
4 available—

5 (I) to the extent determined to be necessary, to ac-
6 quire and pre-position necessary and adequate emergency
7 response equipment to prevent harm or the threat of
8 harm to aquatic park resources from permittees; and

9 (II) to conduct investigations to quantify any effect of
10 permittees' activity on wildlife and other natural resource
11 values of Glacier Bay National Park.

12 (iii) PURPOSE OF INVESTIGATIONS.—The investigations
13 provided for in this subparagraph shall be designed to provide
14 information of value to the Secretary in determining any ap-
15 propriate limitations on permittees' activity in Glacier Bay.

16 (iv) NO ADDITIONAL CONDITIONS TO BE IMPOSED.—The
17 Secretary may not impose any additional permittee operating
18 conditions in the areas of air, water, and oil pollution beyond
19 those determined and enforced by other appropriate agencies.

20 (v) ACCOUNTING FOR IMPACT OF PERMITTEES ON PARK
21 VALUES AND RESOURCES.—When competitively awarding per-
22 mits to enter Glacier Bay, the Secretary may take into ac-
23 count the relative impact particular permittees will have on
24 park values and resources, provided that no operating condi-
25 tions or limitations relating to noise abatement shall be im-
26 posed unless the Secretary determines, based on the weight
27 of the evidence from all available studies including verifiable
28 scientific information from the investigations provided for in
29 this paragraph, that the limitations or conditions are nec-
30 essary to protect park values and resources.

31 (vi) LIMIT ON AMOUNT OF FEE.—Fees paid by certain per-
32 mittees for the privilege of entering into Glacier Bay shall not
33 exceed \$5 per passenger.

34 (vii) ADDITIONAL CATEGORIES OF PERMITS OR NUMBER OF
35 PERMITS NOT AUTHORIZED.—This subparagraph does not au-
36 thorize the Secretary to require additional categories of per-
37 mits in, or otherwise increase the number of permits to enter,
38 Glacier Bay National Park.

39 (2) UTILITY SERVICES FOR CONCESSIONERS.—The Secretary may
40 furnish, on a reimbursement of appropriation basis, all types of utility
41 services to concessioners, contractors, permittees, or other users of the

1 services, within the System. The reimbursements for cost of the serv-
 2 ices may be credited to the appropriation current at the time reim-
 3 bursements are received.

4 **Subchapter II—Concession Management**

5 **§ 101911. Definitions**

6 In this subchapter:

7 (1) **ADVISORY BOARD.**—The term “Advisory Board” means the Na-
 8 tional Park Service Concessions Management Advisory Board estab-
 9 lished under section 101919 of this title.

10 (2) **PREFERENTIAL RIGHT OF RENEWAL.**—The term “preferential
 11 right of renewal” means the right of a concessioner, subject to a deter-
 12 mination by the Secretary that the facilities or services authorized by
 13 a prior contract continue to be necessary and appropriate within the
 14 meaning of section 101912 of this title, to match the terms and condi-
 15 tions of any competing proposal that the Secretary determines to be
 16 the best proposal for a proposed new concession contract that author-
 17 izes the continuation of the facilities and services provided by the con-
 18 cessioner under its prior contract.

19 **§ 101912. Findings and declaration of policy**

20 (a) **FINDINGS.**—In furtherance of section 100301(b), Congress finds that
 21 the preservation and conservation of System unit resources and values re-
 22 quires that public accommodations, facilities, and services that have to be
 23 provided within those System units should be provided only under carefully
 24 controlled safeguards against unregulated and indiscriminate use, so that—

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

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

30 (b) **DECLARATION OF POLICY.**—It is the policy of Congress that the de-
 31 velopment of public accommodations, facilities, and services in System units
 32 shall be limited to accommodations, facilities, and services that—

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

35 (2) are consistent to the highest practicable degree with the preser-
 36 vation and conservation of the resources and values of the System unit.

37 **§ 101913. Award of concession contracts**

38 In furtherance of the findings and policy stated in section 101912 of this
 39 title, and except as provided by this subchapter or otherwise authorized by
 40 law, the Secretary shall utilize concession contracts to authorize a person,
 41 corporation, or other entity to provide accommodations, facilities, and serv-

1 ices to visitors to System units. Concession contracts shall be awarded as
2 follows:

3 (1) COMPETITIVE SELECTION PROCESS.—Except as otherwise pro-
4 vided in this section, all proposed concession contracts shall be awarded
5 by the Secretary to the person, corporation, or other entity submitting
6 the best proposal, as determined by the Secretary through a competi-
7 tive selection process. The competitive process shall include simplified
8 procedures for small, individually-owned concession contractors.

9 (2) SOLICITATION OF PROPOSALS.—Except as otherwise provided in
10 this section, prior to awarding a new concession contract (including re-
11 newals or extensions of existing concession contracts) the Secretary—

12 (A) shall publicly solicit proposals for the concession contract;

13 and

14 (B) in connection with the solicitation, shall—

15 (i) prepare a prospectus and publish notice of its availabil-
16 ity at least once in local or national newspapers or trade pub-
17 lications, by electronic means, or both, as appropriate; and

18 (ii) make the prospectus available on request to all inter-
19 ested persons.

20 (3) INFORMATION TO BE INCLUDED IN PROSPECTUS.—The prospec-
21 tus shall include the following information:

22 (A) The minimum requirements for the contract as set forth in
23 paragraph (4).

24 (B) The terms and conditions of any existing concession con-
25 tract relating to the services and facilities to be provided, including
26 all fees and other forms of compensation provided to the United
27 States by the concessioner.

28 (C) Other authorized facilities or services that may be provided
29 in a proposal.

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

32 (E) An estimate of the amount of compensation due an existing
33 concessioner from a new concessioner under the terms of a prior
34 concession contract.

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

38 (G) Other information related to the proposed concession oper-
39 ation that is provided to the Secretary pursuant to a concession
40 contract or is otherwise available to the Secretary, as the Sec-

1 retary determines is necessary to allow for the submission of com-
2 petitive proposals.

3 (H) Where applicable, a description of a preferential right to
4 the renewal of the proposed concession contract held by an exist-
5 ing concessioner as set forth in paragraph (7).

6 (4) CONSIDERATION OF PROPOSALS.—

7 (A) MINIMUM REQUIREMENTS.—No proposal shall be consid-
8 ered that fails to meet the minimum requirements as determined
9 by the Secretary. The minimum requirements shall include the fol-
10 lowing:

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

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

15 (iii) Measures necessary to ensure the protection, conserva-
16 tion, and preservation of resources of the System unit.

17 (B) REJECTION OF PROPOSAL.—The Secretary shall reject any
18 proposal, regardless of the franchise fee offered, if the Secretary
19 determines that—

20 (i) the person, corporation, or entity is not qualified or is
21 not likely to provide satisfactory service; or

22 (ii) the proposal is not responsive to the objectives of pro-
23 tecting and preserving resources of the System unit and of
24 providing necessary and appropriate facilities and services to
25 the public at reasonable rates.

26 (C) ALL PROPOSALS FAIL TO MEET MINIMUM REQUIREMENTS
27 OR ARE REJECTED.—If all proposals submitted to the Secretary
28 fail to meet the minimum requirements or are rejected by the Sec-
29 retary, the Secretary shall establish new minimum contract re-
30 quirements and re-initiate the competitive selection process pursu-
31 ant to this section.

32 (D) TERMS AND CONDITIONS MATERIALLY AMENDED OR NOT
33 INCORPORATED IN CONTRACT.—The Secretary may not execute a
34 concession contract that materially amends or does not incorporate
35 the proposed terms and conditions of the concession contract as
36 set forth in the applicable prospectus. If proposed material amend-
37 ments or changes are considered appropriate by the Secretary, the
38 Secretary shall resolicit offers for the concession contract incor-
39 porating the material amendments or changes.

40 (5) SELECTION OF THE BEST PROPOSAL.—

1 (A) FACTORS IN SELECTION.—In selecting the best proposal,
2 the Secretary shall consider the following principal factors:

3 (i) The responsiveness of the proposal to the objectives of
4 protecting, conserving, and preserving resources of the Sys-
5 tem unit and of providing necessary and appropriate facilities
6 and services to the public at reasonable rates.

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

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

13 (iv) The proposed franchise fee, except that consideration
14 of revenue to the United States shall be subordinate to the
15 objectives of protecting, conserving, and preserving resources
16 of the System unit and of providing necessary and appro-
17 priate facilities to the public at reasonable rates.

18 (B) SECONDARY FACTORS.—The Secretary may also consider
19 such secondary factors as the Secretary considers appropriate.

20 (C) DEVELOPMENT OF REGULATIONS.—In developing regula-
21 tions to implement this subchapter, the Secretary shall consider
22 the extent to which plans for employment of Indians (including
23 Native Alaskans) and involvement of businesses owned by Indians,
24 Indian tribes, or Native Alaskans in the operation of a concession
25 contract should be identified as a factor in the selection of a best
26 proposal under this section.

27 (6) CONGRESSIONAL NOTIFICATION.—

28 (A) IN GENERAL.—The Secretary shall submit any proposed
29 concession contract with anticipated annual gross receipts in ex-
30 cess of \$5,000,000 or a duration of more than 10 years to the
31 Committee on Natural Resources of the House of Representatives
32 and the Committee on Energy and Natural Resources of the Sen-
33 ate.

34 (B) WAITING PERIOD.—The Secretary shall not award any pro-
35 posed concession contract to which subparagraph (A) applies until
36 at least 60 days subsequent to the notification of both Commit-
37 tees.

38 (7) PREFERENTIAL RIGHT OF RENEWAL.—

39 (A) IN GENERAL.—Except as provided in subparagraph (B), the
40 Secretary shall not grant a concessioner a preferential right to

1 renew a concession contract, or any other form of preference to
2 a concession contract.

3 (B) EXCEPTION.—The Secretary shall grant a preferential right
4 of renewal to an existing concessioner with respect to proposed re-
5 newals of the categories of concession contracts described by para-
6 graph (8), subject to the requirements of that paragraph.

7 (C) ENTITLEMENT TO AWARD OF NEW CONTRACT.—A conces-
8 sioner that successfully exercises a preferential right of renewal in
9 accordance with the requirements of this subchapter shall be enti-
10 tled to award of the proposed new concession contract to which
11 the preference applies.

12 (8) OUTFITTER AND GUIDE SERVICES AND SMALL CONTRACTS.—

13 (A) APPLICATION.—Paragraph (7) shall apply only to the fol-
14 lowing:

15 (i) Subject to subparagraph (B), concession contracts that
16 solely authorize the provision of specialized backcountry out-
17 door recreation guide services that require the employment of
18 specially trained and experienced guides to accompany System
19 unit visitors in the backcountry so as to provide a safe and
20 enjoyable experience for visitors who otherwise may not have
21 the skills and equipment to engage in that activity.

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

24 (B) OUTFITTING AND GUIDE CONCESSIONERS.—

25 (i) DESCRIPTION.—Outfitting and guide concessioners,
26 where otherwise qualified, include concessioners that provide
27 guided river running, hunting, fishing, horseback, camping,
28 and mountaineering experiences.

29 (ii) WHEN ENTITLED TO PREFERENTIAL RIGHT.—An out-
30 fitting and guide concessioner is entitled to a preferential
31 right of renewal under this subchapter only if—

32 (I) the contract with the outfitting and guide conces-
33 sioner does not grant the concessioner any interest, in-
34 cluding any leasehold surrender interest or possessory in-
35 terest, in capital improvements on land owned by the
36 United States within a System unit, other than a capital
37 improvement constructed by a concessioner pursuant to
38 the terms of a concession contract prior to November 13,
39 1998, or constructed or owned by a concessioner or the
40 concessioner's predecessor before the subject land was
41 incorporated into the System;

1 (II) the Secretary determines that the concessioner
2 has operated satisfactorily during the term of the con-
3 tract (including any extension); and

4 (III) the concessioner has submitted a responsive pro-
5 posal for a proposed new concession contract that satis-
6 fies the minimum requirements established by the Sec-
7 retary pursuant to paragraph (4).

8 (C) CONTRACT WITH ESTIMATED GROSS RECEIPTS OF LESS
9 THAN \$500,000.—A concessioner that holds a concession contract
10 that the Secretary estimates will result in gross annual receipts of
11 less than \$500,000 if renewed shall be entitled to a preferential
12 right of renewal under this subchapter if—

13 (i) the Secretary has determined that the concessioner has
14 operated satisfactorily during the term of the contract (in-
15 cluding any extension); and

16 (ii) the concessioner has submitted a responsive proposal
17 for a proposed new concession contract that satisfies the min-
18 imum requirements established by the Secretary pursuant to
19 paragraph (4).

20 (9) NEW OR ADDITIONAL SERVICES.—The Secretary shall not grant
21 a preferential right to a concessioner to provide new or additional ser-
22 vices in a System unit.

23 (10) AUTHORITY OF SECRETARY NOT LIMITED.—Nothing in this
24 subchapter shall be construed as limiting the authority of the Secretary
25 to determine whether to issue a concession contract or to establish its
26 terms and conditions in furtherance of the policies expressed in this
27 subchapter.

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

30 (A) TEMPORARY CONTRACT.—To avoid interruption of services
31 to the public at a System unit, the Secretary may award a tem-
32 porary concession contract or an extension of an existing conces-
33 sions contract for a term not to exceed 3 year, except that prior
34 to making the award, the Secretary shall take all reasonable and
35 appropriate steps to consider alternatives to avoid the interruption.

36 (B) CONTRACT IN EXTRAORDINARY CIRCUMSTANCES.—The Sec-
37 retary may award a concession contract in extraordinary circum-
38 stances where compelling and equitable considerations require the
39 award of a concession contract to a particular party in the public
40 interest. Award of a concession contract under this subparagraph
41 shall not be made by the Secretary until at least 30 days after—

1 (i) publication in the Federal Register of notice of the Sec-
 2 retary's intention to award the contract and the reasons for
 3 the action; and

4 (ii) submission of notice to the Committee on Energy and
 5 Natural Resources of the Senate and the Committee on Natu-
 6 ral Resources of the House of Representatives.

7 **§ 101914. Term of concession contracts**

8 A concession contract entered into pursuant to this subchapter shall gen-
 9 erally be awarded for a term of 10 years or less. The Secretary may award
 10 a contract for a term of up to 20 years if the Secretary determines that
 11 the contract terms and conditions, including the required construction of
 12 capital improvements, warrant a longer term.

13 **§ 101915. Protection of concessioner investment**

14 (a) DEFINITIONS.—In this section:

15 (1) CAPITAL IMPROVEMENT.—The term “capital improvement”
 16 means a structure, a fixture, or nonremovable equipment provided by
 17 a concessioner pursuant to the terms of a concession contract and lo-
 18 cated on land of the United States within a System unit.

19 (2) CONSUMER PRICE INDEX.—The term “Consumer Price Index”
 20 means—

21 (A) the “Consumer Price Index—All Urban Consumers” pub-
 22 lished by the Bureau of Labor Statistics of the Department of
 23 Labor; or

24 (B) if the Index is not published, another regularly published
 25 cost-of-living index approximating the Consumer Price Index.

26 (b) LEASEHOLD SURRENDER INTEREST IN CAPITAL IMPROVEMENTS.—
 27 A concessioner that constructs a capital improvement on land owned by the
 28 United States within a System unit pursuant to a concession contract shall
 29 have a leasehold surrender interest in the capital improvement subject to
 30 the following terms and conditions:

31 (1) IN GENERAL.—A concessioner shall have a leasehold surrender
 32 interest in each capital improvement constructed by a concessioner
 33 under a concession contract, consisting solely of a right to compensa-
 34 tion for the capital improvement to the extent of the value of the con-
 35 cessioner's leasehold surrender interest in the capital improvement.

36 (2) PLEDGE, TRANSFER, RELINQUISHMENT, AND WAIVER OF INTER-
 37 EST; INTEREST NOT TO BE EXTINGUISHED; WHEN INTEREST MAY BE
 38 TAKEN FOR PUBLIC USE.—A leasehold surrender interest—

39 (A) may be pledged as security for financing of a capital im-
 40 provement or the acquisition of a concession contract when ap-
 41 proved by the Secretary pursuant to this subchapter;

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

4 (C) shall not be extinguished by the expiration or other termi-
 5 nation of a concession contract and may not be taken for public
 6 use except on payment of just compensation.

7 (3) VALUE OF INTEREST.—The value of a leasehold surrender inter-
 8 est in a capital improvement shall be an amount equal to the initial
 9 value (construction cost of the capital improvement), increased (or de-
 10 creased) by the same percentage increase (or decrease) as the percent-
 11 age increase (or decrease) in the Consumer Price Index, from the date
 12 of making the investment in the capital improvement by the conces-
 13 sioner to the date of payment of the value of the leasehold surrender
 14 interest, less depreciation of the capital improvement as evidenced by
 15 the condition and prospective serviceability in comparison with a new
 16 unit of like kind.

17 (4) VALUE OF INTEREST IN CERTAIN NEW CONCESSION CON-
 18 TRACTS.—

19 (A) HOW VALUE IS DETERMINED.—The Secretary may provide,
 20 in any new concession contract that the Secretary estimates will
 21 have a leasehold surrender interest of more than \$10,000,000,
 22 that the value of any leasehold surrender interest in a capital im-
 23 provement shall be based on—

24 (i) a reduction on an annual basis, in equal portions, over
 25 the same number of years as the time period associated with
 26 the straight line depreciation of the initial value (construction
 27 cost of the capital improvement), as provided by applicable
 28 Federal income tax laws and regulations in effect on Novem-
 29 ber 12, 1998; or

30 (ii) an alternative formula that is consistent with the objec-
 31 tives of this subchapter.

32 (B) WHEN ALTERNATIVE FORMULA MAY BE USED.—The Sec-
 33 retary may use an alternative formula only if the Secretary deter-
 34 mines, after scrutiny of the financial and other circumstances in-
 35 volved in the particular concession contract (including providing
 36 notice in the Federal Register and opportunity for comment), that
 37 the alternative formula is, compared to the standard method of de-
 38 termining value provided for in paragraph (3), necessary to pro-
 39 vide a fair return to the Federal Government and to foster com-
 40 petition for the new contract by providing a reasonable oppor-
 41 tunity to make a profit under the new contract. If no responsive

1 offers are received in response to a solicitation that includes the
2 alternative formula, the concession opportunity shall be resolicited
3 with the leasehold surrender interest value as described in para-
4 graph (3).

5 (5) INCREASE IN VALUE OF INTEREST.—Where a concessioner, pur-
6 suant to the terms of a concession contract, makes a capital improve-
7 ment to an existing capital improvement in which the concessioner has
8 a leasehold surrender interest, the cost of the additional capital im-
9 provement shall be added to the then-current value of the conces-
10 sioner's leasehold surrender interest.

11 (c) SPECIAL RULE FOR POSSESSORY INTEREST EXISTING BEFORE NO-
12 VEMBER 13, 1998.—

13 (1) IN GENERAL.—A concessioner that has obtained a possessory in-
14 terest (as defined pursuant to the Act of October 9, 1965 (known as
15 the National Park Service Concessions Policy Act; Public Law 89-249,
16 79 Stat. 969), as in effect on November 12, 1998) under the terms
17 of a concession contract entered into before November 13, 1998, shall,
18 on the expiration or termination of the concession contract, be entitled
19 to receive compensation for the possessory interest improvements in the
20 amount and manner as described by the concession contract. Where
21 that possessory interest is not described in the existing concession con-
22 tract, compensation of possessory interest shall be determined in ac-
23 cordance with the laws in effect on November 12, 1998.

24 (2) EXISTING CONCESSIONER AWARDED A NEW CONTRACT.—A con-
25 cessioner awarded a new concession contract to replace an existing con-
26 cession contract after November 13, 1998, instead of directly receiving
27 the possessory interest compensation, shall have a leasehold surrender
28 interest in its existing possessory interest improvements under the
29 terms of the new concession contract and shall carry over as the initial
30 value of the leasehold surrender interest (instead of construction cost)
31 an amount equal to the value of the existing possessory interest as of
32 the termination date of the previous concession contract. In the event
33 of a dispute between the concessioner and the Secretary as to the value
34 of the possessory interest, the matter shall be resolved through binding
35 arbitration.

36 (3) NEW CONCESSIONER AWARDED A CONTRACT.—A new conces-
37 sioner awarded a concession contract and required to pay a prior con-
38 cessioner for possessory interest in prior improvements shall have a
39 leasehold surrender interest in the prior improvements. The initial
40 value in the leasehold surrender interest (instead of construction cost)

1 shall be an amount equal to the value of the existing possessory inter-
 2 est as of the termination date of the previous concession contract.

3 (d) **TRANSITION TO SUCCESSOR CONCESSIONER.**—On expiration or ter-
 4 mination of a concession contract entered into after November 13, 1998, a
 5 concessioner shall be entitled under the terms of the concession contract to
 6 receive from the United States or a successor concessioner the value of any
 7 leasehold surrender interest in a capital improvement as of the date of the
 8 expiration or termination. A successor concessioner shall have a leasehold
 9 surrender interest in the capital improvement under the terms of a new con-
 10 cession contract and the initial value of the leasehold surrender interest in
 11 the capital improvement (instead of construction cost) shall be the amount
 12 of money the new concessioner is required to pay the prior concessioner for
 13 its leasehold surrender interest under the terms of the prior concession con-
 14 tract.

15 (e) **TITLE TO IMPROVEMENTS.**—Title to any capital improvement con-
 16 structed by a concessioner on land owned by the United States in a System
 17 unit shall be vested in the United States.

18 **§ 101916. Reasonableness of rates and charges**

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

22 (b) **APPROVAL BY SECRETARY REQUIRED.**—

23 (1) **FACTORS TO CONSIDER.**—A concessioner's rates and charges to
 24 the public shall be subject to approval by the Secretary. The approval
 25 process utilized by the Secretary shall be as prompt and as
 26 unburdensome to the concessioner as possible and shall rely on market
 27 forces to establish reasonableness of rates and charges to the maximum
 28 extent practicable. The Secretary shall approve rates and charges that
 29 the Secretary determines to be reasonable and appropriate. Unless
 30 otherwise provided in the concession contract, the reasonableness and
 31 appropriateness of rates and charges shall be determined primarily by
 32 comparison with those rates and charges for facilities, goods, and serv-
 33 ices of comparable character under similar conditions, with due consid-
 34 eration to the following factors and other factors deemed relevant by
 35 the Secretary:

36 (A) Length of season.

37 (B) Peakloads.

38 (C) Average percentage of occupancy.

39 (D) Accessibility.

40 (E) Availability and costs of labor and materials.

41 (F) Type of patronage.

1 (2) RATES AND CHARGES NOT TO EXCEED MARKET RATES AND
2 CHARGES.—Rates and charges may not exceed the market rates and
3 charges for comparable facilities, goods, and services, after taking into
4 account the factors referred to in paragraph (1).

5 (c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 6 months
6 after receiving recommendations from the Advisory Board regarding conces-
7 sioner rates and charges to the public, the Secretary shall implement the
8 recommendations or report to Congress the reasons for not implementing
9 the recommendations.

10 **§ 101917. Franchise fees**

11 (a) IN GENERAL.—A concession contract shall provide for payment to the
12 Federal Government of a franchise fee or other monetary consideration as
13 determined by the Secretary, on consideration of the probable value to the
14 concessioner of the privileges granted by the particular contract involved.
15 Probable value shall be based on a reasonable opportunity for net profit in
16 relation to capital invested and the obligations of the concession contract.
17 Consideration of revenue to the United States shall be subordinate to the
18 objectives of protecting and preserving System units and of providing nec-
19 essary and appropriate services for visitors at reasonable rates.

20 (b) PROVISIONS TO BE SPECIFIED IN CONTRACT.—The amount of the
21 franchise fee or other monetary consideration paid to the United States for
22 the term of the concession contract shall be specified in the concession con-
23 tract and may be modified only to reflect extraordinary unanticipated
24 changes from the conditions anticipated as of the effective date of the con-
25 cession contract. The Secretary shall include in concession contracts with a
26 term of more than 5 years a provision that allows reconsideration of the
27 franchise fee at the request of the Secretary or the concessioner in the event
28 of extraordinary unanticipated changes. The provision shall provide for
29 binding arbitration in the event that the Secretary and the concessioner are
30 unable to agree on an adjustment to the franchise fee in those circum-
31 stances.

32 (c) SPECIAL ACCOUNT IN TREASURY.—

33 (1) DEPOSIT AND AVAILABILITY.—All franchise fees (and other mon-
34 etary consideration) paid to the United States pursuant to concession
35 contracts shall be deposited in a special account established in the
36 Treasury. Twenty percent of the funds deposited in the special account
37 shall be available for expenditure by the Secretary, without further ap-
38 propriation, to support activities throughout the System regardless of
39 the System unit in which the funds were collected. The funds deposited
40 in the special account shall remain available until expended.

1 (2) SUBACCOUNT FOR EACH SYSTEM UNIT.—There shall be estab-
 2 lished within the special account a subaccount for each System unit.
 3 Each subaccount shall be credited with 80 percent of the franchise fees
 4 (and other monetary consideration) collected at a single System unit
 5 under concession contracts. The funds credited to the subaccount for
 6 a System unit shall be available for expenditure by the Secretary, with-
 7 out further appropriation, for use at the System unit for visitor services
 8 and for purposes of funding high-priority and urgently necessary re-
 9 source management programs and operations. The funds credited to a
 10 subaccount shall remain available until expended.

11 **§ 101918. Transfer or conveyance of concession contracts or**
 12 **leasehold surrender interests**

13 (a) APPROVAL OF SECRETARY.—No concession contract or leasehold sur-
 14 render interest may be transferred, assigned, sold, or otherwise conveyed or
 15 pledged by a concessioner without prior written notification to, and approval
 16 by, the Secretary.

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

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

22 (2) the transfer or conveyance would have an adverse impact on—
 23 (A) the protection, conservation, or preservation of the resources
 24 of the System unit; or

25 (B) the provision of necessary and appropriate facilities and
 26 services to visitors at reasonable rates and charges; and

27 (3) the terms of the transfer or conveyance are likely, directly or in-
 28 directly, to—

29 (A) reduce the concessioner's opportunity for a reasonable profit
 30 over the remaining term of the concession contract;

31 (B) adversely affect the quality of facilities and services pro-
 32 vided by the concessioner; or

33 (C) result in a need for increased rates and charges to the pub-
 34 lic to maintain the quality of the facilities and services.

35 (c) MODIFICATION OR RENEGOTIATION OF TERMS.—The terms and con-
 36 ditions of any concession contract under this section shall not be subject to
 37 modification or open to renegotiation by the Secretary because of a transfer
 38 or conveyance described in subsection (a) unless the transfer or conveyance
 39 would have an adverse impact as described in subsection (b)(2).

1 **§ 101919. National Park Service Concessions Management**
2 **Advisory Board**

3 (a) ESTABLISHMENT AND PURPOSE.—There is a National Park Service
4 Concessions Management Advisory Board whose purpose shall be to advise
5 the Secretary and Service on matters relating to management of concessions
6 in the System.

7 (b) DUTIES.—

8 (1) ADVICE.—The Advisory Board shall advise on each of the follow-
9 ing:

10 (A) Policies and procedures intended to ensure that services and
11 facilities provided by concessioners—

12 (i) are necessary and appropriate;

13 (ii) meet acceptable standards at reasonable rates with a
14 minimum of impact on park resources and values; and

15 (iii) provide the concessioners with a reasonable oppor-
16 tunity to make a profit.

17 (B) Ways to make Service concession programs and procedures
18 more cost effective, more process efficient, less burdensome, and
19 timelier.

20 (2) RECOMMENDATIONS.—The Advisory Board shall make recom-
21 mendations to the Secretary regarding each of the following:

22 (A) The Service contracting with the private sector to conduct
23 appropriate elements of concession management.

24 (B) Ways to make the review or approval of concessioner rates
25 and charges to the public more efficient, less burdensome, and
26 timelier.

27 (C) The nature and scope of products that qualify as Indian,
28 Alaska Native, and Native Hawaiian handicrafts within the mean-
29 ing of this subchapter.

30 (D) The allocation of concession fees.

31 (3) ANNUAL REPORT.—The Advisory Board shall provide an annual
32 report on its activities to the Committee on Natural Resources of the
33 House of Representatives and the Committee on Energy and Natural
34 Resources of the Senate.

35 (c) ADVISORY BOARD MEMBERSHIP.—Members of the Advisory Board
36 shall be appointed on a staggered basis by the Secretary for a term not to
37 exceed 4 years and shall serve at the pleasure of the Secretary. The Advi-
38 sory Board shall be comprised of not more than 7 individuals appointed
39 from among citizens of the United States not in the employment of the Fed-
40 eral Government and not in the employment of or having an interest in a
41 Service concession. Of the 7 members of the Advisory Board—

1 (1) one member shall be privately employed in the hospitality indus-
2 try and have both broad knowledge of hotel or food service manage-
3 ment and experience in the parks and recreation concession business;

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

5 (3) one member shall be privately employed in the accounting indus-
6 try;

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

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

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

13 (7) one member shall be active in a nonprofit conservation organiza-
14 tion involved in parks and recreation programs.

15 (d) SERVICE ON ADVISORY BOARD.—Service of an individual as a mem-
16 ber of the Advisory Board shall not be deemed to be service or employment
17 bringing the individual within the provisions of any Federal law relating to
18 conflicts of interest or otherwise imposing restrictions, requirements, or pen-
19 alties in relation to the employment of individuals, the performance of serv-
20 ices, or the payment or receipt of compensation in connection with claims,
21 proceedings, or matters involving the United States. Service as a member
22 of the Advisory Board shall not be deemed service in an appointive or elec-
23 tive position in the Federal Government for purposes of section 8344 of title
24 5 or other comparable provisions of Federal law.

25 (e) TERMINATION.—The Advisory Board shall continue to exist until De-
26 cember 31, 2009. In all other respects, it shall be subject to the Federal
27 Advisory Committee Act (5 U.S.C. App.).

28 **§ 101920. Contracting for services**

29 (a) CONTRACTING AUTHORIZED.—

30 (1) MANAGEMENT ELEMENTS FOR WHICH CONTRACT REQUIRED.—
31 To the maximum extent practicable, the Secretary shall contract with
32 private entities to conduct or assist in elements of the management of
33 the Service concessions program considered by the Secretary to be suit-
34 able for non-Federal performance. Those management elements shall
35 include each of the following:

36 (A) Health and safety inspections.

37 (B) Quality control of concessions operations and facilities.

38 (C) Strategic capital planning for concessions facilities.

39 (D) Analysis of rates and charges to the public.

(2) MANAGEMENT ELEMENTS FOR WHICH CONTRACT ALLOWED.—

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 Service concession contracts.

(B) Development of guidelines for a System capital improvement and maintenance program for all concession occupied facilities.

(C) Making recommendations to the Director regarding the conduct of annual audits of concession fee expenditures.

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

(c) AUTHORITY OF SECRETARY NOT DIMINISHED.—Nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concession contracts and activities pursuant to this subchapter and chapter 1003 and sections 100901(a), 100906, 102101, and 102102 of this title. The Secretary reserves the right to make the final decision or contract approval on contracting services dealing with the management of the Service concessions program under this section.

§ 101921. Multiple contracts within a System unit

If multiple concession 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 System unit, the Secretary shall establish a comparable franchise fee structure for those contracts or similar contracts, except that the terms and conditions of any existing concession 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.

§ 101922. Special rule for service contract to provide transportation services

Notwithstanding any other provision of law, a service contract entered into by the Secretary for the provision solely of transportation services in a System unit shall be not more than 10 years in length, including a base period of 5 years and an annual extension for an additional 5-year period based on satisfactory performance and approval by the Secretary.

§ 101923. Use of nonmonetary consideration in concession contracts

Section 1302 of title 40 shall not apply to concession contracts awarded by the Secretary pursuant to this subchapter.

1 **§ 101924. Recordkeeping requirements**

2 (a) IN GENERAL.—A concessioner and any subconcessioner shall keep
3 such records as the Secretary may prescribe to enable the Secretary to de-
4 termine that all terms of a concession contract have been and are being
5 faithfully performed. The Secretary and any authorized representative of the
6 Secretary shall, for the purpose of audit and examination, have access to
7 those records and to other records of the concessioner or subconcessioner
8 pertinent to the concession contract and all terms and conditions of the con-
9 cession contract.

10 (b) ACCESS TO RECORDS BY COMPTROLLER GENERAL.—The Comptroller
11 General and any authorized representative of the Comptroller General shall,
12 until the expiration of 5 calendar years after the close of the business year
13 of each concessioner or subconcessioner, have access to and the right to ex-
14 amine any pertinent records described in subsection (a) of the concessioner
15 or subconcessioner related to the contract involved.

16 **§ 101925. Promotion of sale of Indian, Alaska Native, Native**
17 **Samoan, and Native Hawaiian handicrafts**

18 (a) IN GENERAL.—Promoting the sale of authentic United States Indian,
19 Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating
20 to the cultural, historical, and geographic characteristics of System units is
21 encouraged, and the Secretary shall ensure that there is a continuing effort
22 to enhance the handicraft trade where it exists and establish the trade in
23 appropriate areas where the trade does not exist.

24 (b) EXEMPTION FROM FRANCHISE FEE.—In furtherance of the purposes
25 of subsection (a), the revenue derived from the sale of United States Indian,
26 Alaska Native, Native Samoan, and Native Hawaiian handicrafts shall be
27 exempt from any franchise fee payments under this subchapter.

28 **§ 101926. Commercial use authorizations**

29 (a) IN GENERAL.—To the extent specified in this section, the Secretary,
30 on request, may authorize a private person, corporation, or other entity to
31 provide services to visitors to System units through a commercial use au-
32 thorization. A commercial use authorization shall not be considered to be
33 a concession contract under this subchapter and no other section of this
34 subchapter shall be applicable to a commercial use authorization except
35 where expressly stated.

36 (b) CRITERIA FOR ISSUANCE OF COMMERCIAL USE AUTHORIZATIONS.—

37 (1) REQUIRED DETERMINATIONS.—The authority of this section may
38 be used only to authorize provision of services that the Secretary deter-
39 mines—

40 (A) will have minimal impact on resources and values of a Sys-
41 tem unit; and

1 (B) are consistent with the purpose for which the System unit
2 was established and with all applicable management plans and
3 Service policies and regulations.

4 (2) ELEMENTS OF COMMERCIAL USE AUTHORIZATION.—The Sec-
5 retary shall—

6 (A) require payment of a reasonable fee for issuance of a com-
7 mercial use authorization, the fees to remain available without fur-
8 ther appropriation to be used, at a minimum, to recover associated
9 management and administrative costs;

10 (B) require that the provision of services under a commercial
11 use authorization be accomplished in a manner consistent to the
12 highest practicable degree with the preservation and conservation
13 of System unit resources and values;

14 (C) take appropriate steps to limit the liability of the United
15 States arising from the provision of services under a commercial
16 use authorization;

17 (D) have no authority under this section to issue more commer-
18 cial use authorizations than are consistent with the preservation
19 and proper management of System unit resources and values; and

20 (E) shall establish other conditions for issuance of a commercial
21 use authorization that the Secretary determines to be appropriate
22 for the protection of visitors, provision of adequate and appro-
23 priate visitor services, and protection and proper management of
24 System unit resources and values.

25 (c) LIMITATIONS.—Any commercial use authorization shall be limited
26 to—

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

30 (2) the incidental use of resources of the System unit by commercial
31 operations that provide services originating and terminating outside the
32 boundaries of the System unit; or

33 (3)(A) uses by organized children's camps, outdoor clubs, and non-
34 profit institutions (including back country use); and

35 (B) other uses, as the Secretary determines to be appropriate.

36 (d) NONPROFIT INSTITUTIONS.—Nonprofit institutions are not required
37 to obtain commercial use authorizations unless taxable income is derived by
38 the institution from the authorized use.

39 (e) PROHIBITION ON CONSTRUCTION.—A commercial use authorization
40 shall not provide for the construction of any structure, fixture, or improve-
41 ment on federally-owned land within the boundaries of a System unit.

1 (f) DURATION.—The term of any commercial use authorization shall not
2 exceed 2 years. No preferential right of renewal or similar provisions for re-
3 newal shall be granted by the Secretary.

4 (g) OTHER CONTRACTS.—A person, corporation, or other entity seeking
5 or obtaining a commercial use authorization shall not be precluded from
6 submitting a proposal for concession contracts.

7 **§ 101927. Regulations**

8 (a) IN GENERAL.—The Secretary shall prescribe regulations appropriate
9 for the implementation of this subchapter.

10 (b) CONTENTS.—The regulations—

11 (1) shall include appropriate provisions to ensure that concession
12 services and facilities to be provided in a System unit are not seg-
13 mented or otherwise split into separate concession contracts for the
14 purposes of seeking to reduce anticipated annual gross receipts of a
15 concession contract below \$500,000; and

16 (2) shall further define the term “United States Indian, Alaskan Na-
17 tive, and Native Hawaiian handicrafts” for the purposes of this sub-
18 chapter.

19 **CHAPTER 1021—PRIVILEGES, LEASES, RENTALS, AND**
20 **PERMITS**

Sec.

102101. General provisions.

102102. Disposal of timber.

102103. Authority of Secretary to enter into lease for buildings and associated property.

102104. Maintenance and repair of Federal Government improvements under concession con-
tracts.

21 **§ 102101. General provisions**

22 (a) LIMITATION.—

23 (1) NO LEASE, RENTAL, OR PRIVILEGE THAT INTERFERES WITH
24 FREE ACCESS.—No natural curiosity, wonder, or object of interest shall
25 be leased, rented, or granted to anyone on such terms as to interfere
26 with free access by the public to any System unit.

27 (2) EXCEPTION FOR GRAZING LIVESTOCK.—The Secretary, under
28 such regulations and on such terms as the Secretary may prescribe,
29 may grant the privilege to graze livestock within a System unit when,
30 in the Secretary’s judgment, the use is not detrimental to the primary
31 purpose for which the System unit was created. This paragraph does
32 not apply to Yellowstone National Park.

33 (b) ADVERTISING AND COMPETITIVE BIDS NOT REQUIRED.—The Sec-
34 retary may grant privileges, leases, and permits described in subsection (a)
35 and enter into related contracts with responsible persons, firms, or corpora-
36 tions without advertising and without securing competitive bids.

1 (c) ASSIGNMENT OR TRANSFER.— No contract, lease, permit, or privilege
2 described in subsection (a) or (b) that is entered into or granted shall be
3 assigned or transferred by the grantee, permittee, or licensee without the
4 prior written approval of the Secretary.

5 **§ 102102. Disposal of timber**

6 The Secretary, on terms and conditions to be fixed by the Secretary, may
7 sell or dispose of timber in cases where, in the judgment of the Secretary,
8 the cutting of timber is required to control attacks of insects or diseases
9 or otherwise conserve the scenery or the natural or historic objects in any
10 System unit.

11 **§ 102103. Authority of Secretary to enter into lease for**
12 **buildings and associated property**

13 (a) IN GENERAL.—To facilitate the administration of the System, the
14 Secretary, under such terms and conditions as the Secretary may consider
15 advisable, and except as provided in subsection (b) and subject to subsection
16 (c), may enter into a lease with any person or government entity for the
17 use of buildings and associated property administered by the Secretary as
18 part of the System.

19 (b) PROHIBITED ACTIVITIES.—The Secretary may not use a lease under
20 subsection (a) to authorize the lessee to engage in activities that are subject
21 to authorization by the Secretary through a concession contract, commercial
22 use authorization, or similar instrument.

23 (c) USE.—Buildings and associated property leased under subsection
24 (a)—

25 (1) shall be used for an activity that is consistent with the purposes
26 established by law for the System unit in which the building is located;

27 (2) shall not result in degradation of the purposes and values of the
28 System unit; and

29 (3) shall be compatible with Service programs.

30 (d) RENTAL AMOUNTS.—

31 (1) IN GENERAL.—With respect to a lease under subsection (a)—

32 (A) payment of fair market value rental shall be required; and

33 (B) section 1302 of title 40 shall not apply.

34 (2) ADJUSTMENT.—The Secretary may adjust the rental amount as
35 appropriate to take into account any amounts to be expended by the
36 lessee for preservation, maintenance, restoration, improvement, or re-
37 pair and related expenses.

38 (e) SPECIAL ACCOUNT.—

39 (1) DEPOSITS.—Rental payments under a lease under subsection (a)
40 shall be deposited in a special account in the Treasury.

1 (2) AVAILABILITY.—Amounts in the special account shall be avail-
 2 able until expended, without further appropriation, for infrastructure
 3 needs at System units, including—

4 (A) facility refurbishment;

5 (B) repair and replacement;

6 (C) infrastructure projects associated with park resource protec-
 7 tion; and

8 (D) direct maintenance of the leased buildings and associated
 9 properties.

10 (3) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop
 11 procedures for the use of the special account that ensure accountability
 12 and demonstrated results consistent with this section and sections
 13 100101, 100503, 100506, 100901(b), 100902(1) and (2), 100909(a)
 14 and (d), 100910, 101301(1)(A) and (2) to (4), 101305, 101702(b) and
 15 (c), 101901(1), 102901, and 102902 of this title.

16 (f) REGULATIONS.—The Secretary shall prescribe regulations implement-
 17 ing this section that include provisions to encourage and facilitate competi-
 18 tion in the leasing process and provide for timely and adequate public com-
 19 ment.

20 **§ 102104. Maintenance and repair of Federal Government**
 21 **improvements under concession contracts**

22 Privileges, leases, and permits granted by the Secretary for the use of
 23 land for the accommodation of System unit visitors, pursuant to sections
 24 100901(a), 100906, 102101, and 102102 of this title, may provide for the
 25 maintenance and repair of Federal Government improvements by the grant-
 26 ee notwithstanding section 1302 of title 40 or any other provision of law.

27 **CHAPTER 1023—SYSTEM UNIT RESOURCE PROTECTION**

Sec.

102301. Definitions.

102302. Liability.

102303. Actions.

102304. Use of recovered amounts.

102305. Donations.

28 **§ 102301. Definitions**

29 In this chapter:

30 (1) DAMAGES.—The term “damages” includes—

31 (A) compensation for—

32 (i)(I) the cost of replacing, restoring, or acquiring the
 33 equivalent of a System unit resource; and

34 (II) the value of any significant loss of use of a System
 35 unit resource pending its restoration or replacement or the
 36 acquisition of an equivalent resource; or

1 (ii) the value of the System unit resource if the System
2 unit resource cannot be replaced or restored; and

3 (B) the cost of a damage assessment under section 102303(b)
4 of this title.

5 (2) RESPONSE COSTS.—The term “response costs” means the costs
6 of actions taken by the Secretary to—

7 (A) prevent or minimize destruction or loss of or injury to a
8 System unit resource;

9 (B) abate or minimize the imminent risk of the destruction,
10 loss, or injury; and

11 (C) monitor ongoing effects of incidents causing the destruction,
12 loss, or injury.

13 (3) SYSTEM UNIT RESOURCE.—

14 (A) IN GENERAL.—The term “System unit resource” means any
15 living or non-living resource that is located within the boundaries
16 of a System unit.

17 (B) EXCLUSION.—The term “System unit resource” does not
18 include a resource owned by a non-Federal entity.

19 **§ 102302. Liability**

20 (a) IN GENERAL.—Subject to subsection (c), any person that destroys,
21 causes the loss of, or injures any System unit resource is liable to the
22 United States for response costs and damages resulting from the destruc-
23 tion, loss, or injury.

24 (b) LIABILITY IN REM.—Any instrumentality, including a vessel, vehicle,
25 aircraft, or other equipment, that destroys, causes the loss of, or injures any
26 System unit resource shall be liable in rem to the United States for re-
27 sponse costs and damages resulting from the destruction, loss, or injury to
28 the same extent as a person is liable under subsection (a).

29 (c) DEFENSES.—A person is not liable under this section if—

30 (1) the destruction, loss of, or injury to the System unit resource
31 was caused solely by an act of God or an act of war;

32 (2) the person acted with due care, and the destruction, loss of, or
33 injury to the System unit resource was caused solely by an act or omis-
34 sion of a third party, other than an employee or agent of the person;
35 or

36 (3) the destruction, loss, or injury to the System unit resource was
37 caused by an activity authorized by Federal or State law.

38 (d) SCOPE.—Liability under this section is in addition to any other liabil-
39 ity that may arise under Federal or State law.

1 **§ 102303. Actions**

2 (a) CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—The Attorney
3 General, on request of the Secretary after a finding by the Secretary of de-
4 struction, loss, or injury to a System unit resource or a finding that absent
5 the undertaking of response costs, destruction, loss, or damage to a System
6 unit resource would have occurred, may bring a civil action in United States
7 district court against any person or instrumentality that may be liable under
8 section 102302 of this title for response costs and damages. The Secretary
9 shall submit a request for the action to the Attorney General whenever a
10 person or instrumentality may be liable for those costs and damages under
11 section 102302 of this title.

12 (b) RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.—

13 (1) ACTIONS TO PREVENT OR MINIMIZE DESTRUCTION, LOSS, OR IN-
14 JURY.—The Secretary shall undertake all necessary actions to prevent
15 or minimize the destruction, loss of, or injury to System unit resources,
16 or to minimize the imminent risk of such destruction, loss, or injury.

17 (2) ASSESSMENT AND MONITORING.—The Secretary shall assess and
18 monitor destruction, loss, or injury to System unit resources.

19 **§ 102304. Use of recovered amounts**

20 (a) LIMITATION ON USE.—Response costs and damages recovered by the
21 Secretary under this chapter or amounts recovered by the Federal Govern-
22 ment under any Federal, State, or local law or regulation or otherwise as
23 a result of destruction, loss of, or injury to any System unit resource shall
24 be available to the Secretary and without further Congressional action may
25 be used only as follows:

26 (1) REIMBURSEMENT.—To reimburse response costs and damage as-
27 sessments by the Secretary or other Federal agencies as the Secretary
28 considers appropriate.

29 (2) RESTORATION AND REPLACEMENT.—To restore, replace, or ac-
30 quire the equivalent of System unit resources that were the subject of
31 the action and to monitor and study those System unit resources. The
32 funds may not be used to acquire any land or water, interest in land
33 or water, or right to land or water unless the acquisition is specifically
34 approved in advance in appropriations Acts. The acquisition shall be
35 subject to any limitations contained in the legislation authorizing the
36 System unit.

37 (b) EXCESS AMOUNTS.—Any amounts remaining after expenditures pur-
38 suant to paragraphs (1) and (2) of subsection (a) shall be deposited in the
39 Treasury.

1 **§ 102305. Donations**

2 The Secretary may accept donations of money or services for expenditure
3 or employment to meet expected, immediate, or ongoing response costs. The
4 donations may be expended or employed at any time after their acceptance,
5 without further Congressional action.

6 **CHAPTER 1025—VOLUNTEERS IN PARKS PROGRAMS**

Sec.

102501. Establishment of program.

102502. Incidental expenses.

102503. Federal employee status for volunteers.

102504. Authorization of appropriations.

7 **§ 102501. Establishment of program**

8 The Secretary may recruit, train, and accept, without regard to chapter
9 51 and subchapter III of chapter 53 of title 5 or regulations prescribed
10 under that chapter or subchapter, the services of individuals without com-
11 pensation as volunteers for or in aid of interpretive functions or other visitor
12 services or activities in and related to System units. In accepting those serv-
13 ices, the Secretary shall not permit the use of volunteers in hazardous duty
14 or law enforcement work or in policymaking processes, or to displace any
15 employee. The services of individuals whom the Secretary determines are
16 skilled in performing hazardous activities may be accepted.

17 **§ 102502. Incidental expenses**

18 The Secretary may provide for incidental expenses of volunteers, such as
19 transportation, uniforms, lodging, and subsistence.

20 **§ 102503. Federal employee status for volunteers**

21 (a) EMPLOYMENT STATUS OF VOLUNTEERS.—Except as otherwise pro-
22 vided in this section, a volunteer shall not be deemed a Federal employee
23 and shall not be subject to the provisions of law relating to Federal employ-
24 ment, including those relating to hours of work, rates of compensation,
25 leave, unemployment compensation, and Federal employee benefits.

26 (b) TORT CLAIMS.—For the purpose of sections 1346(b) and 2401(b) and
27 chapter 171 of title 28, a volunteer under this chapter shall be deemed a
28 Federal employee.

29 (c) VOLUNTEERS DEEMED CIVIL EMPLOYEES.—For the purposes of sub-
30 chapter I of chapter 81 of title 5, volunteers under this chapter shall be
31 deemed civil employees of the United States within the meaning of the term
32 “employee” as defined in section 8101 of title 5, and subchapter I of chap-
33 ter 81 of title 5 shall apply.

34 (d) COMPENSATION FOR LOSSES AND DAMAGES.—For the purpose of
35 claims relating to damage to, or loss of, personal property of a volunteer
36 incident to volunteer service, a volunteer under this chapter shall be deemed
37 a Federal employee, and section 3721 of title 31 shall apply.

1 **§ 102504. Authorization of appropriations**

2 There are authorized to be appropriated such amounts as are necessary
3 to carry out this chapter, but not more than \$3,500,000 shall be appro-
4 priated in any one year.

5 **CHAPTER 1027—MUSEUMS**

Sec.

102701. Purpose.

102702. Definition.

102703. Authority of Secretary.

102704. Review and approval.

102705. Disposal of unnecessary or duplicate museum objects.

6 **§ 102701. Purpose**

7 The purpose of this chapter is to increase the public benefits from muse-
8 ums established within System units and the Department of the Interior
9 Museum as a means of informing the public concerning the areas and pre-
10 serving valuable objects and relics relating to the areas.

11 **§ 102702. Definition**

12 (a) IN GENERAL.—In this chapter, the term “museum object” means an
13 object that—

14 (1) is eligible to be, or is made part of, a museum, library, or archive
15 collection through a formal procedure, such as accessioning; and

16 (2) is usually movable.

17 (b) INCLUSIONS.—In this chapter, the term “museum object” includes a
18 prehistoric or historic artifact, work of art, book, document, photograph, or
19 natural history specimen.

20 **§ 102703. Authority of Secretary**

21 Notwithstanding other provisions or limitations of law, the Secretary may
22 perform the following functions in the manner that the Secretary considers
23 to be in the public interest:

24 (1) DONATIONS AND BEQUESTS.—The Secretary may accept dona-
25 tions and bequests of money or other personal property, and hold, use,
26 expend, and administer the money or other personal property for pur-
27 poses of this chapter.

28 (2) PURCHASES.—The Secretary may purchase museum objects and
29 other personal property at prices that the Secretary considers to be
30 reasonable.

31 (3) EXCHANGES.—The Secretary may make exchanges by accepting
32 museum objects and other personal property and by granting in ex-
33 change for the museum objects or other personal property museum
34 property under the administrative jurisdiction of the Secretary that no
35 longer is needed or that may be held in duplicate among the museum
36 properties administered by the Secretary. Exchanges shall be con-

1 summed on a basis that the Secretary considers to be equitable and
2 in the public interest.

3 (4) ACCEPTING LOANS OF PROPERTY.—The Secretary may accept
4 the loan of museum objects and other personal property and pay trans-
5 portation costs incidental to the museum objects or other personal
6 property. Loans shall be accepted on terms and conditions that the
7 Secretary considers necessary.

8 (5) LOANING PROPERTY.—The Secretary may loan to responsible
9 public or private organizations, institutions, or agencies, without cost
10 to the United States, such museum objects and other personal property
11 as the Secretary shall consider advisable. Loans shall be made on terms
12 and conditions that the Secretary considers necessary to protect the
13 public interest in those properties.

14 (6) TRANSFER OF MUSEUM OBJECTS.—The Secretary may transfer
15 museum objects that the Secretary determines are no longer needed for
16 museum purposes to qualified Federal agencies, including the Smith-
17 sonian Institution, that have programs to preserve and interpret cul-
18 tural or natural heritage, and accept the transfer of museum objects
19 for the purposes of this chapter from any other Federal agency, with-
20 out reimbursement. The head of any other Federal agency may trans-
21 fer, without reimbursement, museum objects directly to the administra-
22 tive jurisdiction of the Secretary for the purpose of this chapter.

23 (7) DESTRUCTION OF MUSEUM OBJECTS.—The Secretary may de-
24 stroy or cause to be destroyed museum objects that the Secretary de-
25 termines to have no scientific, cultural, historic, educational, esthetic,
26 or monetary value.

27 (8) CONVEYANCE OF MUSEUM OBJECTS.—The Secretary may convey
28 museum objects that the Secretary determines are no longer needed for
29 museum purposes, without monetary consideration but subject to such
30 terms and conditions as the Secretary considers necessary, to private
31 institutions exempt from Federal taxation under section 501(c)(3) of
32 the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and to non-
33 Federal governmental entities if the Secretary determines that the re-
34 cipient is dedicated to the preservation and interpretation of natural or
35 cultural heritage and is qualified to manage the property, prior to any
36 conveyance under this paragraph and paragraphs (6) and (7).

37 **§ 102704. Review and approval**

38 The Secretary shall ensure that museum objects are treated in a careful
39 and deliberate manner that protects the public interest. Prior to taking any
40 action under section 102703(6), (7), or (8) of this title, the Secretary shall
41 establish a systematic review and approval process, including consultation

1 with appropriate experts, that meets the highest standards of the museum
 2 profession for all actions taken under section 102703(6), (7), or (8) of this
 3 title.

4 **§ 102705. Disposal of unnecessary or duplicate museum ob-**
 5 **jects**

6 The Secretary may dispose of objects no longer needed for the Depart-
 7 ment of the Interior Museum or held in duplicate among museum properties
 8 and apply the proceeds to the purchase of museum objects and other per-
 9 sonal property at reasonable prices.

10 **CHAPTER 1029—LAW ENFORCEMENT AND EMERGENCY**
 11 **ASSISTANCE**

Subchapter I—Law Enforcement

Sec.

102901. Law enforcement personnel within System.

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Subchapter II—Emergency Assistance

102911. Authority of Secretary to carry out certain activities.

102912. Aid to visitors, grantees, permittees, or licensees in emergencies.

12 **Subchapter I—Law Enforcement**

13 **§ 102901. Law enforcement personnel within System**

14 (a) OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF THE INTE-
 15 RIOR.—

16 (1) DESIGNATION AUTHORITY OF SECRETARY.—The Secretary, pur-
 17 suant to standards prescribed in regulations by the Secretary, may des-
 18 ignate certain officers or employees of the Department of the Interior
 19 who shall maintain law and order and protect individuals and property
 20 within System units.

21 (2) POWERS AND DUTIES OF DESIGNEES.—In the performance of
 22 the duties described in paragraph (1), the designated officers or em-
 23 ployees may—

24 (A) carry firearms;

25 (B) make arrests without warrant for any offense against the
 26 United States committed in the presence of the officer or em-
 27 ployee, or for any felony cognizable under the laws of the United
 28 States if the officer or employee has reasonable grounds to believe
 29 that the individual to be arrested has committed or is committing
 30 the felony, provided the arrests occur within the System or the in-
 31 dividual to be arrested is fleeing from the System to avoid arrest;

32 (C) execute any warrant or other process issued by a court or
 33 officer of competent jurisdiction for the enforcement of the provi-
 34 sions of any Federal law or regulation issued pursuant to law aris-
 35 ing out of an offense committed in the System or, where the indi-

1 vidual subject to the warrant or process is in the System, in con-
2 nection with any Federal offense; and

3 (D) conduct investigations of offenses against the United States
4 committed in the System in the absence of investigation of the of-
5 fenses by any other Federal law enforcement agency having inves-
6 tigative jurisdiction over the offense committed or with the concu-
7 rence of the other agency.

8 (b) OTHER INDIVIDUALS.—The Secretary may designate officers and em-
9 ployees of any other Federal agency, or law enforcement personnel of a
10 State or political subdivision of a State, when determined to be economical
11 and in the public interest and with the concurrence of that agency, State,
12 or subdivision, to—

13 (1) act as special police officers in System units when supplemental
14 law enforcement personnel may be needed; and

15 (2) exercise the powers and authority provided by subparagraphs (A)
16 to (D) of subsection (a)(2).

17 (c) COOPERATION WITH STATES AND POLITICAL SUBDIVISIONS.—The
18 Secretary may—

19 (1) cooperate, within the System, with any State or political subdivi-
20 sion of a State in the enforcement of supervision of the laws or ordi-
21 nances of that State or subdivision;

22 (2) mutually waive, in any agreement pursuant to paragraph (1) and
23 subsection (b) or pursuant to subparagraphs (A) and (B) of subsection
24 (a)(2) with any State or political subdivision of a State where State
25 law requires the waiver and indemnification, all civil claims against all
26 the other parties to the agreement and, subject to available appropria-
27 tions, indemnify and save harmless the other parties to the agreement
28 from all claims by third parties for property damage or personal injury,
29 that may arise out of the parties' activities outside their respective ju-
30 risdictions under the agreement; and

31 (3) provide limited reimbursement, to a State or political subdivi-
32 sions of a State, in accordance with such regulations as the Secretary
33 may prescribe, where the State has ceded concurrent legislative juris-
34 diction over the affected area of the System, for expenditures incurred
35 in connection with its activities within the System that were rendered
36 pursuant to subsection (b).

37 (d) SUPPLEMENTAL AUTHORITY; DELEGATION OF SERVICE LAW EN-
38 FORCEMENT RESPONSIBILITIES NOT AUTHORIZED.—Subsections (b) and
39 (c) supplement the law enforcement responsibilities of the Service and do
40 not authorize the delegation of law enforcement responsibilities of the Ser-
41 vice to State and local governments.

1 (e) SPECIAL POLICE OFFICERS NOT DEEMED FEDERAL EMPLOYEES.—

2 (1) IN GENERAL.—Except as otherwise provided in this subsection,
3 a law enforcement officer of a State or political subdivision of a State
4 designated to act as a special police officer under subsection (b) shall
5 not be deemed a Federal employee and shall not be subject to the pro-
6 visions of law relating to Federal employment, including those relating
7 to hours of work, rates of compensation, leave, unemployment com-
8 pensation, and Federal benefits.

9 (2) EXCEPTIONS.—A law enforcement officer of a State or political
10 subdivision of a State, when acting as a special police officer under
11 subsection (b), is deemed to be—

12 (A) a Federal employee for purposes of sections 1346(b) and
13 2401(b) and chapter 171 of title 28; and

14 (B) a civil service employee of the United States within the
15 meaning of the term “employee” as defined in section 8101 of title
16 5, for purposes of subchapter I of chapter 81 of title 5, relating
17 to compensation to Federal employees for work injuries, and the
18 provisions of subchapter I of chapter 81 of title 5 shall apply.

19 (f) FEDERAL INVESTIGATIVE JURISDICTION AND STATE CIVIL AND
20 CRIMINAL JURISDICTION NOT PREEMPTED.—This section and sections
21 100101, 100503, 100506, 100901(b), 100902(1) and (2), 100909(a) and
22 (d), 100910, 101301(1)(A) and (2) to (4), 101305, 101702(b) and (c),
23 101901(1), 102103, and 102902 of this title shall not be construed or ap-
24 plied to limit or restrict the investigative jurisdiction of any Federal law en-
25 forcement agency other than the Service, and nothing shall be construed or
26 applied to affect any right of a State or political subdivision of a State to
27 exercise civil and criminal jurisdiction within the System.

28 **§ 102902. Crime prevention assistance**

29 (a) RECOMMENDATIONS FOR IMPROVEMENT.—The Secretary shall direct
30 the chief official responsible for law enforcement within the Service to—

31 (1) compile a list of System units with the highest rates of violent
32 crime;

33 (2) make recommendations concerning capital improvements, and
34 other measures, needed within the System to reduce the rates of violent
35 crime, including the rate of sexual assault; and

36 (3) publish the information required by paragraphs (1) and (2) in
37 the Federal Register.

38 (b) DISTRIBUTION OF FUNDS.—Based on the recommendations and list
39 issued pursuant to subsection (a), the Secretary shall distribute the funds
40 authorized by subsection (d) throughout the System. Priority shall be given
41 to areas with the highest rates of sexual assault.

1 (c) USE OF FUNDS.—Funds provided under this section may be used—

2 (1) to increase lighting within or adjacent to System units;

3 (2) to provide emergency phone lines to contact law enforcement or
4 security personnel in areas within or adjacent to System units;

5 (3) to increase security or law enforcement personnel within or adja-
6 cent to System units; or

7 (4) for any other project intended to increase the security and safety
8 of System units.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be ap-
10 propriated out of the Violent Crime Reduction Trust Fund not to exceed
11 \$10,000,000 for the Secretary to take all necessary actions to seek to re-
12 duce the incidence of violent crime in the System.

13 **Subchapter II—Emergency Assistance**

14 **§ 102911. Authority of Secretary to carry out certain activi-** 15 **ties**

16 To facilitate the administration of the System, the Secretary may render
17 emergency rescue, firefighting, and cooperative assistance to nearby law en-
18 forcement and fire prevention agencies and for related purposes outside the
19 System.

20 **§ 102912. Aid to visitors, grantees, permittees, or licencees** 21 **in emergencies**

22 (a) VISITORS.—The Secretary may aid visitors within a System unit in
23 an emergency, when no other source is available for the procurement of food
24 or supplies, by the sale, at cost, of food or supplies in quantities sufficient
25 to enable the visitors to reach safely a point where food or supplies can be
26 purchased. Receipts from the sales shall be deposited as a refund to the ap-
27 propriation current at the date of the deposit and shall be available for the
28 purchase of similar food or supplies.

29 (b) GRANTEES, PERMITTEES, AND LICENSEES.—The Secretary may in
30 an emergency, when no other source is available for the immediate procure-
31 ment of supplies, materials, or special services, aid grantees, permittees, or
32 licensees conducting operations for the benefit of the public in a System unit
33 by the sale, at cost, including transportation and handling, of supplies, ma-
34 terials, or special services as may be necessary to relieve the emergency and
35 ensure uninterrupted service to the public. Receipts from the sales shall be
36 deposited as a refund to the appropriation current at the date of the deposit
37 and shall be available for expenditure for System unit purposes.

38 **CHAPTER 1031—MINING ACTIVITY WITHIN SYSTEM** 39 **UNITS**

Sec.
103101. Findings and declaration of policy.

103102. Preservation and management of System units by Secretary; promulgation of regulations.
103103. Recordation of mining claims; publication of notice.
103104. Report on finding or notification of potential damage to natural and historical landmarks.
103105. Civil actions for just compensation by mining claim holders.
103106. Acquisition of land by Secretary.
103107. Financial disclosure by officer or employee of Secretary.

1 **§ 103101. Findings and declaration of policy**

2 The Congress finds and declares that—

3 (1) continued application of the mining laws of the United States to
4 System units to which the mining laws apply conflicts with the pur-
5 poses for which the System units were established; and

6 (2) all mining operations in System units should be conducted so as
7 to prevent or minimize damage to the environment and other resource
8 values.

9 **§ 103102. Preservation and management of System units by**
10 **Secretary; promulgation of regulations**

11 To preserve for the benefit of present and future generations the pristine
12 beauty of System units, and to further the purposes of chapter 1003 and
13 sections 100901(a), 100906, 102101, and 102102 of this title and the indi-
14 vidual organic Acts for the System units, all activities resulting from the
15 exercise of valid existing mineral rights on patented or unpatented mining
16 claims within any System unit shall be subject to such regulations pre-
17 scribed by the Secretary as the Secretary considers necessary or desirable
18 for the preservation and management of the System units.

19 **§ 103103. Recordation of mining claims; publication of no-**
20 **tice**

21 All mining claims under the Mining Law of 1872 (30 U.S.C. chapter 2,
22 sections 161 and 162, and chapters 12A and 16) that lie within the bound-
23 aries of System units that were not recorded with the Secretary within one
24 year after September 28, 1976, shall be conclusively presumed to be aban-
25 doned and shall be void. The recordation does not render valid any claim
26 that was not valid on September 28, 1976, or that becomes invalid there-
27 after.

28 **§ 103104. Report on finding or notification of potential dam-**
29 **age to natural and historical landmarks**

30 When the Secretary finds on the Secretary's own motion or on being noti-
31 fied in writing by an appropriate scientific, historical, or archaeological au-
32 thority that a district, site, building, structure, or object that has been
33 found to be nationally significant in illustrating natural history or the his-
34 tory of the United States and that has been designated as a natural or his-
35 toric landmark may be irreparably lost or destroyed in whole or in part by

1 any surface mining activity, including exploration for or removal or produc-
 2 tion of minerals or materials, the Secretary shall notify the person conduct-
 3 ing the activity and submit a report on the findings or notification, includ-
 4 ing the basis for the Secretary's finding that the activity may cause irrep-
 5 arable loss or destruction of a national landmark, to the Advisory Council
 6 on Historic Preservation, with a request for advice of the Council as to al-
 7 ternative measures that may be taken by the United States to mitigate or
 8 abate the activity.

9 **§ 103105. Civil actions for just compensation by mining**
 10 **claim holders**

11 The holder of any patented or unpatented mining claim subject to this
 12 chapter that believes the holder has suffered a loss by operation of this
 13 chapter, or by orders or regulations issued pursuant to this chapter, may
 14 bring a civil action in United States district court to recover just compensa-
 15 tion, which shall be awarded if the court finds that the loss constitutes a
 16 taking of property compensable under the Constitution.

17 **§ 103106. Acquisition of land by Secretary**

18 Nothing in this chapter shall be construed to limit the authority of the
 19 Secretary to acquire land and interests in land within the boundary of any
 20 System unit. The Secretary shall give prompt and careful consideration to
 21 any offer made by the owner of any valid right or other property in Glacier
 22 Bay National Monument, Death Valley National Monument, Organ Pipe
 23 Cactus National Monument, or Mount McKinley National Park to sell the
 24 right or other property if the owner notifies the Secretary that the con-
 25 tinued ownership of the right or property is causing, or would result in,
 26 undue hardship.

27 **§ 103107. Financial disclosure by officer or employee of Sec-**
 28 **retary**

29 (a) WRITTEN STATEMENTS.—Each officer or employee of the Secretary
 30 who—

31 (1) performs any function or duty under this chapter, or any Act
 32 amended by the Mining in the Parks Act (Public Law 94–429, 90 Stat.
 33 1342) concerning the regulation of mining in the System; and

34 (2) has any known financial interest—

35 (A) in any person subject to this chapter or any Act amended
 36 by the Mining in the Parks Act (Public Law 94–429, 90 Stat.
 37 1342); or

38 (B) in any person who holds a mining claim within the bound-
 39 ary of any System unit;

1 shall annually file with the Secretary a written statement concerning all
 2 such interests held by the officer or employee during the preceding calendar
 3 year. The statement shall be available to the public.

4 (b) MONITORING AND ENFORCEMENT PROCEDURES.—The Secretary
 5 shall—

6 (1) prescribe regulations that—

7 (A) define the term “known financial interest” for purposes of
 8 subsection (a); and

9 (B) establish the methods by which the requirement to file writ-
 10 ten statements specified in subsection (a) will be monitored and
 11 enforced, including appropriate provisions for the filing by the offi-
 12 cers and employees of the statements and the review by the Sec-
 13 retary of the statements; and

14 (2) submit to Congress on June 1 of each year a report with respect
 15 to the disclosures and the actions taken in regard to the disclosures
 16 during the preceding calendar year.

17 (c) EXEMPTIONS.—In the regulations prescribed under subsection (b), the
 18 Secretary may identify specific positions within the Department of the Inte-
 19 rior that are of a nonregulatory or nonpolicymaking nature and provide that
 20 officers or employees occupying those positions shall be exempt from the re-
 21 quirements of this section.

22 (d) CRIMINAL PENALTY.—An officer or employee who is subject to, and
 23 knowingly violates, this section or any regulation prescribed under this sec-
 24 tion shall be fined not more than \$2,500, imprisoned not more than one
 25 year, or both.

26 **CHAPTER 1033—LAND TRANSFERS**

Sec.

103301. Conveyance of property and interests in property in System units or related areas.

27 **§ 103301. Conveyance of property and interests in property** 28 **in System units or related areas**

29 (a) FREEHOLD AND LEASEHOLD INTERESTS.—With respect to any prop-
 30 erty acquired by the Secretary within a System unit or related area, except
 31 property within national parks or within national monuments of scientific
 32 significance, the Secretary may convey a freehold or leasehold interest in the
 33 property, subject to such terms and conditions as will ensure the use of the
 34 property in a manner that is, in the judgment of the Secretary, consistent
 35 with the purpose for which the System unit or related area was authorized
 36 by Congress. The Secretary shall convey the interest to the highest bidder,
 37 in accordance with such regulations as the Secretary may prescribe. The
 38 conveyance shall be at not less than the fair market value of the interest,
 39 as determined by the Secretary, except that if the conveyance is proposed

1 within 2 years after the property to be conveyed is acquired by the Sec-
 2 retary, the Secretary shall allow the last owner of record of the property
 3 30 days following the date on which the owner is notified by the Secretary
 4 in writing that the property is to be conveyed within which to notify the
 5 Secretary that the owner wishes to acquire the interest. On receiving the
 6 timely request, the Secretary shall convey the interest to the person, in ac-
 7 cordance with such regulations as the Secretary may prescribe, on payment
 8 or agreement to pay an amount equal to the highest bid price.

9 (b) EXCHANGE OF LAND.—

10 (1) IN GENERAL.—The Secretary may accept title to any non-Fed-
 11 eral property or interest in property within a System unit or related
 12 area under the Secretary's administration in exchange for any Feder-
 13 ally-owned property or interest under the Secretary's jurisdiction that
 14 the Secretary determines is suitable for exchange or other disposal and
 15 that is located in the same State as the non-Federal property to be ac-
 16 quired.

17 (2) EXCEPTION.—Timberland subject to harvest under a sustained
 18 yield program shall not be exchanged under paragraph (1).

19 (3) PUBLIC HEARING.—On request of a State or a political subdivi-
 20 sion thereof, or of a party in interest, prior to an exchange under this
 21 subsection the Secretary shall hold a public hearing in the area where
 22 the properties to be exchanged are located.

23 (4) VALUES OF PROPERTIES EXCHANGED.—The values of the prop-
 24 erties exchanged—

25 (A) shall be approximately equal; or

26 (B) if they are not approximately equal, shall be equalized by
 27 the payment of cash to the grantor from funds appropriated for
 28 the acquisition of land for the area, or to the Secretary, as the
 29 circumstances require.

30 (c) SOLID WASTE DISPOSAL OPERATIONS.—

31 (1) IN GENERAL.—To protect the air, land, water, and natural and
 32 cultural values of the System and the property of the United States
 33 in the System, no solid waste disposal site (including any site for the
 34 disposal of domestic or industrial solid waste) may be operated within
 35 the boundary of any System unit, other than—

36 (A) a site that was operating as of September 1, 1984; or

37 (B) a site used only for disposal of waste generated within that
 38 System unit so long as the site will not degrade any of the natural
 39 or cultural resources of the System unit.

40 (2) REGULATIONS.—The Secretary shall prescribe regulations to
 41 carry out this subsection, including reasonable regulations to mitigate

1 the adverse effects of solid waste disposal sites in operation as of Sep-
2 tember 1, 1984, on property of the United States.

3 (d) PROCEEDS CREDITED TO LAND AND WATER CONSERVATION
4 FUND.—The proceeds received from any conveyance under this section shall
5 be credited to the Land and Water Conservation Fund.

6 **CHAPTER 1035—APPROPRIATIONS AND ACCOUNTING**

Sec.

103501. Availability and use of appropriations.

103502. Appropriations authorized and available for certain purposes.

103503. Amounts provided by private entities for utility services.

103504. Recovery of costs associated with special use permits.

7 **§ 103501. Availability and use of appropriations**

8 (a) CREDITS OF RECEIPTS FOR MEALS AND QUARTERS FURNISHED
9 FEDERAL GOVERNMENT EMPLOYEES IN THE FIELD.—Cash collections and
10 payroll deductions made for meals and quarters furnished by the Service to
11 employees of the Federal Government in the field and to cooperating agen-
12 cies may be credited as a reimbursement to the current appropriation for
13 the administration of the System unit in which the accommodations are fur-
14 nished.

15 (b) AVAILABILITY FOR EXPENSE OF RECORDING DONATED LAND.—Ap-
16 propriations made for the Service shall be available for any expenses inci-
17 dent to the preparation and recording of title evidence covering land to be
18 donated to the United States for administration by the Service.

19 (c) USE OF FUNDS FOR LAW ENFORCEMENT AND EMERGENCIES.—

20 (1) IN GENERAL.—Funds, not to exceed \$250,000 per incident,
21 available to the Service may be used, with the approval of the Sec-
22 retary, to—

23 (A) maintain law and order in emergency and other unforeseen
24 law enforcement situations; and

25 (B) conduct emergency search and rescue operations in the Sys-
26 tem.

27 (2) REPLENISHMENT OF FUNDS.—If the Secretary expends funds
28 under paragraph (1), the funds shall be replenished by a supplemental
29 appropriation for which the Secretary shall make a request as promptly
30 as possible.

31 (d) CONTRIBUTION FOR ANNUITY BENEFITS.—

32 (1) IN GENERAL.—Necessary amounts are appropriated for reim-
33 bursement, pursuant to the Policemen and Firemen's Retirement and
34 Disability Act amendments of 1957 (Public Law 85-157, 71 Stat.
35 391), to the District of Columbia on a monthly basis for benefit pay-
36 ments by the District of Columbia to United States Park Police annu-
37 itants under section 12 of the Policemen and Firemen's Retirement

1 and Disability Act (ch. 433, 39 Stat. 718), to the extent that those
 2 payments exceed contributions made by active Park Police members
 3 covered under the Policemen and Firemen's Retirement and Disability
 4 Act.

5 (2) NONAVAILABILITY OF APPROPRIATIONS TO THE SERVICE.—Ap-
 6 propriations made to the Service are not available for the purpose of
 7 making reimbursements under paragraph (1).

8 (e) WATERPROOF FOOTWEAR.—Appropriations for the Service that are
 9 available for the purchase of equipment may be used for purchase of water-
 10 proof footwear, which shall be regarded and listed as System equipment.

11 **§ 103502. Appropriations authorized and available for cer-**
 12 **tain purposes**

13 Appropriations for the Service are authorized and are available for—

14 (1)(A) necessary protection of the area of federally owned land in the
 15 custody of the Service known as the Ocean Strip and Queets Corridor,
 16 adjacent to Olympic National Park, Washington;

17 (B) necessary repairs to the roads from Glacier Park Station
 18 through the Blackfeet Indian Reservation to the various points in the
 19 boundary line of Glacier National Park, Montana, and the international
 20 boundary;

21 (C) repair and maintenance of approximately 2.77 miles of road
 22 leading from United States Highway 187 to the north entrance of
 23 Grand Teton National Park, Wyoming;

24 (D) maintenance of approach roads through the Lassen National
 25 Forest leading to Lassen Volcanic National Park, California;

26 (E) maintenance and repair of the Generals Highway between the
 27 boundaries of Sequoia National Park, California, and the Grant Grove
 28 section of Kings Canyon National Park, California;

29 (F) maintenance of approximately 2.25 miles of roads comprising the
 30 portions of the Fresno-Kings Canyon approach road, Park Ridge Look-
 31 out Road, and Ash Mountain-Advance truck trail necessary to the ad-
 32 ministration and protection of Sequoia National Park and Kings Can-
 33 yon National Park;

34 (G) maintenance of the roads in the national forests leading out of
 35 Yellowstone National Park, Wyoming, Idaho, and Montana;

36 (H) maintenance of the road in the Stanislaus National Forest con-
 37 necting the Tioga Road with the Hetch Hetchy Road near Mather Sta-
 38 tion, Yosemite National Park, California;

39 (I) maintenance and repair of the approach road to the Little Big-
 40 horn Battlefield National Monument and the road connecting that
 41 monument with the Reno Monument site, Montana; and

1 (J) repair and maintenance of the class C road lying between the
2 terminus of F.A. 383 at the east boundary of Coronado National For-
3 est and the point where that class C road enters Coronado National
4 Memorial in the vicinity of Montezuma Pass, approximately 5.3 miles;

5 (2) administration, protection, improvement, and maintenance of
6 areas, under the jurisdiction of other Federal agencies, that are devoted
7 to recreational use pursuant to cooperative agreements;

8 (3) necessary local transportation and subsistence in kind of individ-
9 uals selected for employment or as cooperators, serving without other
10 compensation, while attending fire protection training camps;

11 (4) administration, protection, maintenance, and improvement of the
12 Chesapeake and Ohio Canal;

13 (5) educational lectures in or in the vicinity of and with respect to
14 System units, and services of field employees in cooperation with such
15 nonprofit scientific and historical societies engaged in educational work
16 in System units as the Secretary may designate;

17 (6) travel expenses of employees attending—

18 (A) Federal Government camps for training in forest fire pre-
19 vention and suppression;

20 (B) the Federal Bureau of Investigation National Police Acad-
21 emy; and

22 (C) Federal, State, or municipal schools for training in building
23 fire prevention and suppression;

24 (7) investigation and establishment of water rights in accordance
25 with local custom, laws, and decisions of courts, including the acquisi-
26 tion of water rights or of land or interests in land or rights-of-way for
27 use and protection of water rights necessary or beneficial in the admin-
28 istration and public use of System units;

29 (8) acquisition of rights-of-way and construction and maintenance of
30 a water supply line partly outside the boundaries of Mesa Verde Na-
31 tional Park;

32 (9) official telephone service in the field in the case of official tele-
33 phones installed in private houses when authorized under regulations
34 established by the Secretary; and

35 (10) provision of transportation for children in nearby communities
36 to and from any System unit used in connection with organized recre-
37 ation and interpretive programs of the Service.

1 **§ 103503. Amounts provided by private entities for utility**
 2 **services**

3 Notwithstanding any other provision of law, amounts provided to the
 4 Service by private entities for utility services shall be credited to the appro-
 5 priate account and remain available until expended.

6 **§ 103504. Recovery of costs associated with special use per-**
 7 **mits**

8 Notwithstanding any other provision of law, the Service may recover all
 9 costs of providing necessary services associated with special use permits.
 10 The reimbursements shall be credited to the appropriation current at that
 11 time.

12 **CHAPTER 1037—NATIONAL MILITARY PARKS**

Sec.

- 103701. Military maneuvers.
- 103702. Camps for military instruction.
- 103703. Performance of duties of commissions.
- 103704. Recovery of land withheld.
- 103705. Travel expenses incident to study of battlefields.
- 103706. Studies.
- 103707. Criminal penalties.

13 **§ 103701. Military maneuvers**

14 To obtain practical benefits of great value to the country from the es-
 15 tablishment of national military parks, the parks and their approaches are
 16 declared to be national fields for military maneuvers for the Regular Army
 17 or Regular Air Force and the National Guard or militia of the States. Na-
 18 tional military parks shall be opened for those purposes only in the discre-
 19 tion of the Secretary, and under such regulations as the Secretary may pre-
 20 scribe.

21 **§ 103702. Camps for military instruction**

22 (a) ASSEMBLING OF FORCES AND DETAILING OF INSTRUCTORS.—The
 23 Secretary of the Army or Secretary of the Air Force, within the limits of
 24 appropriations that may be available for that purpose, may assemble in
 25 camp at such season of the year and for such period as the Secretary of
 26 the Army or Secretary of the Air Force may designate, at the field of mili-
 27 tary maneuvers, such portions of the military forces of the United States
 28 as the Secretary of the Army or Secretary of the Air Force may think best,
 29 to receive military instruction there. The Secretary of the Army or Secretary
 30 of the Air Force may detail instructors from the Regular Army or Regular
 31 Air Force, respectively, for those forces during their exercises.

32 (b) REGULATIONS.—The Secretary of the Army or Secretary of the Air
 33 Force may prescribe regulations governing the assembling of the National
 34 Guard or militia of the States on the maneuvering grounds.

1 **§ 103703. Performance of duties of commissions**

2 The duties of commissions in charge of national military parks shall be
3 performed under the direction of the Secretary.

4 **§ 103704. Recovery of land withheld**

5 (a) CIVIL ACTION.—The United States may bring a civil action in the
6 courts of the United States against a person to whom land lying within a
7 national military park has been leased that refuses to give up possession of
8 the land to the United States after the termination of the lease, and after
9 possession has been demanded for the United States by the park super-
10 intendent, or against a person retaining possession of land lying within the
11 boundary of a national military park that the person has sold to the United
12 States for park purposes and received payment therefor, after possession of
13 the land has been demanded for the United States by the park superintend-
14 ent, to recover possession of the land withheld. The civil action shall be
15 brought according to the statutes of the State in which the national military
16 park is situated.

17 (b) TRESPASS.—A person described in subsection (a) shall be guilty of
18 trespass.

19 **§ 103705. Travel expenses incident to study of battlefields**

20 Mileage of officers of the Army and actual expenses of civilian employees
21 traveling on duty in connection with the studies, surveys, and field investiga-
22 tions of battlefields shall be paid from the appropriations made to meet ex-
23 penses for those purposes.

24 **§ 103706. Studies**

25 (a) STUDY OF BATTLEFIELDS FOR COMMEMORATIVE PURPOSES.—The
26 Secretary of the Army may have made studies and investigations and, where
27 necessary, surveys of all battlefields within the continental limits of the
28 United States on which troops of the United States or of the original 13
29 colonies have been engaged against a common enemy, with a view to prepar-
30 ing a general plan and such detailed projects as may be required for prop-
31 erly commemorating such battlefields or other adjacent points of historic
32 and military interest.

33 (b) INCLUSION OF ESTIMATE OF COST OF PROJECTED SURVEYS IN AP-
34 PROPRIATION ESTIMATES.—The Secretary shall include annually in the De-
35 partment of the Interior appropriation estimates a list of the battlefields for
36 which surveys or other field investigations are planned for the fiscal year
37 in question, with the estimated cost of making each survey or other field
38 investigation.

39 (c) PURCHASE OF REAL ESTATE FOR NATIONAL MILITARY PARK PUR-
40 POSES.—No real estate shall be purchased for national military park pur-
41 poses by the Federal Government unless a report on the real estate has been

1 made by the Secretary through the President to Congress under section
2 103724 of this title.

3 (d) REPORT TO CONGRESS.—The Secretary annually shall submit
4 through the President to Congress a detailed report of progress made under
5 this subchapter, with recommendations for further operations.

6 **§ 103707. Criminal penalties**

7 (a) OFFENSES RELATING TO STRUCTURES AND VEGETATION.—A person
8 that willfully destroys, mutilates, defaces, injures, or removes any monu-
9 ment, statue, marker, guidepost, or other structure, or that willfully de-
10 stroys, cuts, breaks, injures, or removes any tree, shrub, or plant within a
11 national military park shall be fined not less than \$10 nor more than
12 \$1,000 for each monument, statue, marker, guidepost, or other structure,
13 tree, shrub, or plant destroyed, defaced, injured, cut, or removed, impris-
14 oned for not less than 15 days and not more than one year, or both.

15 (b) TRESPASSING TO HUNT OR SHOOT.—An individual who trespasses on
16 a national military park to hunt or shoot, or hunts game of any kind on
17 the national military park with gun or dog, or sets a trap or net or other
18 device in the park to hunt or catch game of any kind, shall be fined not
19 more than \$1,000, imprisoned not less than 5 days or more than 30 days,
20 or both.

21 **CHAPTER 1039—MISCELLANEOUS**

Sec.

103901. National Capital region arts and cultural affairs.

103902. National Park System Advisory Board.

103903. National Park Service Advisory Council.

103904. Protecting the right of individuals to bear arms.

103905. Limitation on extension or establishment of national parks in Wyoming.

103906. Donations of land near or adjacent to national forest in North Carolina for System
unit purposes.

22 **§ 103901. National Capital region arts and cultural affairs**

23 (a) ESTABLISHMENT.—There is under the direction of the Service a pro-
24 gram to support and enhance artistic and cultural activities in the National
25 Capital region.

26 (b) GRANT ELIGIBILITY.—

27 (1) ELIGIBLE ORGANIZATIONS.—Eligibility for grants shall be lim-
28 ited to organizations—

29 (A) that are of demonstrated national significance; and

30 (B) that meet at least 2 of the criteria stated in paragraph (2).

31 (2) CRITERIA.—The criteria referred to in paragraph (1) are the fol-
32 lowing:

33 (A) The organization has an annual operating budget in excess
34 of \$1,000,000.

1 (B) The organization has an annual audience or visitation of at
2 least 200,000 people.

3 (C) The organization has a paid staff of at least 100 individ-
4 uals.

5 (D) The organization is eligible under 200102(5) of this title.

6 (3) ORGANIZATIONS NOT ELIGIBLE.—Public or private colleges and
7 universities are not eligible for grants under the program under this
8 section.

9 (e) USE OF GRANTS.—Grants awarded under this section may be used
10 to support general operations and maintenance, security, or special projects.
11 No organization may receive a grant in excess of \$500,000 in a single year.

12 (d) RESPONSIBILITIES OF DIRECTOR.—The Director shall—

13 (1) establish an application process;

14 (2) appoint a review panel of 5 qualified individuals, at least a ma-
15 jority of whom reside in the National Capital region; and

16 (3) develop other program guidelines and definitions as required.

17 (e) FORD'S THEATER AND WOLF TRAP NATIONAL PARK FOR THE PER-
18 FORMING ARTS.—The contractual amounts required for the support of
19 Ford's Theater and Wolf Trap National Park for the Performing Arts shall
20 be available within the amount provided in this section without regard to
21 any other provision of this section.

22 **§ 103902. National Park System Advisory Board**

23 (a) DEFINITION.—In this section, the term “Board” means the National
24 Park System Advisory Board established under subsection (b).

25 (b) ESTABLISHMENT AND PURPOSE.—There is a National Park System
26 Advisory Board, whose purpose is to advise the Director on matters relating
27 to the Service, the System, and programs administered by the Service. The
28 Board shall advise the Director on matters submitted to the Board by the
29 Director as well as any other issues identified by the Board.

30 (c) MEMBERSHIP.—

31 (1) APPOINTMENT AND TERM OF OFFICE.—Members of the Board
32 shall be appointed on a staggered term basis by the Secretary for a
33 term not to exceed 4 years and shall serve at the pleasure of the Sec-
34 retary.

35 (2) COMPOSITION.—The Board shall be comprised of no more than
36 12 persons, appointed from among citizens of the United States having
37 a demonstrated commitment to the mission of the Service. Board mem-
38 bers shall be selected to represent various geographic regions, including
39 each of the administrative regions of the Service. At least 6 of the
40 members shall have outstanding expertise in one or more of the follow-
41 ing fields: history, archaeology, anthropology, historical or landscape

1 architecture, biology, ecology, geology, marine science, or social science.
2 At least 4 of the members shall have outstanding expertise and prior
3 experience in the management of national or State parks or protected
4 areas, or national or cultural resources management. The remaining
5 members shall have outstanding expertise in one or more of the areas
6 described above or in another professional or scientific discipline, such
7 as financial management, recreation use management, land use plan-
8 ning, or business management, important to the mission of the Service.
9 At least one individual shall be a locally elected official from an area
10 adjacent to a park.

11 (3) VACANCY.—Any vacancy in the Board shall not affect its powers,
12 but shall be filled in the same manner in which the original appoint-
13 ment was made.

14 (4) COMPENSATION.—All members of the Board shall be reimbursed
15 for travel and per diem in lieu of subsistence expenses during the per-
16 formance of duties of the Board while away from home or their regular
17 place of business, in accordance with subchapter I of chapter 57 of title
18 5. With the exception of travel and per diem, a member of the Board
19 who otherwise is an officer or employee of the United States Govern-
20 ment shall serve on the Board without additional compensation.

21 (d) DUTIES AND POWERS OF BOARD.—

22 (1) ADOPT RULES.—The Board may adopt such rules as may be nec-
23 essary to establish its procedures and to govern the manner of its oper-
24 ations, organization, and personnel.

25 (2) ADVICE AND RECOMMENDATIONS.—The Board shall advise the
26 Secretary on matters relating to the System, to other related areas,
27 and to the administration of chapter 2001 of this title, including mat-
28 ters submitted to it for consideration by the Secretary, but it shall not
29 be required to provide recommendations as to the suitability or desir-
30 ability of surplus real and related personal property for use as an his-
31 toric monument. The Board shall also provide recommendations on the
32 designation of national historic landmarks and national natural land-
33 marks. The Board is strongly encouraged to consult with the major
34 scholarly and professional organizations in the appropriate disciplines
35 in making the recommendations.

36 (3) ACTIONS ON REQUEST OF DIRECTOR.—On request of the Direc-
37 tor, the Board is authorized to—

- 38 (A) hold such hearings and sit and act at such times;
39 (B) take such testimony;
40 (C) have such printing and binding done;
41 (D) enter into such contracts and other arrangements;

1 (E) make such expenditures; and

2 (F) take such other actions

3 as the Board may consider advisable.

4 (4) OATHS OR AFFIRMATIONS.—Any member of the Board may ad-
5 minister oaths or affirmations to witnesses appearing before the Board.

6 (5) COMMITTEES AND SUBCOMMITTEES.—The Board may establish
7 committees or subcommittees. The subcommittees or committees shall
8 be chaired by a voting member of the Board.

9 (6) USE OF MAILS.—The Board may use the United States mails in
10 the same manner and under the same conditions as other departments
11 and agencies in the United States.

12 (e) STAFF.—The Secretary may hire 2 full-time staffers to meet the
13 needs of the Board.

14 (f) FEDERAL LAW NOT APPLICABLE TO SERVICE.—Service as a member
15 of the Board shall not be deemed service or employment bringing the indi-
16 vidual within the provisions of any Federal law relating to conflicts of inter-
17 est or otherwise imposing restrictions, requirements, or penalties relating to
18 the employment of individuals, the performance of services, or the payment
19 or receipt of compensation in connection with claims, proceedings, or mat-
20 ters involving the United States. Service as a member or an employee of
21 the Board shall not be deemed service in an appointive or elective position
22 in the Federal Government for purposes of section 8344 of title 5 or com-
23 parable provisions of Federal law.

24 (g) COOPERATION OF FEDERAL AGENCIES.—

25 (1) INFORMATION.—The Board may secure directly from any office,
26 department, agency, establishment, or instrumentality of the Federal
27 Government such information as the Board may require for the pur-
28 pose of this section, and each office, department, agency, establish-
29 ment, or instrumentality shall furnish, to the extent permitted by law,
30 the information, suggestions, estimates, and statistics directly to the
31 Board, on request made by a member of the Board.

32 (2) FACILITIES AND SERVICES.—On request of the Board, the head
33 of any Federal department, agency, or instrumentality may make any
34 of the facilities and services of the department, agency, or instrumen-
35 tality available to the Board, on a nonreimbursable basis, to assist the
36 Board in carrying out its duties under this section.

37 (h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Com-
38 mittee Act (5 U.S.C. App.), with the exception of section 14(b), applies to
39 the Board.

40 (i) TERMINATION.—The Board continues to exist until January 1, 2010.

1 **§ 103903. National Park Service Advisory Council**

2 (a) DEFINITIONS.—In this section:

3 (1) BOARD.—The term “Board” means the National Park System
4 Advisory Board established under section 103902 of this title.

5 (2) COUNCIL.—The term “Council” means the National Park Service
6 Advisory Council established under subsection (b).

7 (b) ESTABLISHMENT AND PURPOSE.—There is a National Park Service
8 Advisory Council that shall provide advice and counsel to the Board.

9 (c) MEMBERSHIP.—

10 (1) ELIGIBILITY.—Membership on the Council shall be limited to in-
11 dividuals whose term on the Board has expired. Those individuals may
12 serve as long as they remain active except that not more than 12 mem-
13 bers may serve on the Council at any one time.

14 (2) COMPENSATION.—Members of the Council shall receive no salary
15 but may be paid expenses incidental to travel when engaged in dis-
16 charging their duties as members.

17 (d) VOTING RESTRICTION.—Members of the Council shall not have a vote
18 on the Board.

19 **§ 103904. Protecting the right of individuals to bear arms**

20 (a) FINDINGS.—Congress finds the following:

21 (1) The Second Amendment to the Constitution provides that “the
22 right of the people to keep and bear Arms, shall not be infringed”.

23 (2) Section 2.4(a)(1) of title 36, Code of Federal Regulations, pro-
24 vides that “except as otherwise provided in this section and parts 7
25 (special regulations) and 13 (Alaska regulations), the following are pro-
26 hibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon,
27 trap or net (iii) Using a weapon, trap or net”.

28 (3) The regulations described in paragraph (2) prevent individuals
29 complying with Federal and State laws from exercising the Second
30 amendment rights of the individuals while at System units.

31 (4) The existence of different laws relating to the transportation and
32 possession of firearms at different System units entrapped law-abiding
33 gun owners while at System units.

34 (5) Although the Bush administration issued new regulations relat-
35 ing to the Second Amendment rights of law-abiding citizens in System
36 units that went into effect on January 9, 2009—

37 (A) on March 19, 2009, the United States District Court for
38 the District of Columbia granted a preliminary injunction with re-
39 spect to the implementation and enforcement of the new regula-
40 tions; and

41 (B) the new regulations—

- 1 (i) are under review by the Obama administration; and
 2 (ii) may be altered.

3 (6) Congress needs to weigh in on the new regulations to ensure that
 4 unelected bureaucrats and judges cannot again override the Second
 5 Amendment rights of law-abiding citizens on 83,600,000 acres of Sys-
 6 tem land.

7 (7) Federal laws should make it clear that the Second amendment
 8 rights of an individual at a System unit should not be infringed.

9 (b) PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS IN SYS-
 10 TEM UNITS.—The Secretary shall not promulgate or enforce any regula-
 11 tion that prohibits an individual from possessing a firearm, including an as-
 12 sembled or functional firearm, in any System unit if—

13 (1) the individual is not otherwise prohibited by law from possessing
 14 the firearm; and

15 (2) the possession of the firearm is in compliance with the law of
 16 the State in which the System Unit is located.

17 **§ 103905. Limitation on extension or establishment of na-**
 18 **tional parks in Wyoming**

19 No extension or establishment of national parks in Wyoming may be
 20 undertaken except by express authorization of Congress.

21 **§ 103906. Donations of land near or adjacent to national for-**
 22 **est in North Carolina for System unit purposes**

23 The Secretary may accept for System unit purposes any land and right-
 24 of-way, including the Grandfather Mountain, near or adjacent to the na-
 25 tional forest in western North Carolina.

26 **DIVISION B—OUTDOOR RECREATION**
 27 **PROGRAMS**

28 **CHAPTER 1051—COORDINATION OF PROGRAMS**

Sec.

105101. Definitions.

105102. Findings and declaration of policy.

105103. Powers and duties of Secretary.

105104. Consultations of Secretary with administrative officers; execution of administrative responsibilities in conformity with nationwide plan.

29 **§ 105101. Definitions**

30 As used in this chapter:

31 (1) STATE.—The term “State” may, to the extent practicable, in-
 32 clude Puerto Rico, the Virgin Islands, Guam, American Samoa, and the
 33 Northern Mariana Islands.

34 (2) UNITED STATES.—The term “United States”—

35 (A) shall include the District of Columbia; and

1 (B) may, to the extent practicable, include Puerto Rico, the Vir-
2 gin Islands, Guam, American Samoa, and the Northern Mariana
3 Islands.

4 **§ 105102. Findings and declaration of policy**

5 Congress finds and declares it to be desirable that—

6 (1) all American people of present and future generations be assured
7 adequate outdoor recreation resources; and

8 (2) it is desirable for all levels of government and private interests
9 to take prompt and coordinated action to the extent practicable without
10 diminishing or affecting their respective powers and functions to con-
11 serve, develop, and utilize those resources for the benefit and enjoyment
12 of the American people.

13 **§ 105103. Powers and duties of Secretary**

14 To carry out this chapter, the Secretary may perform the following func-
15 tions and activities:

16 (1) INVENTORY AND EVALUATION.—The Secretary may prepare and
17 maintain a continuing inventory and evaluation of outdoor recreation
18 needs and resources of the United States.

19 (2) CLASSIFICATION SYSTEM.—The Secretary may prepare a system
20 for classification of outdoor recreation resources to assist in the effec-
21 tive and beneficial use and management of such resources.

22 (3) RECREATION PLAN.—The Secretary may formulate and maintain
23 a comprehensive nationwide outdoor recreation plan, taking into consid-
24 eration the plans of the various Federal agencies, States, and their po-
25 litical subdivisions. The plan shall set forth the needs and demands of
26 the public for outdoor recreation and the current and foreseeable avail-
27 ability in the future of outdoor recreation resources to meet those
28 needs. The plan shall identify critical outdoor recreation problems, rec-
29 ommend solutions, and recommend desirable actions to be taken at
30 each level of government and by private interests. The Secretary shall
31 submit the plan to the President for transmittal to Congress. Revisions
32 of the plan shall be similarly transmitted at succeeding 5-year intervals.
33 When a plan or revision is transmitted to the Congress, the Secretary
34 shall transmit copies to the chief executive officers of the States.

35 (4) TECHNICAL ASSISTANCE AND ADVICE.—The Secretary may pro-
36 vide technical assistance and advice to and cooperate with States, polit-
37 ical subdivisions, and private interests, including nonprofit organiza-
38 tions, with respect to outdoor recreation.

39 (5) INTERSTATE AND REGIONAL COOPERATION.—The Secretary may
40 encourage interstate and regional cooperation in the planning, acquisi-
41 tion, and development of outdoor recreation resources.

1 (6) RESEARCH, INFORMATION, AND EDUCATION PROGRAMS AND AC-
2 TIVITIES.—The Secretary may—

3 (A) sponsor, engage in, and assist in research relating to out-
4 door recreation, directly or by contract or cooperative agreements,
5 and make payments for such purposes without regard to the limi-
6 tations of section 3324(a) and (b) of title 31 concerning advances
7 of funds when the Secretary considers such action to be in the
8 public interest;

9 (B) undertake studies and assemble information concerning out-
10 door recreation, directly or by contract or cooperative agreement,
11 and disseminate the information without regard to section 3204 of
12 title 39; and

13 (C) cooperate with educational institutions and others to assist
14 in establishing education programs and activities and to encourage
15 public use and benefits from outdoor recreation.

16 (7) COOPERATION AND COORDINATION WITH FEDERAL DEPART-
17 MENTS AND AGENCIES.—

18 (A) IN GENERAL.—The Secretary may—

19 (i) cooperate with and provide technical assistance to Fed-
20 eral departments and agencies and obtain from them informa-
21 tion, data, reports, advice, and assistance that are needed and
22 can reasonably be furnished in carrying out the purposes of
23 this chapter; and

24 (ii) promote coordination of Federal plans and activities
25 generally relating to outdoor recreation.

26 (B) FUNDING.—Any department or agency furnishing advice or
27 assistance under this paragraph may expend its own funds for
28 those purposes, with or without reimbursement, as may be agreed
29 to by that department or agency.

30 (8) DONATIONS.—The Secretary may accept and use donations of
31 money, property, personal services, or facilities for the purposes of this
32 chapter.

33 **§ 105104. Consultations of Secretary with administrative of-**
34 **ficers; execution of administrative responsibilities**
35 **in conformity with nationwide plan**

36 To carry out the policy declared in section 105102 of this title, the heads
37 of Federal departments and independent agencies having administrative re-
38 sponsibility over activities or resources the conduct or use of which is perti-
39 nent to fulfillment of that policy shall, individually or as a group—

40 (1) consult with and be consulted by the Secretary from time to time
41 both with respect to their conduct of those activities and their use of

1 those resources and with respect to the activities that the Secretary
 2 carries on under authority of this chapter which are pertinent to their
 3 work; and

4 (2) carry out that responsibility in general conformance with the na-
 5 tionwide plan authorized under section 105103(3) of this title.

6 **CHAPTER 1053—LAND AND WATER CONSERVATION**
 7 **FUND**

Sec.

- 105301. Purposes.
- 105302. Definitions.
- 105303. Establishment of Land and Water Conservation Fund.
- 105304. Appropriations for expenditure of Fund amounts.
- 105305. Admission and special recreation use fees.
- 105306. Commercial filming.
- 105307. Statement of estimated requirements.
- 105308. Financial assistance to States.
- 105309. Allocation of Fund amounts for Federal purposes.
- 105310. Availability of Fund amounts for publicity purposes.
- 105311. Contracts for acquisition of land and water.
- 105312. Contracts for options to acquire land and water in System.
- 105313. Transfers to and from Fund.

8 **§ 105301. Purposes**

9 The purposes of this chapter are—

10 (1) to assist in preserving, developing, and ensuring accessibility to
 11 all citizens of the United States of present and future generations and
 12 visitors who are lawfully present within the boundaries of the United
 13 States such quality and quantity of outdoor recreation resources as
 14 may be available and are necessary and desirable for individual active
 15 participation in such recreation; and

16 (2) to strengthen the health and vitality of the citizens of the United
 17 States by—

18 (A) providing funds for and authorizing Federal assistance to
 19 the States in planning, acquisition, and development of needed
 20 land and water areas and facilities; and

21 (B) providing funds for the Federal acquisition and development
 22 of certain land and other areas.

23 **§ 105302. Definitions**

24 In this chapter:

25 (1) **FUND.**—The term “Fund” means the Land and Water Con-
 26 servation Fund established under section 105303 of this title.

27 (2) **STATE.**—The term “State” means a State, the District of Co-
 28 lumbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and
 29 the Northern Mariana Islands.

1 **§ 105303. Establishment of Land and Water Conservation**
 2 **Fund**

3 (a) ESTABLISHMENT.—There is established in the Treasury the Land
 4 and Water Conservation Fund.

5 (b) DEPOSITS.—During the period ending September 30, 2015, there
 6 shall be deposited in the Fund the following revenues and collections:

7 (1) All proceeds (except so much thereof as may be otherwise obli-
 8 gated, credited, or paid under authority of the provisions of law set
 9 forth in section 572(a) or 574(a) to (c) of title 40 or under authority
 10 of any appropriation Act that appropriates an amount, to be derived
 11 from proceeds from the transfer of excess property and the disposal of
 12 surplus property, for necessary expenses, not otherwise provided for, in-
 13 cident to the utilization and disposal of excess and surplus property)
 14 received from any disposal of surplus real property and related personal
 15 property under chapter 5 of title 40, notwithstanding any provision of
 16 law that such proceeds shall be credited to miscellaneous receipts of the
 17 Treasury. Nothing in this chapter shall affect existing laws or regula-
 18 tions concerning disposal of real or personal surplus property to
 19 schools, hospitals, and States and their political subdivisions.

20 (2) The amounts provided for in section 105313 of this title.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—In addition to the sum of the revenues and collec-
 23 tions estimated by the Secretary to be deposited in the Fund pursuant
 24 to this section, there are authorized to be appropriated annually to the
 25 Fund out of any money in the Treasury not otherwise appropriated
 26 such amounts as are necessary to make the income of the Fund not
 27 less than \$900,000,000 for each fiscal year through September 30,
 28 2015.

29 (2) RECEIPTS UNDER OUTER CONTINENTAL SHELF LANDS ACT.—To
 30 the extent that amount appropriated under paragraph (1) are not suffi-
 31 cient to make the total annual income of the Fund equivalent to the
 32 amounts provided in paragraph (1), an amount sufficient to cover the
 33 remainder shall be credited to the Fund from revenues due and payable
 34 to the United States for deposit in the Treasury as miscellaneous re-
 35 cepts under the Outer Continental Shelf Lands Act (43 U.S.C. 1331
 36 et seq.).

37 (3) AVAILABILITY OF DEPOSITS.—Notwithstanding section 105303
 38 of this title, money deposited in the Fund under this subsection shall
 39 remain in the Fund until appropriated by Congress to carry out this
 40 chapter.

1 **§ 105304. Appropriations for expenditure of Fund amounts**

2 Amounts deposited in the Fund shall be available for expenditure for the
3 purposes of this chapter only when appropriated therefor. The appropria-
4 tions may be made without fiscal-year limitation. Amounts made available
5 for obligation or expenditure from the Fund may be obligated or expended
6 only as provided in this chapter.

7 **§ 105305. Admission and special recreation use fees**

8 (a) SYSTEM UNITS AT WHICH ENTRANCE FEES OR ADMISSIONS FEES
9 CANNOT BE COLLECTED.—

10 (1) WITHHOLDING OF AMOUNTS.—Notwithstanding section 107 of
11 the Department of the Interior and Related Agencies Appropriations
12 Act, 1998 (Public Law 105–83, 111 Stat. 1561), the Secretary shall
13 withhold from the special account under section 807(a) of the Federal
14 Lands Recreation Enhancement Act (16 U.S.C. 6806(a)) 100 percent
15 of the fees and charges collected in connection with any System unit
16 at which entrance fees or admission fees cannot be collected by reason
17 of deed restrictions.

18 (2) USE OF AMOUNTS.—Amounts withheld under paragraph (1) shall
19 be retained by the Secretary and shall be available, without further ap-
20 propriation, for expenditure by the Secretary for the System unit with
21 respect to which the amounts were collected for the purposes of en-
22 hancing the quality of the visitor experience, protection of resources,
23 repair and maintenance, interpretation, signage, habitat or facility en-
24 hancement, resource preservation, annual operation (including fee col-
25 lection), maintenance, and law enforcement.

26 (b) ALLOCATION OF FUNDS TO SYSTEM UNITS.—

27 (1) ALLOCATION OF FUNDS ON BASIS OF NEED.—Ten percent of the
28 funds made available to the Director under subsection (a) in each fiscal
29 year shall be allocated among System units on the basis of need in a
30 manner to be determined by the Director.

31 (2) ALLOCATION OF FUNDS BASED ON EXPENSES AND BASED ON
32 FEES COLLECTED.—

33 (A) IN GENERAL.—Forty percent of the funds made available
34 to the Director under subsection (a) in each fiscal year shall be
35 allocated among System units in accordance with subparagraph
36 (B) of this subsection and 50 percent shall be allocated in accord-
37 ance with subparagraph (C).

38 (B) ALLOCATION BASED ON EXPENSES.—The amount allocated
39 to each System unit under this paragraph for each fiscal year
40 based on expenses shall be a fraction of the total allocation to all
41 System units under this paragraph. The fraction for each System

1 unit shall be determined by dividing the operating expenses at that
2 System unit during the prior fiscal year by the total operating ex-
3 penses at all System units during the prior fiscal year.

4 (C) ALLOCATION BASED ON FEES COLLECTED.—The amount
5 allocated to each System unit under this paragraph for each fiscal
6 year based on fees collected shall be a fraction of the total alloca-
7 tion to all System units under this paragraph. The fraction for
8 each System unit shall be determined by dividing the user fees and
9 admission fees collected under this section at that System unit
10 during the prior fiscal year by the total of user fees and admission
11 fees collected under this section at all System units during the
12 prior fiscal year.

13 (3) AVAILABILITY OF AMOUNTS.—Amounts allocated under this sub-
14 section to any System unit for any fiscal year and not expended in that
15 fiscal year shall remain available for expenditure at that System unit
16 until expended.

17 (c) SELLING OF PERMITS.—

18 (1) AUTHORITY TO SELL PERMITS.—When authorized by the Sec-
19 retary, volunteers at System units may sell permits and collect fees au-
20 thorized or established pursuant to this section. The Secretary shall en-
21 sure that the volunteers have adequate training regarding—

22 (A) the sale of permits and the collection of fees;

23 (B) the purposes and resources of the System units in which
24 they are assigned; and

25 (C) the provision of assistance and information to visitors to the
26 System unit.

27 (2) SURETY BOND REQUIRED.—The Secretary shall require a surety
28 bond for any such volunteer performing services under this subsection.
29 Funds available to the Service may be used to cover the cost of the
30 surety bond. The Secretary may enter into arrangements with qualified
31 public or private entities pursuant to which the entities may sell (with-
32 out cost to the United States) annual admission permits (including
33 Golden Eagle Passports) at any appropriate location. The arrange-
34 ments shall require each such entity to reimburse the United States for
35 the full amount to be received from the sale of the permits at or before
36 the Secretary delivers the permits to the entity for sale.

37 (d) CHARGE FOR TRANSPORTATION PROVIDED BY SERVICE FOR VIEWING
38 SYSTEM UNITS.—

39 (1) CHARGE WHEN TRANSPORTATION PROVIDED.—Where the Ser-
40 vice provides transportation to view all or a portion of any System unit,

1 the Director may impose a charge for the service in lieu of an admis-
2 sion fee under this section.

3 (2) RETENTION OF CHARGE AND USE OF RETAINED AMOUNT.—Not-
4 withstanding any other provision of law, half of the charges imposed
5 under paragraph (1) shall be retained by the System unit at which the
6 service was provided. The remainder shall be deposited in the same
7 manner as receipts from fees collected pursuant to this section. Fifty
8 percent of the amount retained shall be expended only for maintenance
9 of transportation systems at the System unit where the charge was im-
10 posed. The remaining 50 percent of the retained amount shall be ex-
11 pended only for activities related to resource protection at those System
12 units.

13 (e) ADMISSION FEES.—Where the primary public access to a System unit
14 is provided by a concessioner, the Secretary may charge an admission fee
15 at the System unit only to the extent that the total of the fee charged by
16 the concessioner for access to the System unit and the admission fee does
17 not exceed the maximum amount of the admission fee that could otherwise
18 be imposed.

19 (f) COMMERCIAL TOUR USE FEES.—

20 (1) ESTABLISHMENT.—In the case of each System unit for which an
21 admission fee is charged under this section, the Secretary shall estab-
22 lish a commercial tour use fee to be imposed on each vehicle entering
23 the System unit for the purpose of providing commercial tour services
24 within the System unit.

25 (2) AMOUNT.—The Secretary shall establish the amount of fee per
26 entry as follows:

27 (A) Twenty-five dollars per vehicle with a passenger capacity of
28 25 individual or less.

29 (B) Fifty dollars per vehicle with a passenger capacity of more
30 than 25 individuals.

31 (3) ADJUSTMENTS.—The Secretary may periodically make reason-
32 able adjustments to the commercial tour use fee imposed under this
33 subsection.

34 (4) NONAPPLICABILITY.—The commercial tour use fee imposed
35 under this subsection shall not apply to the following:

36 (A) Any vehicle transporting organized school groups or outings
37 conducted for educational purposes by schools or other bona fide
38 educational institutions.

39 (B) Any vehicle entering a System unit pursuant to a contract
40 issued under subchapter II of chapter 1019 of this title.

1 (5) APPLICABILITY.—This subsection shall apply to aircraft entering
2 the airspace of—

3 (A) Haleakalā Crater, Crater Cabins, the Scientific Research
4 Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated
5 tourist viewpoint in Haleakalā National Park or of Grand Canyon
6 National Park; or

7 (B) any other System unit for the specific purpose of providing
8 commercial tour services if the Secretary determines that the level
9 of the services is equal to or greater than the level at the System
10 units specified in subparagraph (A).

11 **§ 105306. Commercial filming**

12 (a) COMMERCIAL FILMING FEE.—

13 (1) IN GENERAL.—The Secretary shall require a permit and shall es-
14 tablish a reasonable fee for commercial filming activities or similar
15 projects on Federal land administered by the Secretary. The fee shall
16 provide a fair return to the United States and shall be based on the
17 following criteria:

18 (A) The number of days the filming activity or similar project
19 takes place on Federal land under the Secretary’s jurisdiction.

20 (B) The size of the film crew present on Federal land under the
21 Secretary’s jurisdiction.

22 (C) The amount and type of equipment present.

23 (2) OTHER FACTORS TO BE INCLUDED.—The Secretary may include
24 other factors in determining an appropriate fee as the Secretary consid-
25 ers necessary.

26 (b) RECOVERY OF COSTS.—The Secretary shall collect any costs incurred
27 as a result of filming activities or similar project, including administrative
28 and personnel costs. All costs recovered shall be in addition to the fee as-
29 sessed in subsection (a).

30 (c) STILL PHOTOGRAPHY.—

31 (1) IN GENERAL.—Except as provided in paragraph (2), the Sec-
32 retary shall not require a permit or assess a fee for still photography
33 on land administered by the Secretary if the photography takes place
34 where members of the public are generally allowed. The Secretary may
35 require a permit, fee, or both, if the photography takes place at other
36 locations where members of the public are generally not allowed, or
37 where additional administrative costs are likely.

38 (2) EXCEPTION.—The Secretary shall require and shall establish a
39 reasonable fee for still photography that uses models or props that are
40 not a part of the site’s natural or cultural resources or administrative
41 facilities.

1 (d) PROTECTION OF RESOURCES.—The Secretary shall not permit any
2 filming, still photography or other related activity if the Secretary deter-
3 mines that—

4 (1) there is a likelihood of resource damage;

5 (2) there would be an unreasonable disruption of the public's use
6 and enjoyment of the site; or

7 (3) the activity poses health or safety risks to the public.

8 (e) USE OF PROCEEDS.—

9 (1) IN GENERAL.—All fees collected under this section shall be avail-
10 able for expenditure by the Secretary, without further appropriation, in
11 accordance with the formula and purposes established for the Rec-
12 reational Fee Demonstration Program authorized by section 315 of the
13 Department of the Interior and Related Agencies Appropriations Act,
14 1996 (110 Stat. 1321–200). All fees collected shall remain available
15 until expended.

16 (2) AVAILABLE FOR EXPENDITURE WHERE COLLECTED.—All costs
17 recovered under this section shall be available for expenditure by the
18 Secretary, without further appropriation, at the site where collected. All
19 costs recovered shall remain available until expended.

20 (f) PROCESSING OF PERMIT APPLICATIONS.—The Secretary shall estab-
21 lish a process to ensure that permit applicants for commercial filming, still
22 photography, or other activity are responded to in a timely manner.

23 **§ 105307. Statement of estimated requirements**

24 There shall be submitted with the annual budget of the United States a
25 comprehensive statement of estimated requirements during the ensuing fis-
26 cal year for appropriations from the Fund. Not less than 40 percent of such
27 appropriations shall be available for Federal purposes.

28 **§ 105308. Financial assistance to States**

29 (a) AUTHORITY OF SECRETARY TO MAKE PAYMENTS.—The Secretary
30 may provide financial assistance to the States from amounts available for
31 State purposes. Payments may be made to the States by the Secretary as
32 provided in this section, subject to such terms and conditions as the Sec-
33 retary considers appropriate and in the public interest to carry out the pur-
34 poses of this chapter, for outdoor recreation:

35 (1) Planning.

36 (2) Acquisition of land, water, or interests in land or water.

37 (3) Development.

38 (b) APPORTIONMENT AMONG STATES.—Amounts appropriated and avail-
39 able for State purposes for each fiscal year shall be apportioned among the
40 States by the Secretary, whose determination shall be final, in accordance
41 with the following formula:

1 (1) Forty percent of the first \$225,000,000; 30 percent of the next
2 \$275,000,000; and 20 percent of all additional appropriations shall be
3 apportioned equally among the States.

4 (2) At any time, the remaining appropriation shall be apportioned
5 on the basis of need to individual States by the Secretary in such
6 amounts as in the Secretary's judgment will best accomplish the pur-
7 poses of this chapter. The determination of need shall include a consid-
8 eration of—

9 (A) the proportion that the population of each State bears to
10 the total population of the United States;

11 (B) of the use of outdoor recreation resources of individual
12 States by persons from outside the State; and

13 (C) the Federal resources and programs in the particular
14 States.

15 (3) The total allocation to an individual State under paragraphs (1)
16 and (2) shall not exceed 10 percent of the total amount allocated to
17 the States in any one year.

18 (4) The Secretary shall notify each State of its apportionments. The
19 amounts shall be available for payment to the State for planning, ac-
20 quisition, or development projects as prescribed. Any amount of any
21 apportionment that has not been paid or obligated by the Secretary
22 during the fiscal year in which the notification is given and for 2 fiscal
23 years thereafter shall be reapportioned by the Secretary in accordance
24 with paragraph (2) without regard to the 10 percent limitation to an
25 individual State specified in this subsection.

26 (5) For the purposes of paragraph (1), the District of Columbia,
27 Puerto Rico, the Virgin Islands, Guam, American Samoa, and the
28 Northern Mariana Islands shall be deemed to be one State, and shall
29 receive shares of the apportionment in proportion to their populations..

30 (c) MATCHING REQUIREMENTS.—Payments to any State shall cover not
31 more than 50 percent of the cost of planning, acquisition, or development
32 projects that are undertaken by the State. The remaining share of the cost
33 shall be borne by the State in a manner and with funds or services as shall
34 be satisfactory to the Secretary.

35 (d) COMPREHENSIVE STATE PLAN.—

36 (1) REQUIRED FOR CONSIDERATION OF FINANCIAL ASSISTANCE.—A
37 comprehensive statewide outdoor recreation plan shall be required prior
38 to the consideration by the Secretary of financial assistance for acquisi-
39 tion or development projects. The plan shall be adequate if, in the judg-
40 ment of the Secretary, it encompasses and will promote the purposes
41 of this chapter. No plan shall be approved unless the chief executive

1 officer of the State certifies that ample opportunity for public partici-
 2 pation in plan development and revision has been accorded. The Sec-
 3 retary shall develop, in consultation with others, criteria for public par-
 4 ticipation, which criteria shall constitute the basis for the certification
 5 by the chief executive officer. The plan shall contain—

6 (A) the name of the State agency that will have authority to
 7 represent and act for the State in dealing with the Secretary for
 8 purposes of this chapter;

9 (B) an evaluation of the demand for and supply of outdoor
 10 recreation resources and facilities in the State;

11 (C) a program for the implementation of the plan; and

12 (D) other necessary information, as determined by the Sec-
 13 retary.

14 (2) FACTORS TO BE CONSIDERED.—The plan shall take into account
 15 relevant Federal resources and programs and shall be correlated so far
 16 as practicable with other State, regional, and local plans. Where there
 17 exists or is in preparation for any particular State a comprehensive
 18 plan financed in part with funds supplied by the Secretary of Housing
 19 and Urban Development, any statewide outdoor recreation plan pre-
 20 pared for purposes of this part shall be based upon the same popu-
 21 lation, growth, and other pertinent factors as are used in formulating
 22 plans financed by the Secretary of Housing and Urban Development.

23 (3) PROVISION OF ASSISTANCE WHEN PLAN NOT OTHERWISE AVAIL-
 24 ABLE OR TO MAINTAIN PLAN.—The Secretary may provide financial as-
 25 sistance to any State for projects for the preparation of a comprehen-
 26 sive statewide outdoor recreation plan when the plan is not otherwise
 27 available or for the maintenance of the plan.

28 (4) WETLANDS.—A comprehensive statewide outdoor recreation plan
 29 shall specifically address wetlands within the State as an important
 30 outdoor recreation resource as a prerequisite to approval, except that
 31 a revised comprehensive statewide outdoor recreation plan shall not be
 32 required by the Secretary, if a State submits, and the Secretary, acting
 33 through the Director, approves, as a part of and as an addendum to
 34 the existing comprehensive statewide outdoor recreation plan, a wet-
 35 lands priority plan developed in consultation with the State agency with
 36 responsibility for fish and wildlife resources and consistent with the na-
 37 tional wetlands priority conservation plan developed under section 301
 38 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3921)
 39 or, if the national plan has not been completed, consistent with the pro-
 40 visions of that section.

41 (e) PROJECTS FOR LAND AND WATER ACQUISITION.—

1 (1) IN GENERAL.—In addition to assistance for planning projects,
2 the Secretary may provide financial assistance to any State for the
3 types of projects described in paragraphs (2) and (3), or combinations
4 of those projects, if the projects are in accordance with the State com-
5 prehensive plan.

6 (2) ACQUISITION OF LAND OR WATER.—

7 (A) IN GENERAL.—Under paragraph (1), the Secretary may
8 provide financial assistance for a project for the acquisition of
9 land, water, or an interest in land or water, or a wetland area or
10 an interest in a wetland area, as identified in the wetlands provi-
11 sions of the comprehensive plan (other than land, water, or an in-
12 terest in land or water acquired from the United States for less
13 than fair market value), but not including incidental costs relating
14 to acquisition.

15 (B) RETENTION OF RIGHT OF USE AND OCCUPANCY.—When a
16 State provides that the owner of a single-family residence may, at
17 the owner's option, elect to retain a right of use and occupancy
18 for not less than 6 months after the date of acquisition of the resi-
19 dence and the owner elects to retain such a right—

20 (i) the owner shall be deemed to have waived any benefits
21 under sections 203 to 206 of the Uniform Relocation Assist-
22 ance and Real Property Acquisition Policies Act of 1970 (42
23 U.S.C. 4623 to 4626); and

24 (ii) for the purposes of those sections the owner shall not
25 be deemed to be a displaced person as defined in section 101
26 of that Act (42 U.S.C. 4601).

27 (3) DEVELOPMENT OF BASIC OUTDOOR RECREATION FACILITIES.—

28 Under paragraph (1), the Secretary may provide financial assistance
29 for a project for development of basic outdoor recreation facilities to
30 serve the general public, including the development of Federal land
31 under lease to States for terms of 25 years or more. No assistance
32 shall be available under this chapter to enclose or shelter facilities nor-
33 mally used for outdoor recreation activities, but the Secretary may per-
34 mit local funding, and not to exceed 10 percent of the total amount
35 allocated to a State in any one year, to be used for sheltered facilities
36 for swimming pools and ice skating rinks in areas where the Secretary
37 determines that the severity of climatic conditions and the increased
38 public use thereby made possible justifies the construction of the facili-
39 ties.

40 (f) PAYMENTS.—

1 (1) CRITERIA FOR MAKING PAYMENTS.—The Secretary may make a
2 payment to a State only for a planning, acquisition, or development
3 project that is approved by the Secretary. The Secretary shall not make
4 a payment for or on account of any project with respect to which finan-
5 cial assistance has been given or promised under any other Federal
6 program or activity, and no financial assistance shall be given under
7 any other Federal program or activity for or on account of any project
8 with respect to which the assistance has been given or promised under
9 this chapter. The Secretary may make payments from time to time in
10 keeping with the rate of progress toward the satisfactory completion of
11 a project. The approval of all projects and all payments, or any com-
12 mitments relating thereto, shall be withheld until the Secretary receives
13 appropriate written assurance from the State that the State has the
14 ability and intention to finance its share of the cost of all of the
15 projects, and to operate and maintain by acceptable standards, at State
16 expense, the properties or facilities acquired or developed for public
17 outdoor recreation use.

18 (2) PAYMENT RECIPIENTS.—Payments for all projects shall be made
19 by the Secretary to the chief executive officer of the State or to a State
20 official or agency designated by the chief executive officer or by State
21 law having authority and responsibility to accept and to administer
22 funds paid under this section for approved projects. If consistent with
23 an approved project, funds may be transferred by the State to a politi-
24 cal subdivision or other appropriate public agency.

25 (g) CONVERSION TO OTHER THAN PUBLIC OUTDOOR RECREATION
26 USE.—No property acquired or developed with assistance under this section
27 shall, without the approval of the Secretary, be converted to other than pub-
28 lic outdoor recreation use. The Secretary shall approve a conversion only if
29 the Secretary finds it to be in accordance with the then-existing compre-
30 hensive statewide outdoor recreation plan and only on such conditions as the
31 Secretary considers necessary to ensure the substitution of other recreation
32 properties of at least equal fair market value and of reasonably equivalent
33 usefulness and location. Wetland areas and interests therein as identified in
34 the wetlands provisions of the comprehensive plan and proposed to be ac-
35 quired as suitable replacement property within the same State that is other-
36 wise acceptable to the Secretary, acting through the Director, shall be
37 deemed to be of reasonably equivalent usefulness with the property proposed
38 for conversion.

39 (h) REPORTS AND ACCOUNTING PROCEDURES.—No payment shall be
40 made to any State until the State has agreed to—

1 (1) provide such reports to the Secretary in such form and contain-
2 ing such information as may be reasonably necessary to enable the Sec-
3 retary to perform the Secretary's duties under this chapter; and

4 (2) provide such fiscal control and fund accounting procedures as
5 may be necessary to ensure proper disbursement and accounting for
6 Federal funds paid to the State under this chapter.

7 (i) RECORDS.—A recipient of assistance under this chapter shall keep
8 such records as the Secretary shall prescribe, including records that fully
9 disclose—

10 (1) the amount and the disposition by the recipient of the proceeds
11 of the assistance;

12 (2) the total cost of the project or undertaking in connection with
13 which the assistance is given or used; and

14 (3) the amount and nature of that portion of the cost of the project
15 or undertaking supplied by other sources, and such other records as
16 will facilitate an effective audit.

17 (j) ACCESS TO RECORDS.—The Secretary, and the Comptroller General,
18 or any of their duly authorized representatives, shall have access for the
19 purpose of audit and examination to any records of the recipient that are
20 pertinent to assistance received under this chapter.

21 (k) PROHIBITION OF DISCRIMINATION.—With respect to property ac-
22 quired or developed with assistance from the Fund, discrimination on the
23 basis of residence, including preferential reservation or membership systems,
24 is prohibited except to the extent that reasonable differences in admission
25 and other fees may be maintained on the basis of residence.

26 (l) COORDINATION WITH FEDERAL AGENCIES.—To ensure consistency in
27 policies and actions under this chapter with other related Federal programs
28 and activities and to ensure coordination of the planning, acquisition, and
29 development assistance to States under this section with other related Fed-
30 eral programs and activities—

31 (1) the President may issue such regulations with respect thereto as
32 the President considers desirable; and

33 (2) the assistance may be provided only in accordance with the regu-
34 lations.

35 (m) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE
36 CRIME.—

37 (1) AVAILABILITY AND PURPOSE OF FUNDS.—In addition to assist-
38 ance for planning projects, and in addition to the projects identified in
39 subsection (e), and from amounts appropriated out of the Violent
40 Crime Reduction Trust Fund, the Secretary may provide financial as-
41 sistance to the States, not to exceed \$15,000,000, for projects or com-

1 binations thereof for the purpose of making capital improvements and
 2 other measures to increase safety in urban parks and recreation areas,
 3 including funds to—

4 (A) increase lighting within or adjacent to public parks and
 5 recreation areas;

6 (B) provide emergency telephone lines to contact law enforce-
 7 ment or security personnel in areas within or adjacent to public
 8 parks and recreation areas;

9 (C) increase security personnel within or adjacent to public
 10 parks and recreation areas; and

11 (D) fund any other project intended to increase the security and
 12 safety of public parks and recreation areas.

13 (2) ELIGIBILITY.—In addition to the requirements for project ap-
 14 proval imposed by this section, eligibility for assistance under this sub-
 15 section shall depend on a showing of need. In providing funds under
 16 this subsection, the Secretary shall give priority to projects proposed
 17 for urban parks and recreation areas with the highest rates of crime
 18 and, in particular, to urban parks and recreation areas with the highest
 19 rates of sexual assault.

20 (3) FEDERAL SHARE.—Notwithstanding subsection (c), the Sec-
 21 retary may provide 70 percent improvement grants for projects under-
 22 taken by a State for the purposes described in this subsection.

23 **§ 105309. Allocation of Fund amounts for Federal purposes**

24 (a) ALLOWABLE PURPOSES AND SUBPURPOSES.—

25 (1) IN GENERAL.—Amounts appropriated from the Fund for Federal
 26 purposes shall, unless otherwise allotted in the appropriation Act mak-
 27 ing them available, be allotted by the President for the purposes and
 28 subpurposes stated in this subsection.

29 (2) ACQUISITION OF LAND, WATER, OR AN INTEREST IN LAND OR
 30 WATER.—

31 (A) SYSTEM UNITS AND RECREATION AREAS ADMINISTERED
 32 FOR RECREATION PURPOSES.—Amounts shall be allotted for the
 33 acquisition of land, water, or an interest in land or water within
 34 the exterior boundary of—

35 (i) a System unit authorized or established; and

36 (ii) an area authorized to be administered by the Secretary
 37 for outdoor recreation purposes.

38 (B) NATIONAL FOREST SYSTEM.—

39 (i) IN GENERAL.—Amounts shall be allotted for the acqui-
 40 sition of land, water, or an interest in land or water within
 41 inholdings within—

1 (I) wilderness areas of the National Forest System;
2 and

3 (II) other areas of national forests as the boundaries
4 of those forests existed on January 1, 1965, or purchase
5 units approved by the National Forest Reservation Com-
6 mission subsequent to January 1, 1965, all of which
7 other areas are primarily of value for outdoor recreation
8 purposes.

9 (ii) ADJACENT LAND.—Land outside but adjacent to an ex-
10 isting national forest boundary, not to exceed 3,000 acres in
11 the case of any one forest, that would comprise an integral
12 part of a forest recreational management area may also be
13 acquired with amounts appropriated from the Fund.

14 (iii) LIMITATION.—Except for areas specifically authorized
15 by Act of Congress, not more than 15 percent of the acreage
16 added to the National Forest System pursuant to this section
17 shall be west of the 100th meridian.

18 (C) ENDANGERED SPECIES AND THREATENED SPECIES; FISH
19 AND WILDLIFE REFUGE AREAS; NATIONAL WILDLIFE REFUGE SYS-
20 TEM.—Amounts shall be allotted for the acquisition of land, water,
21 or an interest in land or water for—

22 (i) endangered species and threatened species authorized
23 under section 5(a) of the Endangered Species Act of 1973
24 (16 U.S.C. 1534(a));

25 (ii) areas authorized by section 2 of the Refuge Recreation
26 Act (16 U.S.C. 460k-1);

27 (iii) national wildlife refuge areas under section 7(a)(4) of
28 the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(a)(4)) and
29 wetlands acquired under section 304 of the Emergency Wet-
30 lands Resources Act of 1986 (16 U.S.C. 3922); and

31 (iv) any area authorized for the National Wildlife Refuge
32 System by specific Acts.

33 (3) PAYMENT AS OFFSET OF CAPITAL COSTS.—Amounts shall be al-
34 lotted for payment into miscellaneous receipts of the Treasury as a par-
35 tial offset for capital costs, if any, of Federal water development
36 projects authorized to be constructed by or pursuant to an Act of Con-
37 gress that are allocated to public recreation and the enhancement of
38 fish and wildlife values and financed through appropriations to water
39 resource agencies.

40 (4) AVAILABILITY OF APPROPRIATIONS.—Appropriations allotted for
41 the acquisition of land, water, or an interest in land or water as set

1 forth under subparagraphs (A) and (B) of paragraph (2) shall be avail-
2 able for those acquisitions notwithstanding any statutory ceiling on the
3 appropriations contained in any other provision of law enacted prior to
4 January 4, 1977, or, in the case of national recreation areas, prior to
5 January 15, 1979, except that for any such area expenditures shall not
6 exceed a statutory ceiling during any one fiscal year by 10 percent of
7 the ceiling or \$1,000,000, whichever is greater.

8 (b) ACQUISITION RESTRICTIONS.—Appropriations from the Fund pursu-
9 ant to this section shall not be used for acquisition unless the acquisition
10 is otherwise authorized by law. Appropriations from the Fund may be used
11 for preacquisition work where authorization is imminent and where substan-
12 tial monetary savings could be realized.

13 (c) BOUNDARY CHANGES IN SYSTEM UNITS.—

14 (1) IN GENERAL.—When the Secretary determines that to do so will
15 contribute to, and is necessary for, the proper preservation, protection,
16 interpretation, or management of a System unit, the Secretary may,
17 following timely notice in writing to the Committee on Natural Re-
18 sources of the House of Representatives and the Committee on Energy
19 and Natural Resources of the Senate of the Secretary's intention to do
20 so, and by publication of a revised boundary map or other description
21 in the Federal Register—

22 (A) make minor revisions of the boundary of the System unit,
23 and amounts appropriated from the Fund shall be available for ac-
24 quisition of any land, water, and interests in land or water added
25 to the System unit by the boundary revision subject to such statu-
26 tory limitations, if any, on methods of acquisition and appropria-
27 tions thereof as may be specifically applicable to the System unit;
28 and

29 (B) acquire by donation, purchase with donated funds, transfer
30 from any other Federal agency, or exchange, land, water, or inter-
31 ests in land or water adjacent to the System unit, except that in
32 exercising the Secretary's authority under this subparagraph the
33 Secretary—

34 (i) shall not alienate property administered as part of the
35 System to acquire land by exchange;

36 (ii) shall not acquire property without the consent of the
37 owner; and

38 (iii) may acquire property owned by a State or political
39 subdivision of a State only by donation.

40 (2) CONSULTATION.—Prior to making a determination under this
41 subsection, the Secretary shall consult with the governing body of the

1 county, city, town, or other jurisdiction or jurisdictions having primary
2 taxing authority over the land or interest to be acquired as to the im-
3 pacts of the proposed action.

4 (3) ACTION TO ADVANCE LOCAL PUBLIC AWARENESS.—The Sec-
5 retary shall take such steps as the Secretary considers appropriate to
6 advance local public awareness of the proposed action.

7 (4) ADMINISTRATION OF ACQUISITIONS.—Land, water, and interests
8 in land or water acquired in accordance with this subsection shall be
9 administered as part of the System unit to which they are added, sub-
10 ject to the laws and regulations applicable thereto.

11 (5) WHEN AUTHORITY APPLIES.—For the purposes of paragraph
12 (1)(A), in all cases except the case of technical boundary revisions (re-
13 sulting from such causes as survey error or changed road alignments),
14 the authority of the Secretary under paragraph (1)(A) shall apply only
15 if each of the following conditions is met:

16 (A) The sum of the total acreage of the land, water, and inter-
17 ests in land or water to be added to the System unit and the total
18 acreage of the land, water, and interests in land or water to be
19 deleted from the System unit is not more than 5 percent of the
20 total Federal acreage authorized to be included in the System unit
21 and is less than 200 acres.

22 (B) The acquisition, if any, is not a major Federal action sig-
23 nificantly affecting the quality of the human environment, as de-
24 termined by the Secretary.

25 (C) The sum of the total appraised value of the land, water, and
26 interests in land or water to be added to the System unit and the
27 total appraised value of the land, water, and interests in land or
28 water to be deleted from the System unit does not exceed
29 \$750,000.

30 (D) The proposed boundary revision is not an element of a more
31 comprehensive boundary modification proposal.

32 (E) The proposed boundary has been subject to a public review
33 and comment period.

34 (F) The Director obtains written consent for the boundary
35 modification from all property owners whose land, water, or inter-
36 ests in land or water, or a portion of whose land, water, or inter-
37 ests in land or water, will be added to or deleted from the System
38 unit by the boundary modification.

39 (G) The land abuts other Federal land administered by the Di-
40 rector.

1 (6) ACT OF CONGRESS REQUIRED.—Minor boundary revisions involv-
2 ing only deletions of acreage owned by the Federal Government and ad-
3 ministered by the Service may be made only by Act of Congress.

4 **§ 105310. Availability of Fund amounts for publicity pur-**
5 **poses**

6 (a) IN GENERAL.—Amounts derived from the sources listed in section
7 105303 of this title shall not be available for publicity purposes.

8 (b) EXCEPTION FOR TEMPORARY SIGNING.—In each case where signifi-
9 cant acquisition or development is initiated, appropriate standardized tem-
10 porary signing shall be located on or near the affected site, to the extent
11 feasible, so as to indicate the action taken is a product of funding made
12 available through the Fund. The signing may indicate the percentage
13 amounts and dollar amounts financed by Federal and non-Federal funds,
14 and that the source of the funding includes amounts derived from Outer
15 Continental Shelf receipts. The Secretary shall prescribe standards and
16 guidelines for the usage of the signing to ensure consistency of design and
17 application.

18 **§ 105311. Contracts for acquisition of land and water**

19 Not to exceed \$30,000,000 of the amount authorized to be appropriated
20 from the Fund by section 105304 of this title may be obligated by contract
21 during each fiscal year for the acquisition of land, water, or interest in land
22 or water within areas specified in section 105309(a)(2) of this title. The
23 contract may be executed by the head of the department concerned, within
24 limitations prescribed by the Secretary. The contract shall be deemed a con-
25 tractual obligation of the United States and shall be liquidated with money
26 appropriated from the fund specifically for liquidation of that contract obli-
27 gation. No contract may be entered into for the acquisition of property pur-
28 suant to this section unless the acquisition is otherwise authorized by Fed-
29 eral law.

30 **§ 105312. Contracts for options to acquire land and water in**
31 **System**

32 The Secretary may enter into contracts for options to acquire land, water,
33 or interests in land or water within the exterior boundaries of any area the
34 acquisition of which is authorized by law for inclusion in the System. The
35 minimum period of any such option shall be 2 years, and any sums ex-
36 pended for the purchase thereof shall be credited to the purchase price of
37 the area. Not to exceed \$500,000 of the sum authorized to be appropriated
38 from the Fund by section 105304 of this title may be expended by the Sec-
39 retary in any one fiscal year for the options.

1 **§ 105313. Transfers to and from Fund**

2 (a) MOTORBOAT FUEL TAXES.—There shall be set aside in the Fund the
3 amounts specified in section 9503(c)(4)(B) of the Internal Revenue Code of
4 1986 (26 U.S.C. 9503(c)(4)(B)).

5 (b) REFUNDS OF TAXES.—There shall be paid from time to time from
6 the Fund into the general fund of the Treasury amounts estimated by the
7 Secretary of the Treasury as equivalent to—

8 (1) the amounts paid before October 1, 2012, under section 6421 of
9 the Internal Revenue Code of 1986 (26 U.S.C. 6421) with respect to
10 gasoline used after December 31, 1964, in motorboats, on the basis of
11 claims filed for periods ending before October 1, 2011; and

12 (2) 80 percent of the floor stocks refunds made before October 1,
13 2012, under section 6412(a)(1) of the Internal Revenue Code of 1986
14 (26 U.S.C. 6412(a)(1)) with respect to gasoline to be used in motor-
15 boats.

16 **CHAPTER 1055—URBAN PARK AND RECREATION**
17 **RECOVERY PROGRAM**

Sec.

- 105501. Findings.
- 105502. Purposes.
- 105503. Definitions.
- 105504. Federal assistance grants.
- 105505. Rehabilitation and innovation grants.
- 105506. Recovery action programs.
- 105507. State action.
- 105508. Non-Federal share of project costs.
- 105509. Conversion of recreation property.
- 105510. Coordination of program.
- 105511. Recordkeeping.
- 105512. Authorization of appropriations.
- 105513. Limitation on use of funds.
- 105514. Report.

18 **§ 105501. Findings**

19 Congress finds that—

20 (1) the quality of life in urban areas is closely related to the avail-
21 ability of fully functional park and recreation systems including land,
22 facilities, and service programs;

23 (2) residents of cities need close-to-home recreational opportunities
24 that are adequate to specialized urban demands, with parks and facili-
25 ties properly located, developed, and well maintained;

26 (3) the greatest recreational deficiencies with respect to land, facili-
27 ties, and programs are found in many large cities, especially at the
28 neighborhood level;

29 (4) inadequate financing of urban recreation programs due to fiscal
30 difficulties in many large cities has led to the deterioration of facilities,

1 nonavailability of recreation services, and an inability to adapt re-
 2 creational programs to changing circumstances; and

3 (5) there is no existing Federal assistance program which fully ad-
 4 dresses the needs for physical rehabilitation and revitalization of these
 5 park and recreation systems.

6 **§ 105502. Purposes**

7 (a) ESTABLISH PROGRAM.—The purpose of this chapter is to authorize
 8 the Secretary to establish an urban park and recreation recovery program
 9 which would provide Federal grants to economically hard-pressed commu-
 10 nities specifically for the rehabilitation of critically needed recreation areas,
 11 facilities, and development of improved recreation programs. This program
 12 is intended to complement existing Federal programs such as the Land and
 13 Water Conservation Fund and Community Development Grant Programs by
 14 encouraging and stimulating local governments to revitalize their park and
 15 recreation systems and to make long-term commitments to continuing main-
 16 tenance of these systems. Such assistance shall be subject to such terms and
 17 conditions as the Secretary considers appropriate and in the public interest
 18 to carry out the purposes of this chapter.

19 (b) IMPROVE RECREATION FACILITIES AND EXPAND RECREATION SERV-
 20 ICES.—It is further the purpose of this chapter to improve recreation facili-
 21 ties and expand recreation services in urban areas with a high incidence of
 22 crime and to help deter crime through the expansion of recreation opportu-
 23 nities for at-risk youth.

24 (c) INCREASE SECURITY.—It is the further purpose of this chapter to in-
 25 crease the security of urban parks and to promote collaboration between
 26 local agencies involved in parks and recreation, law enforcement, youth so-
 27 cial services, and juvenile justice system.

28 **§ 105503. Definitions**

29 In this chapter:

30 (1) AT-RISK YOUTH RECREATION GRANTS.—The term “at-risk youth
 31 recreation grants” means grants in neighborhoods and communities
 32 with a high prevalence of crime, particularly violent crime or crime
 33 committed by youthful offenders and include—

34 (A) rehabilitation grants,

35 (B) innovation grants, or

36 (C) matching grants for continuing program support for pro-
 37 grams of demonstrated value or success in providing constructive
 38 alternatives to youth at risk for engaging in criminal behavior, in-
 39 cluding grants for operating, or coordinating recreation programs
 40 and services.

1 (2) GENERAL PURPOSE LOCAL GOVERNMENT.—The term “general
2 purpose local government” means any city, county, town, township,
3 parish, village, or other general purpose political subdivision of a State,
4 including the District of Columbia, and insular areas.

5 (3) INNOVATION GRANTS.—The term “innovation grants” means
6 matching grants to local governments to cover costs of personnel, facili-
7 ties, equipment, supplies, or services designed to demonstrate innova-
8 tive and cost-effective ways to augment park and recreation opportuni-
9 ties at the neighborhood level and to address common problems related
10 to facility operations and improved delivery of recreation service, and
11 which shall exclude routine operation and maintenance activities.

12 (4) INSULAR AREAS.—The term “insular areas” means Guam, the
13 Virgin Islands, American Samoa, and the Northern Mariana Islands.

14 (5) MAINTENANCE.—The term “maintenance” means all commonly
15 accepted practices necessary to keep recreation areas and facilities op-
16 erating in a state of good repair and to protect them from deterioration
17 resulting from normal wear and tear.

18 (6) PRIVATE, NONPROFIT AGENCY.—The term “private, nonprofit
19 agency” means a community-based, non-profit organization, corpora-
20 tion, or association organized for purposes of providing recreational,
21 conservation, and educational services directly to urban residents on ei-
22 ther a neighborhood or communitywide basis through voluntary dona-
23 tions, voluntary labor, or public or private grants.

24 (7) RECOVERY ACTION PROGRAM GRANTS.—The term “recovery ac-
25 tion program grants” means matching grants to local governments for
26 development of local park and recreation recovery action programs to
27 meet the requirements of this chapter. Such grants will be for resource
28 and needs assessment, coordination, citizen involvement and planning,
29 and program development activities to encourage public definition of
30 goals, and develop priorities and strategies for overall recreation system
31 recovery.

32 (8) RECREATIONAL AREAS AND FACILITIES.—The term “recreational
33 areas and facilities” means indoor or outdoor parks, buildings, sites,
34 or other facilities which are dedicated to recreation purposes and ad-
35 ministered by public or private nonprofit agencies to serve the recre-
36 ation needs of community residents. Emphasis shall be on public facili-
37 ties readily accessible to residential neighborhoods, including multiple-
38 use community centers which have recreation as one of their primary
39 purposes, but excluding major sports arenas, exhibition areas, and con-
40 ference halls used primarily for commercial sports, spectator, or display
41 activities.

1 (9) REHABILITATION GRANTS.—The term “rehabilitation grants”
2 means matching capital grants to local governments for—

3 (A) rebuilding, remodeling, expanding, or developing existing
4 outdoor or indoor recreation areas and facilities, including im-
5 provements in park landscapes, buildings, and support facilities,
6 but excluding routine maintenance and upkeep activities; and

7 (B) lighting, emergency phones or other capital improvements
8 that will improve the security of urban parks.

9 (10) SPECIAL PURPOSE LOCAL GOVERNMENT.—The term “special
10 purpose local government” means any local or regional special district,
11 public-purpose corporation or other limited political subdivision of a
12 State, including but not limited to park authorities; park, conservation,
13 water or sanitary districts; and school districts;

14 (11) STATE.—The term “State” means any State of the United
15 States or any instrumentality of a State approved by the Governor,
16 Puerto Rico, and insular areas.

17 **§ 105504. Federal assistance grants**

18 (a) ELIGIBLE GENERAL PURPOSE LOCAL GOVERNMENTS.—In addition
19 to eligible local governments established in accordance with section 1005(a)
20 of the Urban Park and Recreation Recovery Act of 1978 (Public Law 95–
21 625, 92 Stat. 3540), the Secretary may establish eligibility, in accord with
22 the findings and purpose of this chapter, of other general purpose local gov-
23 ernments in standard metropolitan statistical areas as defined by the cen-
24 sus.

25 (b) PRIORITY CRITERIA FOR PROJECT SELECTION AND APPROVAL.—

26 (1) IN GENERAL.—The Secretary shall establish priority criteria for
27 project selection and approval that consider such factors as—

28 (A) population;

29 (B) condition of existing recreation areas and facilities;

30 (C) demonstrated deficiencies in access to neighborhood recre-
31 ation opportunities, particularly for minority, and low- and mod-
32 erate-income residents;

33 (D) public participation in determining rehabilitation or develop-
34 ment needs;

35 (E) the extent to which a project supports or complements tar-
36 get activities undertaken as part of a local government’s overall
37 community development and urban revitalization program;

38 (F) the extent to which a proposed project would provide em-
39 ployment opportunities for minorities, youth, and low- and mod-
40 erate-income residents in the project neighborhood and/or would
41 provide for participation of neighborhood, nonprofit or tenant or-

1 organizations in the proposed rehabilitation activity or in subsequent
 2 maintenance, staffing, or supervision of recreation areas and facili-
 3 ties; and

4 (G) the amount of State and private support for a project as
 5 evidenced by commitments of non-Federal resources to project
 6 construction or operation.

7 (2) AT-RISK YOUTH RECREATION GRANTS.—For at-risk youth recre-
 8 ation grants, the Secretary shall give a priority to each of the following
 9 criteria:

10 (A) Programs that are targeted to youth who are at the greatest
 11 risk of becoming involved in violence and crime.

12 (B) Programs that teach important values and life skills, includ-
 13 ing teamwork, respect, leadership, and self-esteem.

14 (C) Programs that offer tutoring, remedial education, mentor-
 15 ing, and counseling in addition to recreation opportunities.

16 (D) Programs that offer services during late night or other non-
 17 school hours.

18 (E) Programs that demonstrate collaboration between local park
 19 and recreation, juvenile justice, law enforcement, and youth social
 20 service agencies and nongovernmental entities, including the pri-
 21 vate sector and community and nonprofit organizations.

22 (F) Programs that leverage public or private recreation invest-
 23 ments in the form of services, materials, or cash.

24 (G) Programs that show the greatest potential of being con-
 25 tinued with non-Federal funds or which can serve as models for
 26 other communities.

27 (c) LIMITATION OF FUNDS.—Grants to discretionary applicants under
 28 subsection (a) may not be more than 15 percent of the total amount of
 29 funds appropriated under this chapter for rehabilitation, innovation, and re-
 30 covery action program grants.

31 **§ 105505. Rehabilitation and innovation grants**

32 (a) MATCHING GRANTS.—The Secretary may provide 70 percent match-
 33 ing rehabilitation and innovative grants directly to eligible general purpose
 34 local governments on the Secretary's approval of applications for those
 35 grants by the chief executives of those governments.

36 (b) SPECIAL CONSIDERATIONS.—Innovation grants should be closely tied
 37 to goals, priorities, and implementation strategies expressed in local park
 38 and recreation recovery action programs, with particular regard to the spe-
 39 cial considerations listed in section 105506(e)(2) of this title.

40 (c) TRANSFER.—At the discretion of the applicants, and if consistent
 41 with an approved application, rehabilitation and innovation grants may be

1 transferred in whole or in part to independent special purpose local govern-
 2 ments, private nonprofit agencies or county or regional park authorities pro-
 3 vided that assisted recreation areas and facilities owned or managed by the
 4 transferree offer recreation opportunities to the general population within
 5 the jurisdictional boundaries of an eligible applicant.

6 (d) PAYMENTS.—Payments may be made only for rehabilitation or innova-
 7 tive projects that have been approved by the Secretary. Payments may be
 8 made from time to time in keeping with the rate of progress toward the
 9 satisfactory completion of a project, except that the Secretary, when appro-
 10 priate, may make advance payments on approved rehabilitation and innova-
 11 tive projects in an amount not to exceed 20 percent of the total project cost.

12 (e) MODIFICATION OF PROJECT.—The Secretary may authorize modifica-
 13 tion of an approved project only when a grantee has adequately demon-
 14 strated that the modification is necessary because of circumstances not
 15 foreseeable at the time a project was proposed.

16 **§ 105506. Recovery action programs**

17 (a) EVIDENCE OF LOCAL COMMITMENT TO ONGOING PROGRAMS.—As a
 18 requirement for project approval, local governments applying for assistance
 19 under this chapter shall submit to the Secretary evidence of their commit-
 20 ments to ongoing planning, rehabilitation, service, operation, and mainte-
 21 nance programs for their park and recreation systems. These commitments
 22 will be expressed in local park and recreation recovery action programs that
 23 maximize coordination of all community resources, including other federally
 24 supported urban development and recreation programs. During an initial in-
 25 terim period to be established by regulations under this chapter, this re-
 26 quirement may be satisfied by local government submissions of preliminary
 27 action programs that briefly define objectives, priorities, and implementation
 28 strategies for overall system recovery and maintenance and commit the ap-
 29 plicant to a scheduled program development process. Following this interim
 30 period, all local applicants shall submit to the Secretary, as a condition of
 31 eligibility, a 5-year action program for park and recreation recovery that
 32 satisfactorily demonstrates—

33 (1) systematic identification of recovery objectives, priorities, and im-
 34 plementation strategies;

35 (2) adequate planning for rehabilitation of specific recreation areas
 36 and facilities, including projections of the cost of proposed projects;

37 (3) the capacity and commitment to ensure that facilities provided
 38 or improved under this chapter shall continue to be adequately main-
 39 tained, protected, staffed, and supervised;

40 (4) the intention to maintain total local public outlays for park and
 41 recreation purposes at levels at least equal to those in the year preced-

1 ing that in which grant assistance is sought except in any case where
2 a reduction in park and recreation outlays is proportionate to a reduc-
3 tion in overall spending by the applicant; and

4 (5) the relationship of the park and recreation recovery program to
5 overall community development and urban revitalization efforts.

6 (b) CONTINUING PLANNING PROCESS.—Where appropriate, the Secretary
7 may encourage local governments to meet action program requirements
8 through a continuing planning process that includes periodic improvements
9 and updates in action program submissions to eliminate identified gaps in
10 program information and policy development.

11 (c) SPECIAL CONSIDERATIONS.—Action programs shall address, but are
12 not limited to—

13 (1) rehabilitation of existing recreational sites and facilities, includ-
14 ing—

15 (A) general systemwide renovation;

16 (B) special rehabilitation requirements for recreational sites and
17 facilities in areas of high population concentration and economic
18 distress; and

19 (C) restoration of outstanding or unique structures, land-
20 scaping, or similar features in parks of historical or architectural
21 significance; and

22 (2) local commitments to innovative and cost-effective programs and
23 projects at the neighborhood level to augment recovery of park and
24 recreation systems, including—

25 (A) recycling of abandoned schools and other public buildings
26 for recreational purposes;

27 (B) multiple use of operating educational and other public
28 buildings, purchase of recreation services on a contractual basis;

29 (C) use of mobile facilities and recreational, cultural, and edu-
30 cational programs or other innovative approaches to improving ac-
31 cess for neighborhood residents;

32 (D) integration of recovery program with federally assisted
33 projects to maximize recreational opportunities through conversion
34 of abandoned railroad and highway rights of way, waterfront, and
35 other redevelopment efforts and such other federally assisted
36 projects as may be appropriate;

37 (E) conversion of recreation use of street space, derelict land,
38 and other public land not now designated for neighborhood rec-
39 reational use; and

40 (F) use of various forms of compensated and uncompensated
41 land regulation, tax inducements, or other means to encourage the

1 private sector to provide neighborhood park and recreation facili-
2 ties and programs.

3 (d) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall establish
4 and publish in the Federal Register requirements for preparation, submis-
5 sion, and updating of local park and recreation recovery action programs.

6 (e) ELIGIBILITY FOR AT-RISK YOUTH RECREATION GRANTS.—To be eli-
7 gible to receive at-risk youth recreation grants a local government shall
8 amend its 5-year action program to incorporate the goal of reducing crime
9 and juvenile delinquency and to provide a description of the implementation
10 strategies to achieve this goal. The plan shall also address how the local
11 government is coordinating its recreation programs with crime prevention
12 efforts of law enforcement, juvenile corrections, and youth social service
13 agencies.

14 (f) MATCHING GRANTS.—The Secretary may provide up to 50 percent
15 matching grants to eligible local applicants for program development and
16 planning specifically to meet the objectives of this chapter.

17 **§ 105507. State action**

18 (a) ADDITIONAL MATCH.—The Secretary may increase Federal imple-
19 mentation grants authorized in section 105505 of this title by providing an
20 additional match equal to the total match provided by a State of up to 15
21 percent of total project costs. In no event may the Federal matching amount
22 exceed 85 percent of total project cost.

23 (b) ADEQUATE IMPLEMENTATION OF LOCAL RECOVERY PLANS.—The
24 Secretary shall encourage States to assist the Secretary in ensuring that
25 local recovery plans and programs are adequately implemented by cooperat-
26 ing with the Department of the Interior in monitoring local park and recre-
27 ation recovery plans and programs and in ensuring consistency of the plans
28 and programs, where appropriate, with State recreation policies as set forth
29 in statewide comprehensive outdoor recreation plans.

30 **§ 105508. Non-Federal share of project costs**

31 (a) SOURCES.—

32 (1) ALLOWABLE SOURCES.—The non-Federal share of project costs
33 assisted under this chapter may be derived from general or special pur-
34 pose State or local revenues, State categorical grants, special appro-
35 priations by State legislatures, donations of land, buildings, or building
36 materials, and in-kind construction, technical, and planning services.
37 Reasonable local costs of action program development to meet the re-
38 quirements of section 105506(a) of this title may be used as part of
39 the local match only when local applicants have not received program
40 development grants under the authority of section 105506(f) of this
41 title.

1 (2) NON-ALLOWABLE SOURCES.—No amounts from the Land and
 2 Water Conservation Fund established under section 105303 of this title
 3 or from any other Federal grant program other than the community
 4 development block grant programs shall be used to match Federal
 5 grants under this program.

6 (b) ENCOURAGEMENT OF STATES AND PRIVATE INTERESTS.—The Sec-
 7 retary shall encourage States and private interests to contribute, to the
 8 maximum extent possible, to the non-Federal share of project costs.

9 **§ 105509. Conversion of recreation property**

10 No property improved or developed with assistance under this chapter
 11 shall, without the approval of the Secretary, be converted to other than pub-
 12 lic recreation uses. The Secretary shall approve such conversion only if the
 13 Secretary finds it to be in accord with the current local park and recreation
 14 recovery action program and only on such conditions as the Secretary con-
 15 siders necessary to ensure the provision of adequate recreation properties
 16 and opportunities of reasonably equivalent location and usefulness.

17 **§ 105510. Coordination of program**

18 The Secretary shall—

19 (1) coordinate the urban park and recreation recovery program with
 20 the total urban recovery effort and cooperate to the fullest extent pos-
 21 sible with other Federal departments and agencies and with State
 22 agencies that administer programs and policies affecting urban areas,
 23 including programs in housing, urban development, natural resources
 24 management, employment, transportation, community services, and vol-
 25 untary action;

26 (2) encourage maximum coordination of the program between appro-
 27 priate State agencies and local applicants; and

28 (3) require that local applicants include provisions for participation
 29 of community and neighborhood residents and for public-private coordi-
 30 nation in recovery planning and project selection.

31 **§ 105511. Recordkeeping**

32 Each recipient of assistance under this chapter shall keep such records
 33 as the Secretary shall prescribe, including records that fully disclose the
 34 amount and disposition of project undertakings in connection with which as-
 35 sistance under this chapter is given or used, the amount and nature of that
 36 portion of the cost of the project or undertaking supplied by other sources,
 37 and such other records as will facilitate an effective audit. The Secretary,
 38 and the Comptroller General of the United States, or their duly authorized
 39 representatives, shall have access for the purpose of audit and examination
 40 to any records of the recipient that are pertinent to assistance received
 41 under this chapter.

1 **§ 105512. Authorization of appropriations**

2 (a) LIMITATION OF FUNDS.—Grants made under this chapter for projects
3 in any one State shall not be more than 15 percent of the total amount
4 of funds authorized to be appropriated in any fiscal year.

5 (b) INSULAR AREAS.—Amounts authorized for the insular areas are not
6 subject to the matching provisions of this chapter, and may only be subject
7 to such conditions, reports, plans, and agreements, if any, as determined by
8 the Secretary.

9 (c) PROGRAM SUPPORT.—Not more than 25 percent of the amounts
10 made available under this chapter to any local government may be used for
11 program support.

12 **§ 105513. Limitation on use of funds**

13 No funds available under this chapter shall be used for the acquisition
14 of land or interests in land.

15 **§ 105514. Report**

16 Within 90 days of the expiration of this authority, the Secretary shall re-
17 port to Congress on the overall impact of the urban park and recreation
18 recovery program.

19 **DIVISION C—SYSTEM UNITS AND RELATED**
20 **AREAS**

21 [RESERVED]

22 **Subtitle II—Historic Sites, Buildings,**
23 **Objects, and Antiquities**

24 **DIVISION A—GENERAL PROVISIONS**

25 **CHAPTER 2001—POLICY AND ADMINISTRATIVE**
26 **PROVISIONS**

Sec.

- 200101. Declaration of national policy.
- 200102. Duties of Secretary.
- 200103. Cooperation with governmental and private agencies and individuals.
- 200104. Jurisdiction of States in acquired land.
- 200105. Authorization of appropriations.

27 **§ 200101. Declaration of national policy**

28 It is declared that it is a national policy to preserve for public use historic
29 sites, buildings, and objects of national significance for the inspiration and
30 benefit of the people of the United States.

31 **§ 200102. Duties of Secretary**

32 The Secretary, through the Service, for the purpose of effectuating the
33 policy expressed in this chapter, shall perform the following duties:

- 34 (1) The Secretary shall secure, collate, and preserve drawings, plans,
35 photographs, and other data of historic and archaeologic sites, build-
36 ings, and objects.

1 (2) The Secretary shall make a survey of historic and archaeologic
2 sites, buildings, and objects for the purpose of determining which pos-
3 sess exceptional value as commemorating or illustrating the history of
4 the United States.

5 (3) The Secretary shall make necessary investigations and researches
6 in the United States relating to particular sites, buildings, and objects
7 to obtain accurate historical and archaeological facts and information
8 concerning the sites, buildings, and objects.

9 (4) The Secretary shall, for the purpose of this chapter, acquire in
10 the name of the United States by gift, purchase, or otherwise any prop-
11 erty, personal or real, or any interest or estate in property, title to any
12 real property to be satisfactory to the Secretary. Property that is
13 owned by any religious or educational institution or that is owned or
14 administered for the benefit of the public shall not be acquired without
15 the consent of the owner. No property shall be acquired or contract or
16 agreement for the acquisition of the property made that will obligate
17 the general fund of the Treasury for the payment of the property, un-
18 less Congress has appropriated money that is available for that pur-
19 pose.

20 (5) The Secretary shall contract and make cooperative agreements
21 with States, municipal subdivisions, corporations, associations, or indi-
22 viduals, with proper bond where considered advisable, to protect, pre-
23 serve, maintain, or operate any historic or archaeologic building, site,
24 or object, or property used in connection with the building, site, or ob-
25 ject, for public use, regardless whether the title to the building, site,
26 object, or property is in the United States. No contract or cooperative
27 agreement shall be made or entered into that will obligate the general
28 fund of the Treasury unless or until Congress has appropriated money
29 for that purpose.

30 (6) The Secretary shall restore, reconstruct, rehabilitate, preserve,
31 and maintain historic or prehistoric sites, buildings, objects, and prop-
32 erties of national historical or archaeological significance and where
33 deemed desirable establish and maintain museums in connection with
34 the sites, buildings, objects, and properties.

35 (7) The Secretary shall erect and maintain tablets to mark or com-
36 memorate historic or prehistoric places and events of national historical
37 or archaeological significance.

38 (8) The Secretary shall operate and manage historic and archaeo-
39 logic sites, buildings, and properties acquired under this chapter to-
40 gether with land and subordinate buildings for the benefit of the public.
41 The authority under this paragraph includes the power to charge rea-

1 sonable visitation fees and grant concessions, leases, or permits for the
2 use of land, building space, roads, or trails when necessary or desirable
3 either to accommodate the public or to facilitate administration. The
4 Secretary may grant those concessions, leases, or permits and enter
5 into contracts relating to the contracts, leases, or permits with respon-
6 sible persons, firms, or corporations without advertising and without se-
7 curing competitive bids.

8 (9) When the Secretary determines that it would be administratively
9 burdensome to restore, reconstruct, operate, or maintain any particular
10 historic or archaeologic site, building, or property donated to the
11 United States through the Service, the Secretary may cause the res-
12 toration, reconstruction, operation, or maintenance to be done by orga-
13 nizing a corporation for that purpose under the laws of the District of
14 Columbia or any State.

15 (10) The Secretary shall develop an educational program and service
16 for the purpose of making available to the public information pertain-
17 ing to American historic and archaeologic sites, buildings, and prop-
18 erties of national significance. Reasonable charges may be made for the
19 dissemination of any such information.

20 (11) The Secretary shall perform any and all acts and make regula-
21 tions not inconsistent with this chapter that may be necessary and
22 proper to carry out this chapter. Any person violating any of the regu-
23 lations authorized by this chapter shall be fined not more than \$500
24 and be adjudged to pay all cost of the proceedings.

25 **§ 200103. Cooperation with governmental and private agen-**
26 **cies and individuals**

27 (a) AUTHORIZATION OF SECRETARY.—The Secretary may cooperate with
28 and may seek and accept the assistance of any Federal, State, or local agen-
29 cy, educational or scientific institution, patriotic association, or individual.

30 (b) TECHNICAL ADVISORY COMMITTEES.—When the Secretary considers
31 it necessary, the Secretary may establish technical advisory committees to
32 act in an advisory capacity in connection with the restoration or reconstruc-
33 tion of any historic or prehistoric building or other structure.

34 (c) EMPLOYMENT OF ASSISTANCE.—The Secretary may employ profes-
35 sional and technical assistance and establish service as may be required to
36 accomplish the purposes of this chapter and for which money may be appro-
37 priated by Congress or made available by gifts for those purposes.

38 **§ 200104. Jurisdiction of States in acquired land**

39 Nothing in this chapter shall be held to deprive any State, or political
40 subdivision of a State, of its civil and criminal jurisdiction in and over land
41 acquired by the United States under this chapter.

1 **§ 200105. Authorization of appropriations**

2 (a) IN GENERAL.—There are authorized to be appropriated to carry out
3 this chapter such sums as Congress may from time to time determine.

4 (b) REQUIREMENT FOR SPECIFIC AUTHORIZATION.—Notwithstanding
5 any other provision of law, no funds appropriated or otherwise made avail-
6 able to the Secretary to carry out paragraph (5) or (6) of section 200102
7 of this title may be obligated or expended—

8 (1) unless the appropriation of the funds has been specifically au-
9 thorized by law enacted on or after October 30, 1992; or

10 (2) in excess of the amount prescribed by law enacted on or after
11 October 30, 1992.

12 **CHAPTER 2003—DEFINITIONS**

Sec.

200301. National Trust.

13 **§ 200301. National Trust.**

14 In this subtitle, the term “National Trust” means the National Trust for
15 Historic Preservation in the United States established under section 207102
16 of this title.

17 **DIVISION B—HISTORIC PRESERVATION**

18 **Subdivision 1—General Provisions**

19 **CHAPTER 2011—FINDINGS, POLICY, AND DEFINITIONS**

Sec.

201101. Findings.

201102. Declaration of policy.

201103. Definitions.

20 **§ 201101. Findings**

21 Congress finds that—

22 (1) the spirit and direction of the Nation are founded on and re-
23 flected in its historic heritage;

24 (2) the historical and cultural foundations of the Nation should be
25 preserved as a living part of our community life and development in
26 order to give a sense of orientation to the American people;

27 (3) historic properties significant to the Nation’s heritage are being
28 lost or substantially altered, often inadvertently, with increasing fre-
29 quency;

30 (4) the preservation of this irreplaceable heritage is in the public in-
31 terest so that its vital legacy of cultural, educational, aesthetic, inspira-
32 tional, economic, and energy benefits will be maintained and enriched
33 for future generations of Americans;

34 (5) in the face of ever-increasing extensions of urban centers, high-
35 ways, and residential, commercial, and industrial developments, the
36 governmental and nongovernmental historic preservation programs and

1 activities as of December 12, 1980, were inadequate to ensure future
 2 generations a genuine opportunity to appreciate and enjoy the rich her-
 3 itage of our Nation;

4 (6) the increased knowledge of our historic properties, the establish-
 5 ment of better means of identifying and administering them, and the
 6 encouragement of their preservation will improve the planning and exe-
 7 cution of Federal and federally assisted projects and will assist eco-
 8 nomic growth and development; and

9 (7) although the major burdens of historic preservation have been
 10 borne and major efforts initiated by private agencies and individuals,
 11 and both should continue to play a vital role, it is nevertheless nec-
 12 essary and appropriate for the Federal Government to accelerate its
 13 historic preservation programs and activities, to give maximum encour-
 14 agement to agencies and individuals undertaking preservation by pri-
 15 vate means, and to assist State and local governments and the National
 16 Trust to expand and accelerate their historic preservation programs
 17 and activities.

18 **§ 201102. Declaration of policy**

19 It is the policy of the Federal Government, in cooperation with other na-
 20 tions and in partnership with States, local governments, Indian tribes, Na-
 21 tive Hawaiians, and private organizations and individuals, to—

22 (1) use measures, including financial and technical assistance, to fos-
 23 ter conditions under which our modern society and our historic prop-
 24 erties can exist in productive harmony and fulfill the social, economic,
 25 and other requirements of present and future generations;

26 (2) provide leadership in the preservation of the historic properties
 27 of the United States and of the international community of nations and
 28 in the administration of the national preservation program;

29 (3) administer federally owned, administered, or controlled historic
 30 properties in a spirit of stewardship for the inspiration and benefit of
 31 present and future generations;

32 (4) contribute to the preservation of nonfederally owned historic
 33 properties and give maximum encouragement to organizations and indi-
 34 viduals undertaking preservation by private means;

35 (5) encourage the public and private preservation and utilization of
 36 all usable elements of the Nation's historic built environment; and

37 (6) assist State and local governments, Indian tribes and Native Ha-
 38 waiian organizations, and the National Trust to expand and accelerate
 39 their historic preservation programs and activities.

40 **§ 201103. Definitions**

41 In this division:

1 (1) AGENCY.—The term “agency” has the meaning given the term
2 in section 551 of title 5.

3 (2) CERTIFIED LOCAL GOVERNMENT.—The term “certified local gov-
4 ernment” means a local government whose local historic preservation
5 program is certified pursuant to chapter 2027 of this title.

6 (3) COUNCIL.—The term “Council” means the Advisory Council on
7 Historic Preservation established by section 204101 of this title.

8 (4) CULTURAL PARK.—The term “cultural park” means a definable
9 area that—

10 (A) is distinguished by historic properties and land related to
11 those properties; and

12 (B) constitutes an interpretive, educational, and recreational re-
13 source for the public at large.

14 (5) HISTORIC CONSERVATION DISTRICT.—The term “historic con-
15 servation district” means an area that contains—

16 (A) historic properties;

17 (B) buildings having similar or related architectural characteris-
18 tics;

19 (C) cultural cohesiveness; or

20 (D) any combination of features described in subparagraphs (A)
21 to (C).

22 (6) HISTORIC PRESERVATION FUND.—The term “Historic Preserva-
23 tion Fund” means the Historic Preservation Fund established under
24 section 205511 of this title.

25 (7) HISTORIC PRESERVATION REVIEW COMMISSION.—The term “his-
26 toric preservation review commission” means a board, council, commis-
27 sion, or other similar collegial body—

28 (A) that is established by State or local legislation as provided
29 in section 202702(a)(2) of this title; and

30 (B) the members of which are appointed by the chief elected of-
31 ficial of a jurisdiction (unless State or local law provides for ap-
32 pointment by another official) from among—

33 (i) professionals in the disciplines of architecture, history,
34 architectural history, planning, prehistoric and historic ar-
35 chaeology, folklore, cultural anthropology, curation, conserva-
36 tion, and landscape architecture, or related disciplines, to the
37 extent that those professionals are available in the commu-
38 nity; and

39 (ii) other individuals who have demonstrated special inter-
40 est, experience, or knowledge in history, architecture, or relat-

1 ed disciplines and will provide for an adequate and qualified
2 commission.

3 (8) HISTORIC PROPERTY.—The term “historic property” means any
4 prehistoric or historic property included on, or eligible for inclusion on,
5 the National Register.

6 (9) INDIAN TRIBE.—The term “Indian tribe” means an Indian tribe,
7 band, nation, or other organized group or community, including a Na-
8 tive village, Regional Corporation or Village Corporation (as those
9 terms are defined in section 3 of the Alaska Native Claims Settlement
10 Act (16 U.S.C. 1602)), that is recognized as eligible for the special pro-
11 grams and services provided by the United States to Indians because
12 of their status as Indians.

13 (10) LOCAL GOVERNMENT.—The term “local government” means a
14 city, county, parish, township, municipality, or borough, or any other
15 general purpose political subdivision of any State.

16 (11) NATIONAL REGISTER.—The term “National Register” means
17 the National Register of Historic Places maintained under chapter
18 2023 of this title.

19 (12) NATIVE HAWAIIAN.—The term “Native Hawaiian” means any
20 individual who is a descendant of the aboriginal people who, prior to
21 1778, occupied and exercised sovereignty in the area that now con-
22 stitutes Hawaii.

23 (13) NATIVE HAWAIIAN ORGANIZATION.—

24 (A) IN GENERAL.—The term “Native Hawaiian organization”
25 means any organization that—

26 (i) serves and represents the interests of Native Hawaiians;

27 (ii) has as a primary and stated purpose the provision of
28 services to Native Hawaiians; and

29 (iii) has demonstrated expertise in aspects of historic pres-
30 ervation that are culturally significant to Native Hawaiians.

31 (B) INCLUSIONS.—The term “Native Hawaiian organization”
32 includes the Office of Hawaiian Affairs of Hawaii and Hui
33 Malama I Na Kupuna O Hawai'i Nei, an organization incor-
34 porated under the laws of Hawaii.

35 (14) PRESERVATION OR HISTORIC PRESERVATION.—The term “pres-
36 ervation” or “historic preservation” includes—

37 (A) identification, evaluation, recordation, documentation, cura-
38 tion, acquisition, protection, management, rehabilitation, restora-
39 tion, stabilization, maintenance, research, interpretation, and con-
40 servation;

41 (B) education and training regarding the foregoing activities; or

1 (C) any combination of the foregoing activities.

2 (15) PROPERTY.—

3 (A) IN GENERAL.—The term “property” means a district, site,
4 building, structure, or object.

5 (B) INCLUSIONS.—The term “property” includes artifacts,
6 records, and material remains that are related to a district, site,
7 building, structure, or object.

8 (16) STATE.—The term “State” means a State, the District of Co-
9 lumbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the
10 Northern Mariana Islands, the Marshall Islands, the Federated States
11 of Micronesia, and Palau.

12 (17) STATE HISTORIC PRESERVATION REVIEW BOARD.—The term
13 “State historic preservation review board” means a board, council,
14 commission, or other similar collegial body established as provided in
15 section 202501(2) of this title—

16 (A) the members of which are appointed by the State Historic
17 Preservation Officer (unless otherwise provided for by State law);

18 (B) a majority of the members of which are professionals quali-
19 fied in history, prehistoric and historic archaeology, architectural
20 history, architecture, folklore, cultural anthropology, curation, con-
21 servation, landscape architecture, and related disciplines; and

22 (C) that has the authority to—

23 (i) review National Register nominations and appeals from
24 nominations;

25 (ii) review appropriate documentation submitted in con-
26 junction with the Historic Preservation Fund;

27 (iii) provide general advice and guidance to the State His-
28 toric Preservation Officer; and

29 (iv) perform such other duties as may be appropriate.

30 (18) TRIBAL LAND.—The term “tribal land” means—

31 (A) all land within the exterior boundaries of any Indian res-
32 ervation; and

33 (B) all dependent Indian communities.

34 (19) UNDERTAKING.—The term “undertaking” means a project, ac-
35 tivity, or program funded in whole or in part under the direct or indi-
36 rect jurisdiction of a Federal agency, including—

37 (A) those carried out by or on behalf of the Federal agency;

38 (B) those carried out with Federal financial assistance;

39 (C) those requiring a Federal permit license, or approval; and

40 (D) those subject to State or local regulation administered pur-
41 suant to a delegation or approval by a Federal agency.

1 (20) WORLD HERITAGE CONVENTION.—The term “World Heritage
2 Convention” means the Convention concerning the Protection of the
3 World Cultural and Natural Heritage, done at Paris November 23,
4 1972 (27 UST 37).

5 **Subdivision 2—Historic Preservation Program**

6 **CHAPTER 2021—DEFINITIONS**

Sec.

202101. Definitions.

7 **§ 202101. Definitions**

8 In this subdivision:

9 (1) DESIGNATION.—The term “designation” means the identification
10 and registration of properties for protection that meet criteria estab-
11 lished by a State or locality for significant historic properties within the
12 jurisdiction of a local government.

13 (2) PROTECTION.—The term “protection” means protection by
14 means of a local review process under State or local law for proposed
15 demolition of, changes to, or other action that may affect historic prop-
16 erties designated pursuant to chapter 2027 of this title.

17 **CHAPTER 2023—NATIONAL REGISTER OF HISTORIC**

18 **PLACES**

Sec.

202301. Maintenance by Secretary.

202302. Inclusion of properties on National Register.

202303. Criteria and regulations.

202304. Nominations for inclusion on National Register.

202305. Objection to inclusion on National Register or designation as National Historic
Landmark.

202306. Regulations.

202307. Review of threats to historic properties.

19 **§ 202301. Maintenance by Secretary**

20 The Secretary may expand and maintain a National Register of Historic
21 Places composed of properties significant in American history, architecture,
22 archaeology, engineering, and culture.

23 **§ 202302. Inclusion of properties on National Register**

24 (a) IN GENERAL.—A property that meets the criteria for National His-
25 toric Landmarks established pursuant to section 202303 of this title shall
26 be designated as a National Historic Landmark and included on the Na-
27 tional Register, subject to the requirements of section 202306 of this title.

28 (b) HISTORIC PROPERTIES ON NATIONAL REGISTER ON DECEMBER 12,
29 1980.—All historic properties included on the National Register on Decem-
30 ber 12, 1980, shall be deemed to be included on the National Register as
31 of their initial listing for purposes of this division.

32 (c) HISTORIC PROPERTIES LISTED IN FEDERAL REGISTER OF FEB-
33 RUARY 6, 1979, OR PRIOR TO DECEMBER 12, 1980, AS NATIONAL HIS-

1 TORIC LANDMARKS.—All historic properties listed in the Federal Register
2 of February 6, 1979, or prior to December 12, 1980, as National Historic
3 Landmarks are declared by Congress to be National Historic Landmarks of
4 national historic significance as of their initial listing in the Federal Reg-
5 ister for purposes of this division and chapter 2001 of this title.

6 (d) BOUNDARIES.—In the case of a National Historic Landmark district
7 for which no boundaries had been established as of December 12, 1980,
8 boundaries must first be published in the Federal Register.

9 **§ 202303. Criteria and regulations**

10 The Secretary, in consultation with national historical and archaeological
11 associations, shall—

12 (1) establish criteria for properties to be included on the National
13 Register and criteria for National Historic Landmarks; and

14 (2) promulgate regulations for—

15 (A) nominating properties for inclusion on, and removal from,
16 the National Register and the recommendation of properties by
17 certified local governments;

18 (B) designating properties as National Historic Landmarks and
19 removing that designation;

20 (C) considering appeals from recommendations, nominations, re-
21 movals, and designations (or any failure or refusal by a nominat-
22 ing authority to nominate or designate);

23 (D) nominating historic properties for inclusion in the World
24 Heritage List in accordance with the World Heritage Convention;

25 (E) making determinations of eligibility of properties for inclu-
26 sion on the National Register; and

27 (F) notifying the owner of a property, any appropriate local gov-
28 ernments, and the general public, when the property is being con-
29 sidered for inclusion on the National Register, for designation as
30 a National Historic Landmark, or for nomination to the World
31 Heritage List.

32 **§ 202304. Nominations for inclusion on National Register**

33 (a) NOMINATION BY STATE.—Subject to the requirements of section
34 202306 of this title, any State that is carrying out a program approved
35 under chapter 2025 of this title shall nominate to the Secretary properties
36 that meet the criteria promulgated under section 202303 of this title for
37 inclusion on the National Register. Subject to section 202306 of this title,
38 any property nominated under this subsection or under section 205102 of
39 this title shall be included on the National Register on the date that is 45
40 days after receipt by the Secretary of the nomination and the necessary doc-

1 umentation, unless the Secretary disapproves the nomination within the 45-
2 day period or unless an appeal is filed under subsection (c).

3 (b) **NOMINATION BY PERSON OR LOCAL GOVERNMENT.**—Subject to the
4 requirements of section 202306 of this title, the Secretary may accept a
5 nomination directly from any person or local government for inclusion of a
6 property on the National Register only if the property is located in a State
7 where there is no program approved under chapter 2025 of this title. The
8 Secretary may include on the National Register any property for which such
9 a nomination is made if the Secretary determines that the property is eligi-
10 ble in accordance with the regulations promulgated under section 202303
11 of this title. The determination shall be made within 90 days from the date
12 of the nomination unless the nomination is appealed under subsection (c).

13 (c) **APPEAL.**—Any person or local government may appeal to the Sec-
14 retary—

15 (1) a nomination of any property for inclusion on the National Reg-
16 ister; and

17 (2) the failure or refusal of a nominating authority to nominate a
18 property in accordance with this chapter.

19 **§ 202305. Objection to inclusion on National Register or des-**
20 **ignation as National Historic Landmark**

21 (a) **REGULATIONS.**—The Secretary shall promulgate regulations requiring
22 that before any property may be included on the National Register or des-
23 ignated as a National Historic Landmark, the owner of the property, or a
24 majority of the owners of the individual properties within a district in the
25 case of a historic district, shall be given the opportunity (including a reason-
26 able period of time) to concur in, or object to, the nomination of the prop-
27 erty for inclusion or designation. The regulations shall include provisions to
28 carry out this section in the case of multiple ownership of a single property.

29 (b) **WHEN PROPERTY SHALL NOT BE INCLUDED ON NATIONAL REG-**
30 **ISTER OR DESIGNATED AS NATIONAL HISTORIC LANDMARK.**—If the owner
31 of any privately owned property, or a majority of the owners of privately
32 owned properties within the district in the case of a historic district, object
33 to inclusion or designation, the property shall not be included on the Na-
34 tional Register or designated as a National Historic Landmark until the ob-
35 jection is withdrawn.

36 (c) **REVIEW BY SECRETARY.**—The Secretary shall review the nomination
37 of the property when an objection has been made and shall determine
38 whether or not the property is eligible for inclusion or designation. If the
39 Secretary determines that the property is eligible for inclusion or designa-
40 tion, the Secretary shall inform the Advisory Council on Historic Preserva-
41 tion, the appropriate State Historic Preservation Officer, the appropriate

1 chief elected local official, and the owner or owners of the property of the
2 Secretary's determination.

3 (d) RETENTION OF NAME.—Notwithstanding section 43(e) of the Act of
4 July 5, 1946 (known as the Trademark Act of 1946) (15 U.S.C. 1125(e)),
5 buildings and structures on or eligible for inclusion on the National Register
6 (either individually or as part of a historic district), or designated as an in-
7 dividual landmark or as a contributing building in a historic district by a
8 unit of State or local government, may retain the name historically associ-
9 ated with the building or structure.

10 **§ 202306. Regulations**

11 The Secretary shall promulgate regulations—

12 (1) ensuring that significant prehistoric and historic artifacts, and
13 associated records, subject to subchapter I of chapter 2051 of this title,
14 chapter 2081 of this title, and the Archaeological Resources Protection
15 Act of 1979 (16 U.S.C. 470aa et seq.) are deposited in an institution
16 with adequate long-term curatorial capabilities;

17 (2) establishing a uniform process and standards for documenting
18 historic properties by public agencies and private parties for purposes
19 of incorporation into, or complementing, the national historical archi-
20 tectural and engineering records in the Library of Congress; and

21 (3) certifying local governments, in accordance with sections 202701
22 and 202702 of this title and for the allocation of funds pursuant to
23 section 205503(d) of this title.

24 **§ 202307. Review of threats to historic properties**

25 At least once every 4 years, the Secretary, in consultation with the Coun-
26 cil and with State Historic Preservation Officers, shall review significant
27 threats to historic properties to—

28 (1) determine the kinds of historic properties that may be threat-
29 ened;

30 (2) ascertain the causes of the threats; and

31 (3) develop and submit to the President and Congress recommenda-
32 tions for appropriate action.

33 **CHAPTER 2025—STATE HISTORIC PRESERVATION** 34 **PROGRAMS**

Sec.

202501. Regulations.

202502. Program evaluation.

202503. State Historic Preservation Officer.

202504. Contracts and cooperative agreements.

35 **§ 202501. Regulations**

36 The Secretary, in consultation with the National Conference of State His-
37 toric Preservation Officers and the National Trust for Historic Preserva-

1 tion, shall promulgate or revise regulations for State Historic Preservation
 2 Programs. The regulations shall provide that a State program submitted to
 3 the Secretary under this chapter shall be approved by the Secretary if the
 4 Secretary determines that the program provides for—

5 (1) the designation and appointment by the chief executive officer of
 6 the State of a State Historic Preservation Officer to administer the
 7 program in accordance with section 202503 of this title and for the em-
 8 ployment or appointment by the officer of professionally qualified staff
 9 that may be necessary for those purposes;

10 (2) an adequate and qualified State historic preservation review
 11 board designated by the State Historic Preservation Officer unless
 12 otherwise provided for by State law; and

13 (3) adequate public participation in the State Historic Preservation
 14 Program, including the process of recommending properties for nomi-
 15 nation to the National Register.

16 **§ 202502. Program evaluation**

17 (a) WHEN EVALUATION SHOULD OCCUR.—Periodically, but not less
 18 than every 4 years after the approval of any State program under this sec-
 19 tion, the Secretary, in consultation with the Council on the appropriate pro-
 20 visions of this division, and in cooperation with the State Historic Preserva-
 21 tion Officer, shall evaluate the program to determine whether it is consistent
 22 with this division.

23 (b) DISAPPROVAL OF PROGRAM.—If, at any time, the Secretary deter-
 24 mines that a major aspect of a State program is not consistent with this
 25 division, the Secretary shall disapprove the program and suspend in whole
 26 or in part any contracts or cooperative agreements with the State and the
 27 State Historic Preservation Officer under this division, until the program
 28 is consistent with this division, unless the Secretary determines that the
 29 program will be made consistent with this division within a reasonable pe-
 30 riod of time.

31 (c) OVERSIGHT.—The Secretary, in consultation with State Historic Pres-
 32 ervation Officers, shall establish oversight methods to ensure State program
 33 consistency and quality without imposing undue review burdens on State
 34 Historic Preservation Officers.

35 (d) STATE FISCAL AUDIT AND MANAGEMENT SYSTEM.—

36 (1) SUBSTITUTION FOR COMPARABLE FEDERAL SYSTEMS.—At the
 37 discretion of the Secretary, a State system of fiscal audit and manage-
 38 ment may be substituted for comparable Federal systems so long as the
 39 State system—

40 (A) establishes and maintains substantially similar accountabil-
 41 ity standards; and

- 1 (B) provides for independent professional peer review.
- 2 (2) FISCAL AUDITS AND REVIEW BY SECRETARY.—The Secretary—
- 3 (A) may conduct periodic fiscal audits of State programs ap-
- 4 proved under this subdivision as needed; and
- 5 (B) shall ensure that the programs meet applicable accountabil-
- 6 ity standards.

7 **§ 202503. State Historic Preservation Officer**

- 8 (a) IN GENERAL.—It shall be the responsibility of a State Historic Pres-
- 9 ervation Officer to administer a State Historic Preservation Program.
- 10 (b) PARTICULAR RESPONSIBILITIES.—It shall be the responsibility of a
- 11 State Historic Preservation Officer to—
- 12 (1) in cooperation with Federal and State agencies, local govern-
- 13 ments, and private organizations and individuals, direct and conduct a
- 14 comprehensive statewide survey of historic properties and maintain in-
- 15 ventories of the properties;
- 16 (2) identify and nominate eligible properties to the National Register
- 17 and otherwise administer applications for listing historic properties on
- 18 the National Register;
- 19 (3) prepare and implement a comprehensive statewide historic pres-
- 20 ervation plan;
- 21 (4) administer the State program of Federal assistance for historic
- 22 preservation within the State;
- 23 (5) advise and assist, as appropriate, Federal and State agencies and
- 24 local governments in carrying out their historic preservation respon-
- 25 sibilities;
- 26 (6) cooperate with the Secretary, the Council, other Federal and
- 27 State agencies, local governments, and organizations and individuals to
- 28 ensure that historic properties are taken into consideration at all levels
- 29 of planning and development;
- 30 (7) provide public information, education, and training and technical
- 31 assistance in historic preservation;
- 32 (8) cooperate with local governments in the development of local his-
- 33 toric preservation programs and assist local governments in becoming
- 34 certified pursuant to chapter 2027 of this title;
- 35 (9) consult with appropriate Federal agencies in accordance with this
- 36 division on—
- 37 (A) Federal undertakings that may affect historic properties;
- 38 and
- 39 (B) the content and sufficiency of any plans developed to pro-
- 40 tect, manage, or reduce or mitigate harm to those properties; and

1 (10) advise and assist in the evaluation of proposals for rehabilita-
 2 tion projects that may qualify for Federal assistance.

3 **§ 202504. Contracts and cooperative agreements**

4 (a) STATE.—Any State may carry out all or any part of its responsibil-
 5 ities under this chapter by contract or cooperative agreement with any
 6 qualified nonprofit organization or educational institution.

7 (b) SECRETARY.—

8 (1) IN GENERAL.—

9 (A) AUTHORITY TO ASSIST SECRETARY.—Subject to paragraphs
 10 (3) and (4), the Secretary may enter into contracts or cooperative
 11 agreements with a State Historic Preservation Officer for any
 12 State authorizing the Officer to assist the Secretary in carrying
 13 out one or more of the following responsibilities within that State:

14 (i) Identification and preservation of historic properties.

15 (ii) Determination of the eligibility of properties for listing
 16 on the National Register.

17 (iii) Preparation of nominations for inclusion on the Na-
 18 tional Register.

19 (iv) Maintenance of historical and archaeological data
 20 bases.

21 (v) Evaluation of eligibility for Federal preservation incen-
 22 tives.

23 (B) AUTHORITY TO MAINTAIN NATIONAL REGISTER.—Nothing
 24 in subparagraph (A) shall be construed to provide that any State
 25 Historic Preservation Officer or any other person other than the
 26 Secretary shall have the authority to maintain the National Reg-
 27 ister for properties in any State.

28 (2) REQUIREMENTS.—The Secretary may enter into a contract or
 29 cooperative agreement under paragraph (1) only if—

30 (A) the State Historic Preservation Officer has requested the
 31 additional responsibility;

32 (B) the Secretary has approved the State historic preservation
 33 program pursuant to sections 204501 and 204502 of this title;

34 (C) the State Historic Preservation Officer agrees to carry out
 35 the additional responsibility in a timely and efficient manner ac-
 36 ceptable to the Secretary and the Secretary determines that the
 37 Officer is fully capable of carrying out the responsibility in that
 38 manner;

39 (D) the State Historic Preservation Officer agrees to permit the
 40 Secretary to review and revise, as appropriate in the discretion of

1 the Secretary, decisions made by the Officer pursuant to the con-
 2 tract or cooperative agreement; and

3 (E) the Secretary and the State Historic Preservation Officer
 4 agree on the terms of additional financial assistance to the State,
 5 if there is to be any, for the costs of carrying out that responsibil-
 6 ity.

7 (3) ESTABLISH CONDITIONS AND CRITERIA.—For each significant
 8 program area under the Secretary’s authority, the Secretary shall es-
 9 tablish specific conditions and criteria essential for the assumption by
 10 a State Historic Preservation Officer of the Secretary’s duties in each
 11 of those programs.

12 (4) PRESERVATION PROGRAMS AND ACTIVITIES NOT DIMINISHED.—
 13 Nothing in this chapter shall have the effect of diminishing the preser-
 14 vation programs and activities of the Service.

15 **CHAPTER 2027—CERTIFICATION OF LOCAL** 16 **GOVERNMENTS**

Sec.

202701. Certification as part of State program.

202702. Requirements for certification.

202703. Consideration of property for inclusion on National Register.

202704. Eligibility and responsibility of certified local government.

17 **§ 202701. Certification as part of State program**

18 Any State program approved under this subdivision shall provide a mech-
 19 anism for the certification by the State Historic Preservation Officer of local
 20 governments to carry out the purposes of this division and provide for the
 21 transfer, in accordance with section 205503(d) of this title, of a portion of
 22 the grants received by the States under this division, to those local govern-
 23 ments.

24 **§ 202702. Requirements for certification**

25 (a) APPROVED STATE PROGRAM.—Any local government shall be certified
 26 to participate under this section if the applicable State Historic Preservation
 27 Officer, and the Secretary, certify that the local government—

28 (1) enforces appropriate State or local legislation for the designation
 29 and protection of historic properties;

30 (2) has established an adequate and qualified historic preservation
 31 review commission by State or local legislation;

32 (3) maintains a system for the survey and inventory of historic prop-
 33 erties that furthers the purposes of chapter 2025 of this title;

34 (4) provides for adequate public participation in the local historic
 35 preservation program, including the process of recommending prop-
 36 erties for nomination to the National Register; and

1 (5) satisfactorily performs the responsibilities delegated to it under
2 this division.

3 (b) NO APPROVED STATE PROGRAM.—Where there is no approved State
4 program, a local government may be certified by the Secretary if the Sec-
5 retary determines that the local government meets the requirements of sub-
6 section (a). The Secretary may make grants to the local government cer-
7 tified under this subsection for purposes of this subdivision.

8 **§ 202703. Consideration of property for inclusion on Na-**
9 **tional Register**

10 (a) NOTICE.—Before a property within the jurisdiction of a certified local
11 government may be considered by a State to be nominated to the Secretary
12 for inclusion on the National Register, the State Historic Preservation Offi-
13 cer shall notify the owner, the applicable chief local elected official, and the
14 local historic preservation commission.

15 (b) REPORT.—The local historic preservation commission, after reason-
16 able opportunity for public comment, shall prepare a report as to whether
17 the property, in the Commission's opinion, meets the criteria of the National
18 Register. Within 60 days of notice from the State Historic Preservation Of-
19 ficer, the chief local elected official shall transmit the report of the commis-
20 sion and the recommendation of the local official to the State Historic Pres-
21 ervation Officer.

22 (c) RECOMMENDATION.—

23 (1) PROPERTY NOMINATED TO NATIONAL REGISTER.—Except as
24 provided in paragraph (2), after receipt of the report and recommenda-
25 tion, or if no report and recommendation are received within 60 days,
26 the State shall make the nomination pursuant to section 204304 of this
27 title. The State may expedite the process with the concurrence of the
28 certified local government.

29 (2) PROPERTY NOT NOMINATED TO NATIONAL REGISTER.—If both
30 the commission and the chief local elected official recommend that a
31 property not be nominated to the National Register, the State Historic
32 Preservation Officer shall take no further action, unless, within 30 days
33 of the receipt of the recommendation by the State Historic Preserva-
34 tion Officer, an appeal is filed with the State. If an appeal is filed, the
35 State shall follow the procedures for making a nomination pursuant to
36 section 202304 of this title. Any report and recommendations made
37 under this section shall be included with any nomination submitted by
38 the State to the Secretary.

1 **§ 202704. Eligibility and responsibility of certified local gov-**
 2 **ernment**

3 Any local government that is certified under this section or that is mak-
 4 ing efforts to become certified—

5 (1) shall be eligible for funds under section 205503(d) of this title;
 6 and

7 (2) shall carry out any responsibilities delegated to it in accordance
 8 with such terms and conditions as the Secretary considers necessary or
 9 advisable.

10 **CHAPTER 2029—HISTORIC PROPERTIES OF INDIAN**
 11 **TRIBES**

Sec.

202901. Program to assist Indian tribes in preserving historic properties.

202902. Indian tribe to assume functions of State Historic Preservation Officer.

202903. Apportionment of grant funds.

202904. Contracts and cooperative agreements.

202905. Agreement for review under tribal historic preservation regulations.

202906. Eligibility for inclusion on National Register.

12 **§ 202901. Program to assist Indian tribes in preserving his-**
 13 **toric properties**

14 (a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pro-
 15 gram and promulgate regulations to assist Indian tribes in preserving their
 16 historic properties.

17 (b) COMMUNICATION AND COOPERATION.—The Secretary shall foster
 18 communication and cooperation between Indian tribes and State Historic
 19 Preservation Officers in the administration of the national historic preserva-
 20 tion program to—

21 (1) ensure that all types of historic properties and all public interests
 22 in historic properties are given due consideration; and

23 (2) encourage coordination among Indian tribes, State Historic Pres-
 24 ervation Officers, and Federal agencies in historic preservation plan-
 25 ning and in the identification, evaluation, protection, and interpretation
 26 of historic properties.

27 (c) TRIBAL VALUES.—The program under subsection (a) shall be devel-
 28 oped in a manner to ensure that tribal values are taken into account to the
 29 extent feasible. The Secretary may waive or modify requirements of this
 30 subdivision to conform to the cultural setting of tribal heritage preservation
 31 goals and objectives.

32 (d) SCOPE OF TRIBAL PROGRAMS.—The tribal programs implemented by
 33 specific tribal organizations may vary in scope, as determined by each In-
 34 dian tribe's chief governing authority.

1 **§ 202902. Indian tribe to assume functions of State Historic**
 2 **Preservation Officer**

3 An Indian tribe may assume all or any part of the functions of a State
 4 Historic Preservation Officer in accordance with sections 202502 and
 5 202503 of this title, with respect to tribal land, as those responsibilities may
 6 be modified for tribal programs through regulations issued by the Secretary,
 7 if—

8 (1) the Indian tribe’s chief governing authority so requests;

9 (2) the Indian tribe designates a tribal preservation official to admin-
 10 ister the tribal historic preservation program, through appointment by
 11 the Indian tribe’s chief governing authority or as a tribal ordinance
 12 may otherwise provide;

13 (3) the tribal preservation official provides the Secretary with a plan
 14 describing how the functions the tribal preservation official proposes to
 15 assume will be carried out;

16 (4) the Secretary determines, after consulting with the Indian tribe,
 17 the appropriate State Historic Preservation Officer, the Council (if the
 18 Indian tribe proposes to assume the functions of the State Historic
 19 Preservation Officer with respect to review of undertakings under sec-
 20 tion 205302 of this title), and other Indian tribes, if any, whose tribal
 21 or aboriginal land may be affected by conduct of the tribal preservation
 22 program, that—

23 (A) the tribal preservation program is fully capable of carrying
 24 out the functions specified in the plan provided under paragraph
 25 (3);

26 (B) the plan defines the remaining responsibilities of the Sec-
 27 retary and the State Historic Preservation Officer; and

28 (C) the plan provides, with respect to properties neither owned
 29 by a member of the Indian tribe nor held in trust by the Secretary
 30 for the benefit of the Indian tribe, at the request of the owner of
 31 the properties, that the State Historic Preservation Officer, in ad-
 32 dition to the tribal preservation official, may exercise the historic
 33 preservation responsibilities in accordance with sections 202502
 34 and 202503 of this title; and

35 (5) based on satisfaction of the conditions stated in paragraphs (1),
 36 (2), (3), and (4), the Secretary approves the plan.

37 **§ 202903. Apportionment of grant funds**

38 In consultation with interested Indian tribes, other Native American orga-
 39 nizations, and affected State Historic Preservation Officers, the Secretary
 40 shall establish and implement procedures for carrying out section

1 205503(a)(1) of this title with respect to tribal programs that assume re-
2 sponsibilities under section 202902 of this title.

3 **§ 202904. Contracts and cooperative agreements**

4 At the request of an Indian tribe whose preservation program has been
5 approved to assume functions and responsibilities pursuant to section
6 202902 of this title, the Secretary shall enter into a contract or cooperative
7 agreement with the Indian tribe permitting the assumption by the Indian
8 tribe of any part of the responsibilities described in section 202504(b) of
9 this title on tribal land, if—

10 (1) the Secretary and the Indian tribe agree on additional financial
11 assistance, if any, to the Indian tribe for the costs of carrying out those
12 authorities;

13 (2) the Secretary finds that the tribal historic preservation program
14 has been demonstrated to be sufficient to carry out the contract or co-
15 operative agreement and this division; and

16 (3) the contract or cooperative agreement specifies the continuing re-
17 sponsibilities of the Secretary or of the appropriate State Historic Pres-
18 ervation Officers and provides for appropriate participation by—

19 (A) the Indian tribe's traditional cultural authorities;

20 (B) representatives of other Indian tribes whose traditional land
21 is under the jurisdiction of the Indian tribe assuming responsibil-
22 ities; and

23 (C) the public.

24 **§ 202905. Agreement for review under tribal historic preser-
25 vation regulations**

26 The Council may enter into an agreement with an Indian tribe to permit
27 undertakings on tribal land to be reviewed under tribal historic preservation
28 regulations in place of review under regulations promulgated by the Council
29 to govern compliance with section 205302 of this title, if the Council, after
30 consultation with the Indian tribe and appropriate State Historic Preserva-
31 tion Officers, determines that the tribal preservation regulations will afford
32 historic properties consideration equivalent to those afforded by the Coun-
33 cil's regulations.

34 **§ 202906. Eligibility for inclusion on National Register**

35 (a) IN GENERAL.—Properties of traditional religious and cultural impor-
36 tance to an Indian tribe or Native Hawaiian organization may be deter-
37 mined to be eligible for inclusion on the National Register.

38 (b) CONSULTATION.—In carrying out its responsibilities under section
39 205302 of this title, a Federal agency shall consult with any Indian tribe
40 or Native Hawaiian organization that attaches religious and cultural signifi-
41 cance to properties described in subsection (a).

1 (c) HAWAII.—In carrying out responsibilities under section 202503 of
2 this title, the State Historic Preservation Officer for Hawaii shall—

3 (1) consult with Native Hawaiian organizations in assessing the cul-
4 tural significance of any property in determining whether to nominate
5 the property to the National Register;

6 (2) consult with Native Hawaiian organizations in developing the
7 cultural component of a preservation program or plan for the property;
8 and

9 (3) enter into a memorandum of understanding or agreement with
10 Native Hawaiian organizations for the assessment of the cultural sig-
11 nificance of a property in determining whether to nominate the prop-
12 erty to the National Register and to carry out the cultural component
13 of the preservation program or plan.

14 **CHAPTER 2031—GRANTS**

Sec.

203101. Matching grants.

203102. Grants to National Trust.

203103. Direct grants for the preservation of properties included on National Register.

203104. Religious properties.

203105. Grants and loans to Indian tribes and nonprofit organizations representing ethnic
or minority groups.

203106. Grants to Indian tribes and Native Hawaiian organizations.

203107. Prohibited use of funds.

203108. Training in, and dissemination of information concerning, professional methods and
techniques for preservation of historic properties.

203109. Preservation education and training program.

15 **§ 203101. Matching grants**

16 (a) IN GENERAL.—The Secretary shall administer a program of matching
17 grants to the States for the purposes of carrying out this division.

18 (b) FEDERATED STATES OF MICRONESIA, THE MARSHALL ISLANDS, AND
19 PALAU.—

20 (1) IN GENERAL.—As part of the program of matching grant assist-
21 ance from the Historic Preservation Fund to States, the Secretary shall
22 administer a program of direct grants to the Federated States of Mi-
23 cronesia, the Marshall Islands, and Palau in furtherance of the Com-
24 pact of Free Association between the United States and the Federated
25 States of Micronesia and the Marshall Islands, approved by the Com-
26 pact of Free Association Act of 1985 (48 U.S.C. 1901 et seq., 2001
27 et seq.), and the Compact of Free Association between the United
28 States and Palau, approved by the Joint Resolution entitled “Joint
29 Resolution to approve the ‘Compact of Free Association’ between the
30 United States and Government of Palau, and for other purposes” (48
31 U.S.C. 1931 et seq.).

32 (2) GOAL OF PROGRAM.—The goal of the program shall be to estab-
33 lish historic and cultural preservation programs that meet the unique

1 needs of each of those nations so that at the termination of the com-
2 pacts the programs shall be firmly established.

3 (3) BASIS OF ALLOCATING AMOUNTS.—The amounts to be made
4 available under this subsection shall be allocated by the Secretary on
5 the basis of needs as determined by the Secretary.

6 (4) WAIVERS AND MODIFICATIONS.—The Secretary may waive or
7 modify the requirements of this subdivision to conform to the cultural
8 setting of those nations. Matching funds may be waived or modified.

9 **§ 203102. Grants to National Trust**

10 The Secretary may administer grants to the National Trust consistent
11 with the purposes of its charter and this division.

12 **§ 203103. Direct grants for the preservation of properties in-**
13 **cluded on National Register**

14 (a) ADMINISTRATION OF PROGRAM.—The Secretary shall administer a
15 program of direct grants for the preservation of properties included on the
16 National Register.

17 (b) AVAILABLE AMOUNT.—Funds to support the program annually shall
18 not exceed 10 percent of the amount appropriated annually for the Historic
19 Preservation Fund.

20 (c) USES OF GRANTS.—

21 (1) IN GENERAL.—Grants under this section may be made by the
22 Secretary, in consultation with the appropriate State Historic Preserva-
23 tion Officer—

24 (A) for the preservation of—

25 (i) National Historic Landmarks that are threatened with
26 demolition or impairment; and

27 (ii) historic properties of World Heritage significance;

28 (B) for demonstration projects that will provide information
29 concerning professional methods and techniques having application
30 to historic properties;

31 (C) for the training and development of skilled labor in trades
32 and crafts, and in analysis and curation, relating to historic pres-
33 ervation; and

34 (D) to assist individuals or small businesses within any historic
35 district included on the National Register to remain within the
36 district.

37 (2) LIMIT ON CERTAIN GRANTS.—A grant may be made under sub-
38 paragraph (A) or (D) of paragraph (1) only to the extent that the
39 project cannot be carried out in as effective a manner through the use
40 of an insured loan under section 205504 of this title.

1 **§ 203104. Religious properties**

2 (a) IN GENERAL.—Grants may be made under sections 203101 to
3 203103, 203105, and 203106 of this title for the preservation, stabilization,
4 restoration, or rehabilitation of religious properties listed on the National
5 Register if the purpose of the grant—

6 (1) is secular;

7 (2) does not promote religion; and

8 (3) seeks to protect qualities that are historically significant.

9 (b) EFFECT OF SECTION.—Nothing in this section shall be construed to
10 authorize the use of any funds made available under this subdivision for the
11 acquisition of any religious property listed on the National Register.

12 **§ 203105. Grants and loans to Indian tribes and nonprofit**
13 **organizations representing ethnic or minority**
14 **groups**

15 The Secretary may, in consultation with the appropriate State Historic
16 Preservation Officer, make grants or loans or both under this subdivision
17 to Indian tribes and to nonprofit organizations representing ethnic or mi-
18 nority groups for the preservation of their cultural heritage.

19 **§ 203106. Grants to Indian tribes and Native Hawaiian orga-**
20 **nizations**

21 The Secretary shall administer a program of direct grants to Indian
22 tribes and Native Hawaiian organizations for the purpose of carrying out
23 this division as it pertains to Indian tribes and Native Hawaiian organiza-
24 tions. Matching fund requirements may be modified. Federal funds available
25 to an Indian tribe or Native Hawaiian organization may be used as match-
26 ing funds for the purposes of the Indian tribe's or Native Hawaiian organi-
27 zation's conducting its responsibilities pursuant to this subdivision.

28 **§ 203107. Prohibited use of funds**

29 No part of any grant made under this subdivision may be used to com-
30 pensate any person intervening in any proceeding under this division.

31 **§ 203108. Training in, and dissemination of information con-**
32 **cerning, professional methods and techniques for**
33 **preservation of historic properties**

34 The Secretary shall develop and make available to Federal agencies, State
35 and local governments, private organizations and individuals, and other na-
36 tions and international organizations pursuant to the World Heritage Con-
37 vention, training in, and information concerning, professional methods and
38 techniques for the preservation of historic properties and for the administra-
39 tion of the historic preservation program at the Federal, State, and local
40 level. The Secretary shall also develop mechanisms to provide information
41 concerning historic preservation to the general public including students.

1 **§ 203109. Preservation education and training program**

2 The Secretary, in consultation with the Council and other appropriate
3 Federal, tribal, Native Hawaiian, and non-Federal organizations, shall de-
4 velop and implement a comprehensive preservation education and training
5 program. The program shall include—

6 (1) standards and increased preservation training opportunities for
7 Federal workers involved in preservation-related functions;

8 (2) preservation training opportunities for other Federal, State, trib-
9 al and local government workers, and students;

10 (3) technical or financial assistance, or both, to historically black col-
11 leges and universities, to tribal colleges, and to colleges with a high en-
12 rollment of Native Americans or Native Hawaiians, to establish preser-
13 vation training and degree programs; and

14 (4) where appropriate, coordination with the National Center for
15 Preservation Technology and Training of—

16 (A) distribution of information on preservation technologies;

17 (B) provision of training and skill development in trades, crafts,
18 and disciplines related to historic preservation in Federal training
19 and development programs; and

20 (C) support for research, analysis, conservation, curation, inter-
21 pretation, and display related to preservation.

22 **Subdivision 3—Other Organizations and**
23 **Programs**

24 **CHAPTER 2041—ADVISORY COUNCIL ON HISTORIC**
25 **PRESERVATION**

Sec.

204101. Establishment; vacancies.

204102. Duties of Council.

204103. Cooperation between Council and instrumentalities of executive branch of Federal
Government.

204104. Compensation of members of Council.

204105. Administration.

204106. International Centre for the Study of the Preservation and Restoration of Cultural
Property.

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or agency of the United States prior to submission to Congress.

204108. Regulations, procedures, and guidelines.

204109. Budget submission.

204110. Report by Secretary to Council.

204111. Reimbursements from State and local agencies.

204112. Effectiveness of Federal grant and assistance programs.

204113. Authorization of appropriations.

26 **§ 204101. Establishment; vacancies**

27 (a) ESTABLISHMENT.—There is established as an independent agency of
28 the United States Government an Advisory Council on Historic Preserva-
29 tion, which shall be composed of the following members:

1 (1) A Chairman appointed by the President selected from the general
2 public.

3 (2) The Secretary.

4 (3) The Architect of the Capitol.

5 (4) The Secretary of Agriculture and the heads of 7 other agencies
6 of the United States (other than the Department of the Interior), the
7 activities of which affect historic preservation, designated by the Presi-
8 dent.

9 (5) One Governor appointed by the President.

10 (6) One mayor appointed by the President.

11 (7) The President of the National Conference of State Historic Pres-
12 ervation Officers.

13 (8) The Chairman of the National Trust.

14 (9) Four experts in the field of historic preservation appointed by
15 the President from architecture, history, archaeology, and other appro-
16 priate disciplines.

17 (10) Three members from the general public, appointed by the Presi-
18 dent.

19 (11) One member of an Indian tribe or Native Hawaiian organiza-
20 tion who represents the interests of the Indian tribe or Native Hawai-
21 ian organization of which he or she is a member, appointed by the
22 President.

23 (b) DESIGNATION OF SUBSTITUTES.—Each member of the Council speci-
24 fied in paragraphs (2) to (5), (7), and (8) of subsection (a) may designate
25 another officer of the department, agency, or organization to serve on the
26 Council instead of the member, except that, in the case of paragraphs (2)
27 and (4), no officer other than an Assistant Secretary or an officer having
28 major department-wide or agency-wide responsibilities may be designated.

29 (c) TERM OF OFFICE.—Each member of the Council appointed under
30 paragraphs (1) and (9) to (11) of subsection (a) shall serve for a term of
31 4 years from the expiration of the term of the member's predecessor. The
32 members appointed under paragraphs (5) and (6) shall serve for the term
33 of their elected office but not in excess of 4 years. An appointed member
34 may not serve more than 2 terms. An appointed member whose term has
35 expired shall serve until that member's successor has been appointed.

36 (d) VACANCIES.—A vacancy in the Council shall not affect its powers, but
37 shall be filled, not later than 60 days after the vacancy commences, in the
38 same manner as the original appointment (and for the balance of the un-
39 expired term).

40 (e) DESIGNATION OF VICE CHAIRMAN.—The President shall designate a
41 Vice Chairman from the members appointed under paragraph (5), (6), (9),

1 or (10) of subsection (a). The Vice Chairman may act in place of the Chair-
2 man during the absence or disability of the Chairman or when the office
3 is vacant.

4 (f) QUORUM.—Twelve members of the Council shall constitute a quorum.

5 **§ 204102. Duties of Council**

6 (a) DUTIES.—The Council shall—

7 (1) advise the President and Congress on matters relating to historic
8 preservation, recommend measures to coordinate activities of Federal,
9 State, and local agencies and private institutions and individuals relat-
10 ing to historic preservation, and advise on the dissemination of infor-
11 mation pertaining to those activities;

12 (2) encourage, in cooperation with the National Trust and appro-
13 priate private agencies, public interest and participation in historic
14 preservation;

15 (3) recommend the conduct of studies in such areas as—

16 (A) the adequacy of legislative and administrative statutes and
17 regulations pertaining to historic preservation activities of State
18 and local governments; and

19 (B) the effects of tax policies at all levels of government on his-
20 toric preservation;

21 (4) advise as to guidelines for the assistance of State and local gov-
22 ernments in drafting legislation relating to historic preservation;

23 (5) encourage, in cooperation with appropriate public and private
24 agencies and institutions, training and education in the field of historic
25 preservation;

26 (6) review the policies and programs of Federal agencies and rec-
27 ommend to Federal agencies methods to improve the effectiveness, co-
28 ordination, and consistency of those policies and programs with the
29 policies and programs carried out under this division; and

30 (7) inform and educate Federal agencies, State and local govern-
31 ments, Indian tribes, other nations and international organizations and
32 private groups and individuals as to the Council's authorized activities.

33 (b) ANNUAL REPORT.—The Council annually shall submit to the Presi-
34 dent a comprehensive report of its activities and the results of its studies
35 and shall from time to time submit additional and special reports as it
36 deems advisable. Each report shall propose legislative enactments and other
37 actions as, in the judgment of the Council, are necessary and appropriate
38 to carry out its recommendations and shall provide the Council's assessment
39 of current and emerging problems in the field of historic preservation and
40 an evaluation of the effectiveness of the programs of Federal agencies, State
41 and local governments, and the private sector in carrying out this division.

1 **§ 204103. Cooperation between Council and instrumental-**
 2 **ities of executive branch of Federal Government**

3 The Council may secure directly from any Federal agency information,
 4 suggestions, estimates, and statistics for the purpose of this chapter. Each
 5 Federal agency may furnish information, suggestions, estimates, and statis-
 6 tics to the extent permitted by law and within available funds.

7 **§ 204104. Compensation of members of Council**

8 The members of the Council specified in paragraphs (2), (3), and (4) of
 9 section 204101(a) of this title shall serve without additional compensation.
 10 The other members of the Council shall receive \$100 per diem when en-
 11 gaged in the performance of the duties of the Council. All members of the
 12 Council shall receive reimbursement for necessary traveling and subsistence
 13 expenses incurred by them in the performance of the duties of the Council.

14 **§ 204105. Administration**

15 (a) EXECUTIVE DIRECTOR.—There shall be an Executive Director of the
 16 Council who shall be appointed in the competitive service by the Chairman
 17 with the concurrence of the Council. The Executive Director shall report di-
 18 rectly to the Council and perform such functions and duties as the Council
 19 may prescribe.

20 (b) GENERAL COUNSEL AND APPOINTMENT OF OTHER ATTORNEYS.—

21 (1) GENERAL COUNSEL.—The Council shall have a General Counsel,
 22 who shall be appointed by the Executive Director. The General Counsel
 23 shall report directly to the Executive Director and serve as the Coun-
 24 cil's legal advisor.

25 (2) APPOINTMENT OF OTHER ATTORNEYS.—The Executive Director
 26 shall appoint other attorneys as may be necessary to—

27 (A) assist the General Counsel;

28 (B) represent the Council in court when appropriate, including
 29 enforcement of agreements with Federal agencies to which the
 30 Council is a party;

31 (C) assist the Department of Justice in handling litigation con-
 32 cerning the Council in court; and

33 (D) perform such other legal duties and functions as the Execu-
 34 tive Director and the Council may direct.

35 (c) APPOINTMENT AND COMPENSATION OF OFFICERS AND EMPLOY-
 36 EES.—The Executive Director of the Council may appoint and fix the com-
 37 pensation of officers and employees in the competitive service who are nec-
 38 essary to perform the functions of the Council at rates not to exceed that
 39 prescribed for the highest rate for grade 15 of the General Schedule under
 40 section 5332 of title 5. The Executive Director, with the concurrence of the
 41 Chairman, may appoint and fix the compensation of not to exceed 5 employ-

1 ees in the competitive service at rates not to exceed that prescribed for a
2 position classified above GS-15 pursuant to section 5108 of title 5.

3 (d) APPOINTMENT AND COMPENSATION OF ADDITIONAL PERSONNEL.—
4 The Executive Director may appoint and fix the compensation of such addi-
5 tional personnel as may be necessary to carry out the Council's duties, with-
6 out regard to the civil service laws and chapter 51 and subchapter III of
7 chapter 53 of title 5.

8 (e) EXPERT AND CONSULTANT SERVICES.—The Executive Director may
9 procure expert and consultant services in accordance with section 3109 of
10 title 5.

11 (f) FINANCIAL AND ADMINISTRATIVE SERVICES.—

12 (1) SERVICES TO BE PROVIDED BY SECRETARY, AGENCY, OR PRI-
13 VATE ENTITY.—Financial and administrative services (including those
14 related to budgeting, accounting, financial reporting, personnel and
15 procurement) shall be provided the Council by the Secretary or, at the
16 discretion of the Council, another agency or private entity that reaches
17 an agreement with the Council, for which payments shall be made in
18 advance, or by reimbursement, from funds of the Council in such
19 amounts as may be agreed on by the Chairman of the Council and the
20 head of the agency or the authorized representative of the private en-
21 tity that will provide the services.

22 (2) FEDERAL AGENCY REGULATIONS RELATING TO COLLECTION
23 APPLY.—When a Federal agency affords those services, the regulations
24 of that agency under section 5514(b) of title 5 for the collection of in-
25 debtedness of personnel resulting from erroneous payments shall apply
26 to the collection of erroneous payments made to or on behalf of a
27 Council employee, and regulations of that agency under sections
28 1513(d) and 1514 of title 31 for the administrative control of funds
29 shall apply to appropriations of the Council. The Council shall not be
30 required to prescribe those regulations.

31 (g) FUNDS, PERSONNEL, FACILITIES, AND SERVICES.—

32 (1) PROVIDED BY FEDERAL AGENCY.—Any Federal agency may pro-
33 vide the Council, with or without reimbursement as may be agreed on
34 by the Chairman and the agency, with such funds, personnel, facilities,
35 and services under its jurisdiction and control as may be needed by the
36 Council to carry out its duties, to the extent that the funds, personnel,
37 facilities, and services are requested by the Council and are otherwise
38 available for that purpose. Any funds provided to the Council pursuant
39 to this subsection shall be expended by the end of the fiscal year follow-
40 ing the fiscal year in which the funds are received by the Council.

1 (2) OBTAINING ADDITIONAL PROPERTY, FACILITIES, AND SERVICES
2 AND RECEIVING DONATIONS OF MONEY.—To the extent of available ap-
3 propriations, the Council may obtain by purchase, rental, donation, or
4 otherwise additional property, facilities, and services as may be needed
5 to carry out its duties and may receive donations of money for that
6 purpose. The Executive Director may accept, hold, use, expend, and ad-
7 minister the property, facilities, services, and money for the purposes
8 of this division.

9 (h) RIGHTS, BENEFITS, AND PRIVILEGES OF TRANSFERRED EMPLOY-
10 EES.—Any employee in the competitive service of the United States trans-
11 ferred to the Council under this section shall retain all the rights, benefits,
12 and privileges pertaining to the competitive service held prior to the trans-
13 fer.

14 (i) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The
15 Council is exempt from the Federal Advisory Committee Act (5 U.S.C.
16 App.).

17 (j) PROVISIONS THAT GOVERN OPERATIONS OF COUNCIL.—Subchapter
18 II of chapter 5 and chapter 7 of title 5 shall govern the operations of the
19 Council.

20 **§ 204106. International Centre for the Study of the Preserva-**
21 **tion and Restoration of Cultural Property**

22 (a) AUTHORIZATION OF PARTICIPATION.—The participation of the United
23 States as a member in the International Centre for the Study of the Preser-
24 vation and Restoration of Cultural Property is authorized.

25 (b) OFFICIAL DELEGATION.—The Council shall recommend to the Sec-
26 retary of State, after consultation with the Smithsonian Institution and
27 other public and private organizations concerned with the technical problems
28 of preservation, the members of the official delegation that will participate
29 in the activities of the International Centre for the Study of the Preserva-
30 tion and Restoration of Cultural Property on behalf of the United States.
31 The Secretary of State shall appoint the members of the official delegation
32 from the persons recommended to the Secretary of State by the Council.

33 **§ 204107. Transmittal of legislative recommendations, testi-**
34 **mony, or comments to any officer or agency of the**
35 **United States prior to submission to Congress**

36 No officer or agency of the United States shall have any authority to re-
37 quire the Council to submit its legislative recommendations, or testimony,
38 or comments on legislation to any officer or agency of the United States
39 for approval, comments, or review, prior to the submission of the recom-
40 mendations, testimony, or comments to Congress. When the Council volun-
41 tarily seeks to obtain the comments or review of any officer or agency of

1 the United States, the Council shall include a description of the actions in
2 its legislative recommendations, testimony, or comments on legislation that
3 it transmits to Congress.

4 **§ 204108. Regulations, procedures, and guidelines**

5 (a) IN GENERAL.—The Council may promulgate regulations as it consid-
6 ers necessary to govern the implementation of section 205302 of this title.

7 (b) PARTICIPATION BY LOCAL GOVERNMENTS.—The Council shall by reg-
8 ulation establish such procedures as may be necessary to provide for partici-
9 pation by local governments in proceedings and other actions taken by the
10 Council with respect to undertakings referred to in section 205302 of this
11 title that affect the local governments.

12 (c) EXEMPTION FOR FEDERAL PROGRAMS OR UNDERTAKINGS.—The
13 Council, with the concurrence of the Secretary, shall promulgate regulations
14 or guidelines, as appropriate, under which Federal programs or undertak-
15 ings may be exempted from any or all of the requirements of this division
16 when the exemption is determined to be consistent with the purposes of this
17 division, taking into consideration the magnitude of the exempted under-
18 taking or program and the likelihood of impairment of historic properties.

19 **§ 204109. Budget submission**

20 (a) TIME AND MANNER OF SUBMISSION.—The Council shall submit its
21 budget annually as a related agency of the Department of the Interior.

22 (b) TRANSMITTAL OF COPIES TO CONGRESSIONAL COMMITTEES.—When-
23 ever the Council submits any budget estimate or request to the President
24 or the Office of Management and Budget, it shall concurrently transmit
25 copies of that estimate or request to the Committee on Natural Resources
26 and Committee on Appropriations of the House of Representatives and the
27 Committee on Energy and Natural Resources and Committee on Appropria-
28 tions of the Senate.

29 **§ 204110. Report by Secretary to Council**

30 To assist the Council in discharging its responsibilities under this divi-
31 sion, the Secretary at the request of the Chairman shall provide a report
32 to the Council detailing the significance of any historic property, describing
33 the effects of any proposed undertaking on the affected property, and rec-
34 ommending measures to avoid, minimize, or mitigate adverse effects.

35 **§ 204111. Reimbursements from State and local agencies**

36 Subject to applicable conflict of interest laws, the Council may receive re-
37 imbursements from State and local agencies and others pursuant to agree-
38 ments executed in furtherance of this division.

1 **§ 204112. Effectiveness of Federal grant and assistance pro-**
 2 **grams**

3 (a) COOPERATIVE AGREEMENTS.—The Council may enter into a coopera-
 4 tive agreement with any Federal agency that administers a grant or assist-
 5 ance program for the purpose of improving the effectiveness of the adminis-
 6 tration of the program in meeting the purposes and policies of this division.
 7 The cooperative agreement may include provisions that modify the selection
 8 criteria for a grant or assistance program to further the purposes of this
 9 division or that allow the Council to participate in the selection of recipients,
 10 if those provisions are not inconsistent with the grant or assistance pro-
 11 gram’s statutory authorization and purpose.

12 (b) REVIEW OF GRANT AND ASSISTANCE PROGRAMS.—The Council
 13 may—

14 (1) review the operation of any Federal grant or assistance program
 15 to evaluate the effectiveness of the program in meeting the purposes
 16 and policies of this division;

17 (2) make recommendations to the head of any Federal agency that
 18 administers the program to further the consistency of the program with
 19 the purposes and policies of this division and to improve its effective-
 20 ness in carrying out those purposes and policies; and

21 (3) make recommendations to the President and Congress regarding
 22 the effectiveness of Federal grant and assistance programs in meeting
 23 the purposes and policies of this division, including recommendations
 24 with regard to appropriate funding levels.

25 **§ 204113. Authorization of appropriations**

26 There are authorized to be appropriated such amounts as are necessary
 27 to carry out this chapter.

28 **CHAPTER 2043—HISTORIC LIGHT STATION**
 29 **PRESERVATION**

Sec.

204301. Definitions.

204302. Duties of Secretary in providing a national historic light station program.

204303. Selection of eligible entity and conveyance of historic light stations.

204304. Terms of conveyance.

204305. Description of property.

204306. Historic light station sales.

30 **§ 204301. Definitions**

31 In this chapter:

32 (1) ADMINISTRATOR.—The term “Administrator” means the Admin-
 33 istrator of General Services.

34 (2) ELIGIBLE ENTITY.—The term “eligible entity” means—

35 (A) any department or agency of the Federal Government; or

1 (B) any department or agency of the State in which a historic
 2 light station is located, the local government of the community in
 3 which a historic light station is located, a nonprofit corporation,
 4 an educational agency, or a community development organization
 5 that—

6 (i) has agreed to comply with the conditions set forth in
 7 section 204304 of this title and to have the conditions re-
 8 corded with the deed of title to the historic light station; and

9 (ii) is financially able to maintain the historic light station
 10 in accordance with the conditions set forth in section 204304
 11 of this title.

12 (3) FEDERAL AID TO NAVIGATION.—

13 (A) IN GENERAL.—The term “Federal aid to navigation” means
 14 any device, operated and maintained by the United States, exter-
 15 nal to a vessel or aircraft, intended to assist a navigator to deter-
 16 mine position or safe course, or to warn of dangers or obstructions
 17 to navigation.

18 (B) INCLUSIONS.—The term “Federal aid to navigation” in-
 19 cludes a light, lens, lantern, antenna, sound signal, camera, sen-
 20 sor, piece of electronic navigation equipment, power source, or
 21 other piece of equipment associated with a device described in sub-
 22 paragraph (A).

23 (4) HISTORIC LIGHT STATION.—The term “historic light station” in-
 24 cludes the light tower, lighthouse, keeper’s dwelling, garages, storage
 25 sheds, oil house, fog signal building, boat house, barn, pumphouse,
 26 tramhouse support structures, piers, walkways, underlying and appur-
 27 tenant land and related real property and improvements associated
 28 with a historic light station that is a historic property.

29 **§ 204302. Duties of Secretary in providing a national his-**
 30 **toric light station program**

31 To provide a national historic light station program, the Secretary shall—

32 (1) collect and disseminate information concerning historic light sta-
 33 tions;

34 (2) foster educational programs relating to the history, practice, and
 35 contribution to society of historic light stations;

36 (3) sponsor or conduct research and study into the history of light
 37 stations;

38 (4) maintain a listing of historic light stations; and

39 (5) assess the effectiveness of the program established by this chap-
 40 ter regarding the conveyance of historic light stations.

1 **§ 204303. Selection of eligible entity and conveyance of his-**
 2 **toric light stations**

3 (a) PROCESS AND POLICIES.—The Secretary and the Administrator shall
 4 maintain a process and policies for identifying, and selecting, an eligible en-
 5 tity to which a historic light station could be conveyed for education, park,
 6 recreation, cultural, or historic preservation purposes, and to monitor the
 7 use of the light station by the eligible entity.

8 (b) APPLICATION REVIEW.—

9 (1) IN GENERAL.—The Secretary shall—

10 (A) review all applications for the conveyance of a historic light
 11 station, when the agency with administrative jurisdiction over the
 12 historic light station has determined the property to be excess
 13 property (as that term is defined in section 102 of title 40); and

14 (B) forward to the Administrator a single approved application
 15 for the conveyance of the historic light station.

16 (2) CONSULTATION.—When selecting an eligible entity, the Secretary
 17 shall consult with the State Historic Preservation Officer of the State
 18 in which the historic light station is located.

19 (c) CONVEYANCE OR SALE OF HISTORIC LIGHT STATIONS.—

20 (1) CONVEYANCE BY ADMINISTRATOR.—Except as provided in para-
 21 graph (2), after the Secretary's selection of an eligible entity, the Ad-
 22 ministrator shall convey, by quitclaim deed, without consideration, all
 23 right, title, and interest of the United States in and to a historic light
 24 station, subject to the conditions set forth in section 204304 of this
 25 title. The conveyance of a historic light station under this chapter shall
 26 not be subject to the McKinney-Vento Homeless Assistance Act (42
 27 U.S.C. 11301 et seq.) or section 416(d) of the Coast Guard Authoriza-
 28 tion Act of 1998 (Public Law 105–383, 14 U.S.C. 93 note).

29 (2) HISTORIC LIGHT STATION LOCATED WITHIN A SYSTEM UNIT OR
 30 A REFUGE WITHIN NATIONAL WILDLIFE REFUGE SYSTEM.—

31 (A) APPROVAL OF SECRETARY REQUIRED.—A historic light sta-
 32 tion located within the exterior boundaries of a System unit or a
 33 refuge within the National Wildlife Refuge System shall be con-
 34 veyed or sold only with the approval of the Secretary.

35 (B) CONDITIONS OF CONVEYANCE.—If the Secretary approves
 36 the conveyance of a historic light station described in subpara-
 37 graph (A), the conveyance shall be subject to the conditions set
 38 forth in section 204304 of this title and any other terms or condi-
 39 tions that the Secretary considers necessary to protect the re-
 40 sources of the System unit or wildlife refuge.

1 (C) CONDITIONS OF SALE.—If the Secretary approves the sale
 2 of a historic light station described in subparagraph (A), the sale
 3 shall be subject to the conditions set forth in paragraphs (1) to
 4 (4) and (8) of subsection (a), and subsection (b), of section
 5 204304 of this title and any other terms or conditions that the
 6 Secretary considers necessary to protect the resources of the Sys-
 7 tem unit or wildlife refuge.

8 (D) COOPERATIVE AGREEMENTS.—The Secretary is encouraged
 9 to enter into cooperative agreements with appropriate eligible enti-
 10 ties with respect to historic light stations described in subpara-
 11 graph (A), as provided in this division, to the extent that the coop-
 12 erative agreements are consistent with the Secretary’s responsibil-
 13 ities to manage and administer the System unit or wildlife refuge.

14 **§ 204304. Terms of conveyance**

15 (a) IN GENERAL.—The conveyance of a historic light station shall be
 16 made subject to any conditions, including the reservation of easements and
 17 other rights on behalf of the United States, that the Administrator consid-
 18 ers necessary to ensure that—

19 (1) the Federal aids to navigation located at the historic light station
 20 in operation on the date of conveyance remain the personal property
 21 of the United States and continue to be operated and maintained by
 22 the United States for as long as needed for navigational purposes;

23 (2) there is reserved to the United States the right to remove, re-
 24 place, or install any Federal aid to navigation located at the historic
 25 light station as may be necessary for navigational purposes;

26 (3) the eligible entity to which the historic light station is conveyed
 27 shall not interfere or allow interference in any manner with any Fed-
 28 eral aid to navigation or hinder activities required for the operation and
 29 maintenance of any Federal aid to navigation without the express writ-
 30 ten permission of the head of the agency responsible for maintaining
 31 the Federal aid to navigation;

32 (4)(A) the eligible entity to which the historic light station is con-
 33 veyed shall, at its own cost and expense, use and maintain the historic
 34 light station in accordance with this division, the Secretary’s Standards
 35 for the Treatment of Historic Properties contained in part 68 of title
 36 36, Code of Federal Regulations, and other applicable laws; and

37 (B) any proposed changes to the historic light station shall be re-
 38 viewed and approved by the Secretary in consultation with the State
 39 Historic Preservation Officer of the State in which the historic light
 40 station is located, for consistency with section 800.5(a)(2)(vii) of title
 41 36, Code of Federal Regulations and the Secretary’s Standards for Re-

1 habilitation contained in section 67.7 of title 36, Code of Federal Regu-
2 lations;

3 (5) the eligible entity to which the historic light station is conveyed
4 shall make the historic light station available for education, park, recre-
5 ation, cultural, or historic preservation purposes for the general public
6 at reasonable times and under reasonable conditions;

7 (6) the eligible entity to which the historic light station is conveyed
8 shall not sell, convey, assign, exchange, or encumber the historic light
9 station, any part of the historic light station, or any associated historic
10 artifact conveyed to the eligible entity in conjunction with the historic
11 light station conveyance, including any lens or lantern, unless the sale,
12 conveyance, assignment, exchange, or encumbrance is approved by the
13 Secretary;

14 (7) the eligible entity to which the historic light station is conveyed
15 shall not conduct any commercial activity at the historic light station,
16 at any part of the historic light station, or in connection with any asso-
17 ciated historic artifact conveyed to the eligible entity in conjunction
18 with the historic light station conveyance, in any manner, unless the
19 commercial activity is approved by the Secretary; and

20 (8) the United States shall have the right, at any time, to enter the
21 historic light station without notice, for purposes of operating, main-
22 taining, and inspecting any aid to navigation and for the purpose of
23 ensuring compliance with this section, to the extent that it is not pos-
24 sible to provide advance notice.

25 (b) MAINTENANCE OF AID TO NAVIGATION.—Any eligible entity to which
26 a historic light station is conveyed shall not be required to maintain any
27 Federal aid to navigation associated with a historic light station, except any
28 private aid to navigation permitted to the eligible entity under section 83
29 of title 14.

30 (c) REVERSION.—In addition to any term or condition established pursu-
31 ant to this section, the conveyance of a historic light station shall include
32 a condition that the historic light station, or any associated historic artifact
33 conveyed to the eligible entity in conjunction with the historic light station
34 conveyance, including any lens or lantern, at the option of the Adminis-
35 trator, shall revert to the United States and be placed under the administra-
36 tive control of the Administrator, if—

37 (1) the historic light station, any part of the historic light station,
38 or any associated historic artifact ceases to be available for education,
39 park, recreation, cultural, or historic preservation purposes for the gen-
40 eral public at reasonable times and under reasonable conditions that
41 shall be set forth in the eligible entity's application;

1 (2) the historic light station or any part of the historic light station
2 ceases to be maintained in a manner that ensures its present or future
3 use as a site for a Federal aid to navigation;

4 (3) the historic light station, any part of the historic light station,
5 or any associated historic artifact ceases to be maintained in compli-
6 ance with this division, the Secretary of the Interior's Standards for
7 the Treatment of Historic Properties contained in part 68 of title 36,
8 Code of Federal Regulations, and other applicable laws;

9 (4) the eligible entity to which the historic light station is conveyed
10 sells, conveys, assigns, exchanges, or encumbers the historic light sta-
11 tion, any part of the historic light fixture, or any associated historic
12 artifact, without approval of the Secretary;

13 (5) the eligible entity to which the historic light station is conveyed
14 conducts any commercial activity at the historic light station, at any
15 part of the historic light station, or in conjunction with any associated
16 historic artifact, without approval of the Secretary; or

17 (6) at least 30 days before the reversion, the Administrator provides
18 written notice to the owner that the historic light station or any part
19 of the historic light station is needed for national security purposes.

20 (d) LIGHT STATIONS ORIGINALLY CONVEYED UNDER OTHER AUTHOR-
21 ITY.—On receiving notice of an executed or intended conveyance by an
22 owner that received from the Federal Government under authority other
23 than this division an historic light station in which the United States retains
24 a reversionary or other interest and that is conveying it to another person
25 by sale, gift, or any other manner, the Secretary shall review the terms of
26 the executed or proposed conveyance to ensure that any new owner is capa-
27 ble of or is complying with any and all conditions of the original conveyance.
28 The Secretary may require the parties to the conveyance and relevant Fed-
29 eral agencies to provide information as is necessary to complete the review.
30 If the Secretary determines that the new owner has not complied or is un-
31 able to comply with those conditions, the Secretary shall immediately advise
32 the Administrator, who shall invoke any reversionary interest or take other
33 action as may be necessary to protect the interests of the United States.

34 **§ 204305. Description of property**

35 (a) IN GENERAL.—The Administrator shall prepare the legal description
36 of any historic light station conveyed under this chapter. The Administrator,
37 in consultation with the Secretary of Homeland Security and the Secretary,
38 may retain all right, title, and interest of the United States in and to any
39 historical artifact, including any lens or lantern, that is associated with the
40 historic light station and located at the historic light station at the time of
41 conveyance. Wherever possible, the historical artifacts should be used in in-

1 interpreting the historic light station. In cases where there is no method for
2 preserving lenses and other artifacts and equipment in situ, priority should
3 be given to preservation or museum entities most closely associated with the
4 historic light station, if they meet loan requirements.

5 (b) ARTIFACTS.—Artifacts associated with, but not located at, a historic
6 light station at the time of conveyance shall remain the property of the
7 United States under the administrative control of the Secretary of Home-
8 land Security.

9 (c) COVENANTS.—All conditions placed with the quitclaim deed of title to
10 the historic light station shall be construed as covenants running with the
11 land.

12 (d) SUBMERGED LAND.—No submerged land shall be conveyed under this
13 chapter.

14 **§ 204306. Historic light station sales**

15 (a) IN GENERAL.—

16 (1) WHEN SALE MAY OCCUR.—If no applicant is approved for the
17 conveyance of a historic light station pursuant to sections 204301 to
18 204305 of this title, the historic light station shall be offered for sale.

19 (2) TERMS OF SALE.—Terms of the sales—

20 (A) shall be developed by the Administrator; and

21 (B) shall be consistent with the requirements of paragraphs (1)
22 to (4) and (8) of subsection (a), and subsection (b), of section
23 204304 of this title.

24 (3) COVENANTS TO BE INCLUDED IN CONVEYANCE DOCUMENTS.—
25 Conveyance documents shall include all necessary covenants to protect
26 the historical integrity of the historic light station and ensure that any
27 Federal aid to navigation located at the historic light station is oper-
28 ated and maintained by the United States for as long as needed for
29 that purpose.

30 (b) NET SALE PROCEEDS.—

31 (1) DISPOSITION AND USE OF FUNDS.—Net sale proceeds from the
32 disposal of a historic light station—

33 (A) located on public domain land shall be transferred to the
34 National Maritime Heritage Grants Program established under
35 chapter 283 of this title in the Department of the Interior; and

36 (B) under the administrative control of the Secretary of Home-
37 land Security—

38 (i) shall be credited to the Coast Guard's Operating Ex-
39 penses appropriation account; and

1 (ii) shall be available for obligation and expenditure for the
 2 maintenance of light stations remaining under the adminis-
 3 trative control of the Secretary of Homeland Security.

4 (2) AVAILABILITY OF FUNDS.—The funds referred to in paragraph
 5 (1)(B) shall remain available until expended and shall be available in
 6 addition to funds available in the Coast Guard’s Operating Expense ap-
 7 propriation for that purpose.

8 **CHAPTER 2045—NATIONAL CENTER FOR**
 9 **PRESERVATION TECHNOLOGY AND TRAINING**

Sec.

204501. Findings.

204502. Definitions.

204503. National Center for Preservation Technology and Training.

204504. Preservation Technology and Training Board.

204505. Preservation grants.

204506. General provisions.

204507. Service preservation centers and offices.

10 **§ 204501. Findings**

11 Congress finds that, given the complexity of technical problems encoun-
 12 tered in preserving historic properties and the lack of adequate distribution
 13 of technical information to preserve historic properties, a national initiative
 14 to coordinate and promote research, distribute information, and provide
 15 training about preservation skills and technologies would be beneficial.

16 **§ 204502. Definitions**

17 In this chapter:

18 (1) BOARD.—The term “Board” means the Preservation Technology
 19 and Training Board established pursuant to section 204504 of this
 20 title.

21 (2) CENTER.—The term “Center” means the National Center for
 22 Preservation Technology and Training established pursuant to section
 23 204503 of this title.

24 **§ 204503. National Center for Preservation Technology and**
 25 **Training**

26 (a) ESTABLISHMENT.—There is established within the Department of the
 27 Interior a National Center for Preservation Technology and Training. The
 28 Center shall be located at Northwestern State University of Louisiana in
 29 Natchitoches, Louisiana.

30 (b) PURPOSES.—The purposes of the Center shall be to—

31 (1) develop and distribute preservation and conservation skills and
 32 technologies for the identification, evaluation, conservation, and inter-
 33 pretation of historic properties;

1 (2) develop and facilitate training for Federal, State, and local re-
2 source preservation professionals, cultural resource managers, mainte-
3 nance personnel, and others working in the preservation field;

4 (3) take steps to apply preservation technology benefits from ongoing
5 research by other agencies and institutions;

6 (4) facilitate the transfer of preservation technology among Federal
7 agencies, State and local governments, universities, international orga-
8 nizations, and the private sector; and

9 (5) cooperate with related international organizations including the
10 International Council on Monuments and Sites, the International Cen-
11 ter for the Study of Preservation and Restoration of Cultural Property,
12 and the International Council on Museums.

13 (c) PROGRAMS.—The purposes shall be carried out through research, pro-
14 fessional training, technical assistance, and programs for public awareness,
15 and through a program of grants established under section 204505 of this
16 title.

17 (d) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive
18 Director with demonstrated expertise in historic preservation appointed by
19 the Secretary with advice of the Board.

20 (e) ASSISTANCE FROM SECRETARY.—The Secretary shall provide the
21 Center assistance in obtaining such personnel, equipment, and facilities as
22 may be needed by the Center to carry out its activities.

23 **§ 204504. Preservation Technology and Training Board**

24 (a) ESTABLISHMENT.—There is established a Preservation Technology
25 and Training Board.

26 (b) DUTIES.—The Board shall—

27 (1) provide leadership, policy advice, and professional oversight to
28 the Center;

29 (2) advise the Secretary on priorities and the allocation of grants
30 among the activities of the Center; and

31 (3) submit an annual report to the President and Congress.

32 (c) MEMBERSHIP.—The Board shall be comprised of—

33 (1) the Secretary;

34 (2) 6 members appointed by the Secretary, who shall represent ap-
35 propriate Federal, State, and local agencies, State and local historic
36 preservation commissions, and other public and international organiza-
37 tions; and

38 (3) 6 members appointed by the Secretary on the basis of outstand-
39 ing professional qualifications, who represent major organizations in
40 the fields of archaeology, architecture, conservation, curation, engineer-

1 ing, history, historic preservation, landscape architecture, planning, or
2 preservation education.

3 **§ 204505. Preservation grants**

4 (a) IN GENERAL.—The Secretary, in consultation with the Board, shall
5 provide preservation technology and training grants to eligible applicants
6 with a demonstrated institutional capability and commitment to the pur-
7 poses of the Center, in order to ensure an effective and efficient system of
8 research, information distribution, and skills training in all the related his-
9 toric preservation fields.

10 (b) GRANT REQUIREMENTS.—

11 (1) ALLOCATION.—Grants provided under this section shall be allo-
12 cated in such a fashion as to reflect the diversity of the historic preser-
13 vation fields and shall be geographically distributed.

14 (2) LIMIT ON AMOUNT A RECIPIENT MAY RECEIVE.—No grant recipi-
15 ent may receive more than 10 percent of the grants allocated under
16 this section within any year.

17 (3) LIMIT ON ADMINISTRATIVE COSTS.—The total administrative
18 costs, direct and indirect, charged for carrying out grants under this
19 section may not exceed 25 percent of the aggregate costs.

20 (c) ELIGIBLE APPLICANTS.—Eligible applicants may include—

- 21 (1) Federal and non-Federal laboratories;
22 (2) accredited museums;
23 (3) universities;
24 (4) nonprofit organizations;
25 (5) System units and offices and Cooperative Park Study Units of
26 the System;
27 (6) State Historic Preservation Offices;
28 (7) tribal preservation offices; and
29 (8) Native Hawaiian organizations.

30 (d) STANDARDS AND METHODS.—Grants shall be awarded in accordance
31 with accepted professional standards and methods, including peer review of
32 projects.

33 **§ 204506. General provisions**

34 (a) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may ac-
35 cept—

- 36 (1) grants and donations from private individuals, groups, organiza-
37 tions, corporations, foundations, and other entities; and
38 (2) transfers of funds from other Federal agencies.

39 (b) CONTRACTS AND COOPERATIVE AGREEMENTS.—Subject to appropria-
40 tions, the Center may enter into contracts and cooperative agreements with
41 Federal, State, local, and tribal governments, Native Hawaiian organiza-

1 tions, educational institutions, and other public entities to carry out the
2 Center's responsibilities under this chapter.

3 (c) ADDITIONAL FUNDS.—Funds appropriated for the Center shall be in
4 addition to funds appropriated for Service programs, centers, and offices in
5 existence on October 30, 1992.

6 **§ 204507. Service preservation centers and offices**

7 To improve the use of existing Service resources, the Secretary shall fully
8 utilize and further develop the Service preservation (including conservation)
9 centers and regional offices. The Secretary shall improve the coordination
10 of the centers and offices within the Service, and shall, where appropriate,
11 coordinate their activities with the Center and with other appropriate par-
12 ties.

13 **Subdivision 4—Federal Responsibilities**

14 **CHAPTER 2051—HISTORIC PROPERTIES**

**Subchapter I—Historic Properties Owned or Controlled by Federal
Agencies**

Sec.

- 205101. Assumption of responsibility for preservation of historic properties.
- 205102. Preservation program.
- 205103. Records on historic properties to be altered or demolished.
- 205104. Agency Preservation Officer.
- 205105. Agency programs and projects.
- 205106. Review of plans of transferees of surplus federally owned historic properties.
- 205107. Planning and actions to minimize harm to National Historic Landmarks.
- 205108. Costs of preservation as eligible project costs.
- 205109. Annual preservation awards program.
- 205110. Environmental impact statement.
- 205111. Waiver of provisions in event of natural disaster or imminent threat to national security.
- 205112. Assistance for adversely affected historic property.
- 205113. Documentation of decisions respecting undertakings.

Subchapter II—Lease, Exchange, or Management of Historic Property

- 205121. Lease or exchange.
- 205122. Contracts for management of historic property.

Subchapter III—Protection and Preservation of Resources

- 205131. Standards and guidelines.
- 205132. Access to information.

15 **Subchapter I—Historic Properties Owned or Controlled by**
16 **Federal Agencies**

17 **§ 205101. Assumption of responsibility for preservation of**
18 **historic properties**

19 (a) IN GENERAL.—

20 (1) AGENCY HEAD RESPONSIBILITY.—The head of each Federal
21 agency shall assume responsibility for the preservation of historic prop-
22 erties that are owned or controlled by the agency.

23 (2) USE OF AVAILABLE HISTORIC PROPERTIES.—Prior to acquiring,
24 constructing, or leasing a building for purposes of carrying out agency
25 responsibilities, a Federal agency shall use, to the maximum extent fea-

1 sible, historic properties available to the agency, in accordance with Ex-
2 ecutive Order No. 13006 (40 U.S.C. 3306 note).

3 (3) NECESSARY PRESERVATION.—Each Federal agency shall under-
4 take, consistent with the preservation of historic properties, the mission
5 of the agency, and the professional standards established pursuant to
6 subsection (c), any preservation as may be necessary to carry out this
7 chapter.

8 (b) GUIDELINES FOR FEDERAL AGENCY RESPONSIBILITY FOR AGENCY-
9 OWNED HISTORIC PROPERTIES.—In consultation with the Council, the Sec-
10 retary shall promulgate guidelines for Federal agency responsibilities under
11 this subchapter.

12 (c) PROFESSIONAL STANDARDS FOR PRESERVATION OF FEDERALLY
13 OWNED OR CONTROLLED HISTORIC PROPERTIES.—The Secretary shall
14 maintain, in consultation with the Secretary of Agriculture, the Secretary
15 of Defense, the Smithsonian Institution, and the Administrator of General
16 Services, professional standards for the preservation of historic properties
17 in Federal ownership or control.

18 **§ 205102. Preservation program**

19 (a) ESTABLISHMENT.—Each Federal agency (except an agency that is ex-
20 empted pursuant to section 204108(c) of this title) shall establish, in con-
21 sultation with the Secretary, a preservation program for the identification,
22 evaluation, and nomination to the National Register, and protection, of his-
23 toric properties.

24 (b) REQUIREMENTS.—The program shall ensure that—

25 (1) historic properties under the jurisdiction or control of the agency
26 are identified, evaluated, and nominated to the National Register;

27 (2) historic properties under the jurisdiction or control of the agency
28 are managed and maintained in a way that considers the preservation
29 of their historic, archaeological, architectural, and cultural values in
30 compliance with section 205302 of this title and gives special consider-
31 ation to the preservation of those values in the case of properties des-
32 ignated as having national significance;

33 (3) the preservation of properties not under the jurisdiction or con-
34 trol of the agency but potentially affected by agency actions are given
35 full consideration in planning;

36 (4) the agency's preservation-related activities are carried out in con-
37 sultation with other Federal, State, and local agencies, Indian tribes,
38 Native Hawaiian organizations carrying out historic preservation plan-
39 ning activities, and the private sector; and

40 (5) the agency's procedures for compliance with section 205302 of
41 this title—

1 (A) are consistent with regulations promulgated by the Council
2 pursuant to section 204108(a) and (b) of this title;

3 (B) provide a process for the identification and evaluation of
4 historic properties for listing in the National Register and the de-
5 velopment and implementation of agreements, in consultation with
6 State Historic Preservation Officers, local governments, Indian
7 tribes, Native Hawaiian organizations, and the interested public,
8 as appropriate, regarding the means by which adverse effects on
9 historic properties will be considered; and

10 (C) provide for the disposition of Native American cultural
11 items from Federal or tribal land in a manner consistent with sec-
12 tion 3(c) of the Native American Graves Protection and Repatri-
13 ation Act (25 U.S.C. 3002(c)).

14 **§ 205103. Records on historic properties to be altered or de-**
15 **molished**

16 Each Federal agency shall initiate measures to ensure that where, as a
17 result of Federal action or assistance carried out by the agency, a historic
18 property is to be substantially altered or demolished—

19 (1) timely steps are taken to make or have made appropriate
20 records; and

21 (2) the records are deposited, in accordance with section 202306 of
22 this title, in the Library of Congress or with such other appropriate
23 agency as the Secretary may designate, for future use and reference.

24 **§ 205104. Agency Preservation Officer**

25 The head of each Federal agency (except an agency that is exempted
26 under section 204108(e) of this title) shall designate a qualified official to
27 be known as the agency's Preservation Officer who shall be responsible for
28 coordinating the agency's activities under this division. Each Preservation
29 Officer may, to be considered qualified, satisfactorily complete an appro-
30 priate training program established by the Secretary under section
31 205101(e) of this title.

32 **§ 205105. Agency programs and projects**

33 Consistent with the agency's missions and mandates, each Federal agency
34 shall carry out agency programs and projects (including those under which
35 any Federal assistance is provided or any Federal license, permit, or other
36 approval is required) in accordance with the purposes of this division and
37 give consideration to programs and projects that will further the purposes
38 of this division.

1 **§ 205106. Review of plans of transferees of surplus federally**
2 **owned historic properties**

3 The Secretary shall review and approve the plans of transferees of surplus
4 federally owned historic properties not later than 90 days after receipt of
5 the plans to ensure that the prehistorical, historical, architectural, or cul-
6 turally significant values will be preserved or enhanced.

7 **§ 205107. Planning and actions to minimize harm to Na-**
8 **tional Historic Landmarks**

9 Prior to the approval of any Federal undertaking that may directly and
10 adversely affect any National Historic Landmark, the head of the respon-
11 sible Federal agency shall—

12 (1) to the maximum extent possible, undertake such planning and
13 actions as may be necessary to minimize harm to the landmark; and

14 (2) afford the Council a reasonable opportunity to comment on the
15 undertaking.

16 **§ 205108. Costs of preservation as eligible project costs**

17 A Federal agency may include the costs of preservation activities of the
18 agency under this division as eligible project costs in all undertakings of the
19 agency or assisted by the agency. The eligible project costs may include
20 amounts paid by a Federal agency to a State to be used in carrying out
21 the preservation responsibilities of the Federal agency under this division,
22 and reasonable costs may be charged to Federal licensees and permittees
23 as a condition to the issuance of the license or permit.

24 **§ 205109. Annual preservation awards program**

25 The Secretary shall establish an annual preservation awards program
26 under which the Secretary may make monetary awards in amounts of not
27 to exceed \$1,000 and provide citations for special achievement to officers
28 and employees of Federal, State, and certified local governments in recogni-
29 tion of their outstanding contributions to the preservation of historic re-
30 sources. The program may include the issuance of annual awards by the
31 President to any citizen of the United States recommended for the award
32 by the Secretary.

33 **§ 205110. Environmental impact statement**

34 Nothing in this division shall be construed to—

35 (1) require the preparation of an environmental impact statement
36 where the statement would not otherwise be required under the Na-
37 tional Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

38 (2) provide any exemption from any requirement respecting the prep-
39 aration of an environmental impact statement under that Act.

1 **§ 205111. Waiver of provisions in event of natural disaster**
 2 **or imminent threat to national security**

3 The Secretary shall promulgate regulations under which the requirements
 4 of this chapter may be waived in whole or in part in the event of a major
 5 natural disaster or an imminent threat to national security.

6 **§ 205112. Assistance for adversely affected historic property**

7 Each Federal agency shall ensure that the agency will not grant a loan,
 8 loan guarantee, permit, license, or other assistance to an applicant that,
 9 with intent to avoid the requirements of section 205302 of this title, has
 10 intentionally significantly adversely affected a historic property to which the
 11 grant would relate, or having legal power to prevent it, has allowed the sig-
 12 nificant adverse effect to occur, unless the agency, after consultation with
 13 the Council, determines that circumstances justify granting the assistance
 14 despite the adverse effect created or permitted by the applicant.

15 **§ 205113. Documentation of decisions respecting undertak-**
 16 **ings**

17 With respect to any undertaking subject to section 205302 of this title
 18 that adversely affects any property included in or eligible for inclusion on
 19 the National Register, and for which a Federal agency has not entered into
 20 an agreement pursuant to regulations issued by the Council, the head of the
 21 agency shall document any decision made pursuant to section 205302 of
 22 this title. The head of the agency may not delegate responsibilities pursuant
 23 to that section. Where a memorandum of agreement under section 205302
 24 of this title has been executed with respect to an undertaking, the memoran-
 25 dum shall govern the undertaking and all of its parts.

26 **Subchapter II—Lease, Exchange, or Management of Historic**
 27 **Property**

28 **§ 205121. Lease or exchange**

29 (a) **AUTHORITY TO LEASE OR EXCHANGE.**—Notwithstanding any other
 30 provision of law, each Federal agency, after consultation with the Council—

31 (1) shall, to the extent practicable, establish and implement alter-
 32 natives (including adaptive use) for historic properties that are not
 33 needed for current or projected agency purposes; and

34 (2) may lease a historic property owned by the agency to any person
 35 or organization, or exchange any property owned by the agency with
 36 comparable historic property, if the agency head determines that the
 37 lease or exchange will adequately ensure the preservation of the historic
 38 property.

39 (b) **PROCEEDS OF LEASE.**—Notwithstanding any other provision of law,
 40 the proceeds of any lease under subsection (a) may be retained by the agen-
 41 cy entering into the lease and used to defray the costs of administration,

1 maintenance, repair, and related expenses incurred by the agency with re-
 2 spect to that property or other properties that are on the National Register
 3 that are owned by, or are under the jurisdiction or control of, the agency.
 4 Any surplus proceeds from the leases shall be deposited in the Treasury at
 5 the end of the second fiscal year following the fiscal year in which the pro-
 6 ceeds were received.

7 **§ 205122. Contracts for management of historic property**

8 The head of any Federal agency having responsibility for the management
 9 of any historic property may, after consultation with the Council, enter into
 10 a contract for the management of the property. The contract shall contain
 11 terms and conditions that the head of the agency considers necessary or ap-
 12 propriate to protect the interests of the United States and ensure adequate
 13 preservation of the historic property.

14 **Subchapter III—Protection and Preservation of Resources**

15 **§ 205131. Standards and guidelines**

16 (a) STANDARDS.—

17 (1) IN GENERAL.—Each Federal agency that is responsible for the
 18 protection of historic property (including archaeological property) pur-
 19 suant to this division or any other law shall ensure that—

20 (A) all actions taken by employees or contractors of the agency
 21 meet professional standards under regulations developed by the
 22 Secretary in consultation with the Council, other affected agencies,
 23 and the appropriate professional societies of archaeology, architec-
 24 ture, conservation, history, landscape architecture, and planning;

25 (B) agency personnel or contractors responsible for historic
 26 properties meet qualification standards established by the Office of
 27 Personnel Management in consultation with the Secretary and ap-
 28 propriate professional societies of archaeology, architecture, con-
 29 servation, curation, history, landscape architecture, and planning;
 30 and

31 (C) records and other data, including data produced by histori-
 32 cal research and archaeological surveys and excavations, are per-
 33 manently maintained in appropriate databases and made available
 34 to potential users pursuant to such regulations as the Secretary
 35 shall promulgate.

36 (2) CONSIDERATIONS.—The standards referred to in paragraph
 37 (1)(B) shall consider the particular skills and expertise needed for the
 38 preservation of historic properties and shall be equivalent requirements
 39 for the disciplines involved.

40 (b) GUIDELINES.—To promote the preservation of historic property eligi-
 41 ble for listing on the National Register, the Secretary shall, in consultation

1 with the Council, promulgate guidelines to ensure that Federal, State, and
2 tribal historic preservation programs subject to this division include plans
3 to—

4 (1) provide information to the owners of historic property with dem-
5 onstrated or likely research significance, about the need for protection
6 of the historic property, and the available means of protection;

7 (2) encourage owners to preserve historic property intact and in
8 place and offer the owners of the historic property information on the
9 tax and grant assistance available for the donation of the historic prop-
10 erty or of a preservation easement of the historic property;

11 (3) encourage the protection of Native American cultural items
12 (within the meaning of section 2 of the Native American Graves Pro-
13 tection and Repatriation Act (25 U.S.C. 3001)) and of properties of
14 religious or cultural importance to Indian tribes, Native Hawaiians, or
15 other Native American groups; and

16 (4) encourage owners that are undertaking archaeological exca-
17 vations to—

18 (A) conduct excavations and analyses that meet standards for
19 federally-sponsored excavations established by the Secretary;

20 (B) donate or lend artifacts of research significance to an ap-
21 propriate research institution;

22 (C) allow access to artifacts for research purposes; and

23 (D) prior to excavating or disposing of a Native American cul-
24 tural item in which an Indian tribe or Native Hawaiian organiza-
25 tion may have an interest under subparagraph (B) or (C) of sec-
26 tion 3(a)(2) of the Native American Graves Protection and Repa-
27 triation Act (25 U.S.C. 3002(a)(2)(B), (C)), give notice to and
28 consult with the Indian tribe or Native Hawaiian organization.

29 **§ 205132. Access to information**

30 (a) **AUTHORITY TO WITHHOLD FROM DISCLOSURE.**—The head of a Fed-
31 eral agency, or other public official receiving grant assistance pursuant to
32 this division, after consultation with the Secretary, shall withhold from dis-
33 closure to the public information about the location, character, or ownership
34 of a historic property if the Secretary and the agency determine that disclo-
35 sure may—

36 (1) cause a significant invasion of privacy;

37 (2) risk harm to the historic property; or

38 (3) impede the use of a traditional religious site by practitioners.

39 (b) **ACCESS DETERMINATION.**—When the head of a Federal agency or
40 other public official determines that information should be withheld from
41 the public pursuant to subsection (a), the Secretary, in consultation with

1 the Federal agency head or official, shall determine who may have access
2 to the information for the purpose of carrying out this division.

3 (e) CONSULTATION WITH COUNCIL.—When information described in sub-
4 section (a) has been developed in the course of an agency’s compliance with
5 section 205107 or 205302 of this title, the Secretary shall consult with the
6 Council in reaching determinations under subsections (a) and (b).

7 **CHAPTER 2053—UNDERTAKINGS**

Sec.

205301. Undertakings outside United States.

205302. Effect of undertakings on historic property.

8 **§ 205301. Undertakings outside United States**

9 Prior to the approval of any undertaking outside the United States that
10 may directly and adversely affect a property that is on the World Heritage
11 List or on the applicable country’s equivalent of the National Register, the
12 head of a Federal agency having direct or indirect jurisdiction over the
13 undertaking shall take into account the effect of the undertaking on the
14 property for purposes of avoiding or mitigating any adverse effect.

15 **§ 205302. Effect of undertakings on historic property**

16 The head of any Federal agency having direct or indirect jurisdiction over
17 a proposed undertaking in any State and the head of any Federal depart-
18 ment or independent agency having authority to license any undertaking
19 shall, prior to the approval of the expenditure of any Federal funds on the
20 undertaking or prior to the issuance of any license, as the case may be, take
21 into account the effect of the undertaking on any historic property. The
22 head of the Federal agency shall afford the Council a reasonable oppor-
23 tunity to comment with regard to the undertaking.

24 **CHAPTER 2055—FINANCING**

Subchapter I—Financial Assistance

Sec.

205501. Awarding grant funds.

205502. Grants to National Trust.

205503. Apportionment of grant funds.

205504. Loan insurance program for preservation of property included on National Register.

205505. Recordkeeping.

Subchapter II—Sources of Funds

205511. Historic Preservation Fund.

205512. Acceptance by Secretary of privately donated funds.

Subchapter I—Financial Assistance

26 **§ 205501. Awarding grant funds**

27 (a) CONDITIONS.—

28 (1) IN GENERAL.—No grant may be made under this division—

29 (A) unless application for the grant is submitted to the Sec-
30 retary in accordance with regulations and procedures prescribed by
31 the Secretary;

1 (B) unless the application is in accordance with the comprehen-
2 sive statewide historic preservation plan that has been approved by
3 the Secretary after considering its relationship to the comprehen-
4 sive statewide outdoor recreation plan prepared pursuant to chap-
5 ter 1053;

6 (C) for more than 60 percent of the aggregate costs of carrying
7 out projects and programs under the administrative control of the
8 State Historic Preservation Officer as specified in section 202503
9 of this title in any one fiscal year;

10 (D) unless the grantee has agreed to make reports, in such form
11 and containing such information, as the Secretary may from time
12 to time require;

13 (E) unless the grantee has agreed to assume, after completion
14 of the project, the total cost of the continued maintenance, repair,
15 and administration of the property in a manner satisfactory to the
16 Secretary; and

17 (F) until the grantee has complied with such further terms and
18 conditions as the Secretary may consider necessary or advisable.

19 (2) SOURCE OF STATE SHARE OF COSTS.—Except as permitted by
20 other law, the State share of the costs referred to in paragraph (1)(C)
21 shall be contributed by non-Federal sources.

22 (b) GRANT NOT TREATED AS TAXABLE INCOME.—Notwithstanding any
23 other provision of law, no grant made pursuant to this division shall be
24 treated as taxable income for purposes of the Internal Revenue Code of
25 1986 (26 U.S.C. 1 et seq).

26 (c) WAIVER.—The Secretary may waive the requirements of subpara-
27 graphs (B) and (E) of subsection (a)(1) for any grant under this division
28 to the National Trust.

29 (d) RESTRICTION ON USE OF REAL PROPERTY TO MEET NON-FEDERAL
30 SHARE OF COST OF PROJECT.—No State shall be permitted to utilize the
31 value of real property obtained before October 15, 1966, in meeting the
32 non-Federal share of the cost of a project for which a grant is made under
33 this division.

34 (e) AVAILABILITY.—The Secretary shall make funding available to indi-
35 vidual States and the National Trust as soon as practicable after execution
36 of a grant agreement. For purposes of administration, grants to individual
37 States and the National Trust each shall be deemed to be one grant and
38 shall be administered by the Service as one grant.

39 (f) ADMINISTRATIVE COSTS.—The total administrative costs, direct and
40 indirect, charged for carrying out State projects and programs may not ex-

1 ceed 25 percent of the aggregate costs except in the case of a grant under
2 section 203101(b) of this title.

3 **§ 205502. Grants to National Trust**

4 The Secretary of Housing and Urban Development may make grants to
5 the National Trust, on terms and conditions and in amounts (not exceeding
6 \$90,000 with respect to any one structure) as the Secretary of Housing and
7 Urban Development considers appropriate, to cover the costs incurred by
8 the National Trust in renovating or restoring structures that the National
9 Trust considers to be of historic or architectural value and that the National
10 Trust has accepted and will maintain (after the renovation or restoration)
11 for historic purposes.

12 **§ 205503. Apportionment of grant funds**

13 (a) BASES FOR APPORTIONMENT.—The amounts appropriated and made
14 available for grants to the States—

15 (1) for the purposes of this division shall be apportioned among the
16 States by the Secretary on the basis of needs as determined by the Sec-
17 retary; and

18 (2) for projects and programs under this division for each fiscal year
19 shall be apportioned among the States as the Secretary determines to
20 be appropriate.

21 (b) NOTIFICATION.—The Secretary shall notify each State of its appor-
22 tionment under subsection (a)(2) within 30 days after the date of enactment
23 of legislation appropriating funds under this division.

24 (c) REAPPORTIONMENT.—Any amount of any apportionment that has not
25 been paid or obligated by the Secretary during the fiscal year in which the
26 notification is given or during the 2 fiscal years after that fiscal year shall
27 be reapportioned by the Secretary in accordance with subsection (a)(2). The
28 Secretary shall analyze and revise as necessary the method of appor-
29 tionment. The method and any revision shall be published by the Secretary in
30 the Federal Register.

31 (d) TRANSFER OF FUNDS TO CERTIFIED LOCAL GOVERNMENTS.—Not
32 less than 10 percent of the annual apportionment distributed by the Sec-
33 retary to each State for the purposes of carrying out this division shall be
34 transferred by the State, pursuant to the requirements of this division, to
35 certified local governments for historic preservation projects or programs of
36 the certified local governments. In any year in which the total annual appor-
37 tionment to the States exceeds \$65,000,000, 50 percent of the excess shall
38 also be transferred by the States to certified local governments.

39 (e) GUIDELINES FOR USE AND DISTRIBUTION OF FUNDS TO CERTIFIED
40 LOCAL GOVERNMENTS.—The Secretary shall establish guidelines for the use
41 and distribution of funds under subsection (d) to ensure that no certified

1 local government receives a disproportionate share of the funds available,
2 and may include a maximum or minimum limitation on the amount of funds
3 distributed to any single certified local government. The guidelines shall not
4 limit the ability of any State to distribute more than 10 percent of its an-
5 nual apportionment under subsection (d), nor shall the Secretary require
6 any State to exceed the 10 percent minimum distribution to certified local
7 governments.

8 **§ 205504. Loan insurance program for preservation of prop-**
9 **erty included on National Register**

10 (a) ESTABLISHMENT.—The Secretary shall maintain a program by which
11 the Secretary may, on application of a private lender, insure loans (includ-
12 ing loans made in accordance with a mortgage) made by the lender to fi-
13 nance any project for the preservation of a property included on the Na-
14 tional Register.

15 (b) LOAN QUALIFICATIONS.—A loan may be insured under this section
16 if—

17 (1) the loan is made by a private lender approved by the Secretary
18 as financially sound and able to service the loan properly;

19 (2) the amount of the loan, and interest rate charged with respect
20 to the loan, do not exceed the amount and rate established by the Sec-
21 retary by regulation;

22 (3) the Secretary has consulted the appropriate State Historic Pres-
23 ervation Officer concerning the preservation of the historic property;

24 (4) the Secretary has determined that the loan is adequately secured
25 and there is reasonable assurance of repayment;

26 (5) the repayment period of the loan does not exceed the lesser of
27 40 years or the expected life of the asset financed;

28 (6) the amount insured with respect to the loan does not exceed 90
29 percent of the loss sustained by the lender with respect to the loan;
30 and

31 (7) the loan, the borrower, and the historic property to be preserved
32 meet such other terms and conditions as may be prescribed by the Sec-
33 retary by regulation, especially terms and conditions relating to the na-
34 ture and quality of the preservation work.

35 (c) CONSULTATION.—The Secretary shall consult with the Secretary of
36 the Treasury regarding the interest rate of loans insured under this section.

37 (d) LIMITATION ON AMOUNT OF UNPAID PRINCIPAL BALANCE OF
38 LOANS.—The aggregate unpaid principal balance of loans insured under
39 this section and outstanding at any one time may not exceed the amount
40 that has been deposited in the Historic Preservation Fund pursuant to sec-

1 tion 205511 of this title and subsections (h) and (i), as in effect on Decem-
2 ber 12, 1980, but which has not been appropriated for any purpose.

3 (e) INSURANCE CONTRACTS.—Any contract of insurance executed by the
4 Secretary under this section may be assignable, shall be an obligation sup-
5 ported by the full faith and credit of the United States, and shall be incon-
6 testable except for fraud or misrepresentation of which the holder had ac-
7 tual knowledge at the time it became a holder.

8 (f) CONDITIONS AND METHODS OF PAYMENT AS RESULT OF LOSS.—The
9 Secretary shall specify, by regulation and in each contract entered into
10 under this section, the conditions and method of payment to a private lender
11 as a result of losses incurred by the lender on any loan insured under this
12 section.

13 (g) PROTECTION OF FINANCIAL INTERESTS OF FEDERAL GOVERN-
14 MENT.—In entering into any contract to insure a loan under this section,
15 the Secretary shall take steps to ensure adequate protection of the financial
16 interests of the Federal Government. The Secretary may—

17 (1) in connection with any foreclosure proceeding, obtain, on behalf
18 of the Federal Government, the historic property securing a loan in-
19 sured under this section; and

20 (2) operate or lease the historic property for such period as may be
21 necessary to protect the interest of the Federal Government and to
22 carry out subsection (h).

23 (h) CONVEYANCE TO GOVERNMENTAL OR NONGOVERNMENTAL ENTITY
24 OF PROPERTY ACQUIRED BY FORECLOSURE.—

25 (1) ATTEMPT TO CONVEY TO ENSURE PROPERTY'S PRESERVATION
26 AND USE.—In any case in which a historic property is obtained pursu-
27 ant to subsection (g), the Secretary shall attempt to convey the prop-
28 erty to any governmental or nongovernmental entity under conditions
29 that will ensure the property's continued preservation and use. If, after
30 a reasonable time, the Secretary, in consultation with the Council, de-
31 termines that there is no feasible and prudent means to convey the
32 property and to ensure its continued preservation and use, the Sec-
33 retary may convey the property at the fair market value of its interest
34 in the property to any entity without restriction.

35 (2) DISPOSITION OF FUNDS.—Any funds obtained by the Secretary
36 in connection with the conveyance of any historic property pursuant to
37 paragraph (1) shall be deposited in the Historic Preservation Fund and
38 shall remain available in the Historic Preservation Fund until appro-
39 priated by the Congress to carry out this division.

40 (i) ASSESSMENT OF FEES IN CONNECTION WITH INSURING LOANS.—
41 The Secretary may assess appropriate and reasonable fees in connection

1 with insuring loans under this section. The fees shall be deposited in the
 2 Historic Preservation Fund and shall remain available in the Historic Pres-
 3 ervation Fund until appropriated by Congress to carry out this division.

4 (j) TREATMENT OF LOANS AS NON-FEDERAL FUNDS.—Notwithstanding
 5 any other provision of law, any loan insured under this section shall be
 6 treated as non-Federal funds for the purposes of satisfying any requirement
 7 of any other provision of law under which Federal funds to be used for any
 8 project or activity are conditioned on the use of non-Federal funds by the
 9 recipient for payment of any portion of the costs of the project or activity.

10 (k) INELIGIBILITY OF DEBT OBLIGATION FOR PURCHASE OR COMMIT-
 11 MENT TO PURCHASE BY, OR SALE OR ISSUANCE TO, FEDERAL FINANCING
 12 BANK.—No debt obligation that is made or committed to be made, or that
 13 is insured or committed to be insured, by the Secretary under this section
 14 shall be eligible for purchase by, or commitment to purchase by, or sale or
 15 issuance to, the Federal Financing Bank.

16 **§ 205505. Recordkeeping**

17 A beneficiary of assistance under this division shall keep—

18 (1) such records as the Secretary shall prescribe, including records
 19 that fully disclose—

20 (A) the disposition by the beneficiary of the proceeds of the as-
 21 sistance;

22 (B) the total cost of the project or undertaking in connection
 23 with which the assistance is given or used; and

24 (C) the amount and nature of that portion of the cost of the
 25 project or undertaking supplied by other sources; and

26 (2) such other records as will facilitate an effective audit.

27 **Subchapter II—Sources of Funds**

28 **§ 205511. Historic Preservation Fund**

29 (a) ESTABLISHMENT.—To carry out this division, there is in the Treas-
 30 ury the Historic Preservation Fund.

31 (b) CONTENTS.—For each of fiscal years 2009 to 2015, \$150,000,000
 32 shall be deposited in the Historic Preservation Fund from revenues due and
 33 payable to the United States under section 9 of the Outer Continental Shelf
 34 Lands Act (43 U.S.C. 1338) or section 7433(b) of title 10, notwithstanding
 35 any provision of law that those proceeds shall be credited to miscellaneous
 36 receipts of the Treasury.

37 (c) USE AND AVAILABILITY.—Amounts in the Historic Preservation Fund
 38 shall be used only to carry out this division and shall be available for ex-
 39 penditure only when appropriated by Congress. Any amount not appro-
 40 priated shall remain available in the Historic Preservation Fund until ap-

1 appropriated for those purposes. Appropriations made pursuant to this section
2 may be made without fiscal year limitation.

3 **§ 205512. Acceptance by Secretary of privately donated**
4 **funds**

5 (a) PROJECTS FOR WHICH FUNDS MAY BE USED.—In furtherance of the
6 purposes of this division, the Secretary may accept the donation of funds
7 that may be expended by the Secretary for projects to acquire, restore, pre-
8 serve, or recover data from any property included on the National Register,
9 as long as the project is owned by a State, any unit of local government,
10 or any nonprofit entity.

11 (b) CONSIDERATION OF FACTORS RESPECTING EXPENDITURE OF
12 FUNDS.—

13 (1) IN GENERAL.—In expending the funds, the Secretary shall give
14 due consideration to—

- 15 (A) the national significance of the project;
- 16 (B) its historical value to the community;
- 17 (C) the imminence of its destruction or loss; and
- 18 (D) the expressed intentions of the donor.

19 (2) FUNDS AVAILABLE WITHOUT REGARD TO MATCHING REQUIRE-
20 MENTS.—Funds expended under this subsection shall be made available
21 without regard to the matching requirements established by section
22 205501 of this title, but the recipient of the funds shall be permitted
23 to utilize them to match any grants from the Historic Preservation
24 Fund.

25 (c) TRANSFER OF UNOBLIGATED FUNDS.—The Secretary may transfer
26 unobligated funds previously donated to the Secretary for the purposes of
27 the Service, with the consent of the donor, and any funds so transferred
28 shall be used or expended in accordance with this division.

29 **Subdivision 5—Miscellaneous**
30 **CHAPTER 2061—MISCELLANEOUS**

Sec.

- 206101. World Heritage Convention.
- 206102. National Building Museum.
- 206103. Effective date of regulations.
- 206104. White House, Supreme Court building, and United States Capitol not included in
program for preservation of historic properties.
- 206105. Attorney's fees and costs to prevailing parties in civil actions.
- 206106. Authorization for expenditure of appropriated funds.
- 206107. Donations and bequests of money, personal property, and less than fee interests in
historic property.

31 **§ 206101. World Heritage Convention**

32 (a) PARTICIPATION BY UNITED STATES.—The Secretary shall direct and
33 coordinate participation by the United States in the World Heritage Con-
34 vention in cooperation with the Secretary of State, the Smithsonian Institu-

1 tion, and the Council. Whenever possible, expenditures incurred in carrying
 2 out activities in cooperation with other nations and international organiza-
 3 tions shall be paid for in such excess currency of the country or area where
 4 the expense is incurred as may be available to the United States.

5 (b) NOMINATION OF PROPERTY TO WORLD HERITAGE COMMITTEE.—
 6 The Secretary shall periodically nominate properties that the Secretary de-
 7 termines are of international significance to the World Heritage Committee
 8 on behalf of the United States. No property may be nominated unless it has
 9 previously been determined to be of national significance. Each nomination
 10 shall include evidence of such legal protections as may be necessary to en-
 11 sure preservation of the property and its environment (including restrictive
 12 covenants, easements, or other forms of protection). Before making any
 13 nomination, the Secretary shall notify the Committee on Natural Resources
 14 of the House of Representatives and the Committee on Energy and Natural
 15 Resources of the Senate.

16 (c) NOMINATION OF NON-FEDERAL PROPERTY TO WORLD HERITAGE
 17 COMMITTEE REQUIRES WRITTEN CONCURRENCE OF OWNER.—No non-
 18 Federal property may be nominated by the Secretary to the World Heritage
 19 Committee for inclusion on the World Heritage List unless the owner of the
 20 property concurs in the nomination in writing.

21 **§ 206102. National Building Museum**

22 (a) DEFINITIONS.—In this section:

23 (1) BUILDING ARTS.—The term “building arts” includes all practical
 24 and scholarly aspects of prehistoric, historic, and contemporary archi-
 25 tecture, archaeology, construction, building technology and skills, land-
 26 scape architecture, preservation and conservation, building and con-
 27 struction, engineering, urban and community design and renewal, city
 28 and regional planning, and related professions, skills, trades, and
 29 crafts.

30 (2) COMMITTEE.—The term “Committee” means the Committee for
 31 a National Museum of the Building Arts, Incorporated, a nonprofit cor-
 32 poration organized and existing under the laws of the District of Co-
 33 lumbia, or its successor.

34 (b) COOPERATIVE AGREEMENT TO OPERATE MUSEUM.—To provide a
 35 national center to commemorate and encourage the building arts and to pre-
 36 serve and maintain a nationally significant building that exemplifies the
 37 great achievements of the building arts in the United States, the Secretary
 38 and the Administrator of General Services shall enter into a cooperative
 39 agreement with the Committee for the operation of a National Building Mu-
 40 seum in the Federal building located in the block bounded by Fourth Street,

1 Fifth Street, F Street, and G Street, Northwest in Washington, District of
2 Columbia.

3 (c) PURPOSES OF MUSEUM.—The National Building Museum shall—

4 (1) collect and disseminate information concerning the building arts,
5 including the establishment of a national reference center for current
6 and historic documents, publications, and research relating to the
7 building arts;

8 (2) foster educational programs relating to the history, practice, and
9 contribution to society of the building arts, including promotion of
10 imaginative educational approaches to enhance understanding and ap-
11 preciation of all facets of the building arts;

12 (3) publicly display temporary and permanent exhibits illustrating,
13 interpreting and demonstrating the building arts;

14 (4) sponsor or conduct research and study into the history of the
15 building arts and their role in shaping our civilization; and

16 (5) encourage contributions to the building arts.

17 (d) PROVISIONS OF COOPERATIVE AGREEMENT.—The cooperative agree-
18 ment referred to in subsection (b) shall include provisions that—

19 (1) make the site available to the Committee without charge;

20 (2) provide, subject to available appropriations, such maintenance,
21 security, information, janitorial, and other services as may be necessary
22 to ensure the preservation and operation of the site; and

23 (3) prescribe reasonable terms and conditions by which the Commit-
24 tee can fulfill its responsibilities under this division.

25 (e) MATCHING GRANTS TO COMMITTEE.—The Secretary shall provide
26 matching grants to the Committee for its programs related to historic pres-
27 ervation. The Committee shall match the grants in such a manner and with
28 such funds and services as shall be satisfactory to the Secretary, except that
29 not more than \$500,000 may be provided to the Committee in any one fiscal
30 year.

31 (f) ANNUAL COMMITTEE REPORT TO SECRETARY AND ADMINIS-
32 TRATOR.—The Committee shall submit an annual report to the Secretary
33 and the Administrator of General Services concerning its activities under
34 this section and shall provide the Secretary and the Administrator of Gen-
35 eral Services with such other information as the Secretary may consider
36 necessary or advisable.

37 **§ 206103. Effective date of regulations**

38 (a) PUBLICATION IN FEDERAL REGISTER.—No final regulation of the
39 Secretary shall become effective prior to the expiration of 30 calendar days
40 after it is published in the Federal Register during which either or both
41 Houses of Congress are in session.

1 (b) DISAPPROVAL OF REGULATION BY RESOLUTION OF CONGRESS.—The
 2 regulation shall not become effective if, within 90 calendar days of continu-
 3 ous session of Congress after the date of promulgation, both Houses of Con-
 4 gress adopt a concurrent resolution, the matter after the resolving clause
 5 of which is as follows: “That Congress disapproves the regulation promul-
 6 gated by the Secretary dealing with the matter of _____, which regula-
 7 tion was transmitted to Congress on _____,” the blank spaces in the
 8 resolution being appropriately filled.

9 (c) FAILURE OF CONGRESS TO ADOPT RESOLUTION OF DISAPPROVAL OF
 10 REGULATION.—If at the end of 60 calendar days of continuous session of
 11 Congress after the date of promulgation of a regulation, no committee of
 12 either House of Congress has reported or been discharged from further con-
 13 sideration of a concurrent resolution disapproving the regulation, and nei-
 14 ther House has adopted such a resolution, the regulation may go into effect
 15 immediately. If, within the 60 calendar days, a committee has reported or
 16 been discharged from further consideration of such a resolution, the regula-
 17 tion may go into effect not sooner than 90 calendar days of continuous ses-
 18 sion of Congress after its promulgation unless disapproved as provided for.

19 (d) SESSIONS OF CONGRESS.—For purposes of this section—

20 (1) continuity of session is broken only by an adjournment sine die;
 21 and

22 (2) the days on which either House is not in session because of an
 23 adjournment of more than 3 days to a day certain are excluded in the
 24 computation of 60 and 90 calendar days of continuous session of Con-
 25 gress.

26 (e) CONGRESSIONAL INACTION OR REJECTION OF RESOLUTION OF DIS-
 27 APPROVAL NOT DEEMED APPROVAL OF REGULATION.—Congressional inac-
 28 tion on or rejection of a resolution of disapproval shall not be deemed an
 29 expression of approval of the regulation.

30 **§ 206104. White House, Supreme Court building, and United**
 31 **States Capitol not included in program for preser-**
 32 **vation of historic properties**

33 Nothing in this division shall be construed to be applicable to the White
 34 House and its grounds, the Supreme Court building and its grounds, or the
 35 United States Capitol and its related buildings and grounds.

36 **§ 206105. Attorney’s fees and costs to prevailing parties in**
 37 **civil actions**

38 In any civil action brought in any United States district court by any in-
 39 terested person to enforce this division, if the person substantially prevails
 40 in the action, the court may award attorney’s fees, expert witness fees, and

1 other costs of participating in the civil action, as the court considers reason-
2 able.

3 **§ 206106. Authorization for expenditure of appropriated**
4 **funds**

5 Where appropriate, each Federal agency may expend funds appropriated
6 for its authorized programs for the purposes of activities carried out pursu-
7 ant to this division, except to the extent that appropriations legislation ex-
8 pressly provides otherwise.

9 **§ 206107. Donations and bequests of money, personal prop-**
10 **erty, and less than fee interests in historic prop-**
11 **erty**

12 (a) MONEY AND PERSONAL PROPERTY.—The Secretary may accept dona-
13 tions and bequests of money and personal property for the purposes of this
14 division and shall hold, use, expend, and administer the money and personal
15 property for those purposes.

16 (b) LESS THAN FEE INTEREST IN HISTORIC PROPERTY.—The Secretary
17 may accept gifts or donations of less than fee interests in any historic prop-
18 erty where the acceptance of an interest will facilitate the conservation or
19 preservation of the historic property. Nothing in this section or in any provi-
20 sion of this division shall be construed to affect or impair any other author-
21 ity of the Secretary under other provision of law to accept or acquire any
22 property for conservation or preservation or for any other purpose.

23 **DIVISION C—ORGANIZATIONS AND PROGRAMS**
24 **CHAPTER 2071—NATIONAL TRUST FOR HISTORIC**
25 **PRESERVATION IN THE UNITED STATES**

Sec.

- 207101. Definition.
- 207102. Establishment and purposes.
- 207103. Principal office.
- 207104. Board of trustees.
- 207105. Powers and duties.
- 207106. Consultation with Advisory Board.

26 **§ 207101. Definition**

27 In this chapter, the term “Board” means the board of trustees of the Na-
28 tional Trust.

29 **§ 207102. Establishment and purposes**

30 (a) ESTABLISHMENT.—To further the policy enunciated in chapter 201
31 of this title, and to facilitate public participation in the preservation of sites,
32 buildings, and objects of national significance or interest, there is estab-
33 lished a charitable, educational, and nonprofit corporation to be known as
34 the National Trust for Historic Preservation in the United States.

35 (b) PURPOSES.—The purposes of the National Trust shall be to—

1 (1) receive donations of sites, buildings, and objects significant in
2 American history and culture;

3 (2) preserve and administer them for public benefit;

4 (3) accept, hold, and administer gifts of money, securities, or other
5 property of any character for the purpose of carrying out the preserva-
6 tion of sites, buildings, and objects of natural significance or interest;
7 and

8 (4) execute other functions vested in it by this chapter.

9 **§ 207103. Principal office**

10 The National Trust shall have its principal office in the District of Co-
11 lumbia and shall be deemed, for purposes of venue in civil actions, to be
12 a resident of the District of Columbia. The National Trust may establish
13 offices in other places as it may consider necessary or appropriate in the
14 conduct of its business.

15 **§ 207104. Board of trustees**

16 (a) MEMBERSHIP.—The affairs of the National Trust shall be under the
17 general direction of a board of trustees composed as follows:

18 (1) The Attorney General, the Secretary, and the Director of the Na-
19 tional Gallery of Art, *ex officio*.

20 (2) Not fewer than 6 general trustees who shall be citizens of the
21 United States.

22 (b) DESIGNATION OF ANOTHER OFFICER.—The Attorney General and
23 the Secretary, when it appears desirable in the interest of the conduct of
24 the business of the Board and to such extent as they consider it advisable,
25 may, by written notice to the National Trust, designate any officer of their
26 respective departments to act for them in the discharge of their duties as
27 a member of the Board.

28 (c) GENERAL TRUSTEES.—

29 (1) NUMBER AND SELECTION.—The number of general trustees shall
30 be fixed by the Board and shall be chosen by the members of the Na-
31 tional Trust from its members at any regular meeting of the National
32 Trust.

33 (2) TERM OF OFFICE.—The respective terms of office of the general
34 trustees shall be as prescribed by the Board but in no case shall exceed
35 a period of 5 years from the date of election.

36 (3) SUCCESSOR.—A successor to a general trustee shall be chosen
37 in the same manner and shall have a term expiring 5 years from the
38 date of the expiration of the term for which the predecessor was cho-
39 sen, except that a successor chosen to fill a vacancy occurring prior to
40 the expiration of a term shall be chosen only for the remainder of that
41 term.

1 (d) CHAIRMAN.—The chairman of the Board shall be elected by a major-
2 ity vote of the members of the Board.

3 (e) COMPENSATION AND REIMBURSEMENT.—No compensation shall be
4 paid to the members of the Board for their services as such members, but
5 they shall be reimbursed for travel and actual expenses necessarily incurred
6 by them in attending board meetings and performing other official duties
7 on behalf of the National Trust at the direction of the Board.

8 **§ 207105. Powers and duties**

9 To the extent necessary to enable it to carry out the functions vested in
10 it by this chapter, the National Trust shall have the following general pow-
11 ers:

12 (1) The National Trust shall have succession until dissolved by Act
13 of Congress, in which event title to the properties of the National
14 Trust, both real and personal, shall, insofar as consistent with existing
15 contractual obligations and subject to all other legally enforceable
16 claims or demands by or against the National Trust, pass to and be-
17 come vested in the United States.

18 (2) The National Trust may sue and be sued in its corporate name.

19 (3) The National Trust may adopt, alter, and use a corporate seal
20 that shall be judicially noticed.

21 (4) The National Trust may adopt a constitution and make bylaws
22 and regulations, not inconsistent with the laws of the United States or
23 of any State, as it considers necessary for the administration of its
24 functions under this chapter, including among other matter, bylaws and
25 regulations governing visitation to historic properties, administration of
26 corporate funds, and the organization and procedure of the Board.

27 (5) The National Trust may accept, hold, and administer gifts and
28 bequests of money, securities, or other personal property of any char-
29 acter, absolutely or in trust, for the purposes for which the National
30 Trust is created. Unless otherwise restricted by the terms of a gift or
31 bequest, the National Trust may sell, exchange, or otherwise dispose
32 of, and invest or reinvest in investments as it may determine from time
33 to time, the moneys, securities, or other property given or bequeathed
34 to it. The principal of corporate funds, together with the income from
35 those funds and all other revenues received by it from any source, shall
36 be placed in depositories that the National Trust shall determine and
37 shall be subject to expenditure by the National Trust for its corporate
38 purposes.

39 (6) The National Trust may acquire by gift, devise, purchase, or
40 otherwise, absolutely or in trust, and hold and, unless otherwise re-
41 stricted by the terms of the gift or devise, encumber, convey, or other-

1 wise dispose of, any real property, or any estate or interest in the prop-
 2 erty (except property within the exterior boundaries of a System unit),
 3 as may be necessary and proper in carrying into effect the purposes
 4 of the National Trust.

5 (7) The National Trust may contract and make cooperative agree-
 6 ments with Federal, State, or local agencies, corporations, associations,
 7 or individuals, under terms and conditions that the National Trust con-
 8 siders advisable, respecting the protection, preservation, maintenance,
 9 or operation of any historic site, building, object, or property used in
 10 connection with the site, building, or object for public use, regardless
 11 of whether the National Trust has acquired title to the properties, or
 12 any interest in the properties.

13 (8) The National Trust may enter into contracts generally and exe-
 14 cute all instruments necessary or appropriate to carry out its corporate
 15 purposes, including concession contracts, leases, or permits for the use
 16 of land, buildings, or other property considered desirable either to ac-
 17 commodate the public or to facilitate administration.

18 (9) The National Trust may appoint and prescribe the duties of offi-
 19 cers, agents, and employees as may be necessary to carry out its func-
 20 tions, and fix and pay compensation to them for their services as the
 21 National Trust may determine.

22 (10) The National Trust may generally do any and all lawful acts
 23 necessary or appropriate to carry out the purposes for which the Na-
 24 tional Trust is created.

25 **§ 207106. Consultation with Advisory Board**

26 In carrying out its functions under this chapter, the National Trust may
 27 consult with the Advisory Board on National Parks, Historic Sites, Build-
 28 ings, and Monuments on matters relating to the selection of sites, buildings,
 29 and objects to be preserved and protected pursuant to this chapter.

30 **CHAPTER 2073—COMMISSION FOR THE PRESERVATION** 31 **OF AMERICA’S HERITAGE ABROAD**

Sec.

207301. Definition.

207302. Declaration of national interest.

207303. Establishment.

207304. Duties and powers; administrative support.

207305. Reports.

32 **§ 207301. Definition**

33 In this chapter, the term “Commission” means the Commission for the
 34 Preservation of America’s Heritage Abroad established under section
 35 207303 of this title.

1 **§ 207302. Declaration of national interest**

2 Because the fabric of a society is strengthened by visible reminders of the
3 historical roots of the society, it is in the national interest to encourage the
4 preservation and protection of the cemeteries, monuments, and historic
5 buildings associated with the foreign heritage of United States citizens.

6 **§ 207303. Establishment**

7 (a) ESTABLISHMENT.—There is established a commission to be known as
8 the Commission for the Preservation of America’s Heritage Abroad.

9 (b) MEMBERSHIP.—The Commission shall consist of 21 members ap-
10 pointed by the President, 7 of whom shall be appointed after consultation
11 with the Speaker of the House of Representatives and 7 of whom shall be
12 appointed after consultation with the President pro tempore of the Senate.

13 (c) TERM.—

14 (1) IN GENERAL.—Except as provided in paragraph (2), a member
15 of the Commission shall be appointed for a term of 3 years.

16 (2) VACANCY.—A member appointed to fill a vacancy on the Com-
17 mission shall serve for the remainder of the term for which the mem-
18 ber’s predecessor was appointed.

19 (3) MEMBER UNTIL SUCCESSOR APPOINTED.—A member may retain
20 membership on the Commission until the member’s successor has been
21 appointed.

22 (d) CHAIRMAN.—The President shall designate the Chairman of the Com-
23 mission from among its members.

24 (e) MEETINGS.—The Commission shall meet at least once every 6
25 months.

26 (f) COMPENSATION AND EXPENSES.—

27 (1) COMPENSATION.—Members of the Commission shall receive no
28 pay on account of their service on the Commission.

29 (2) EXPENSES.—While away from their homes or regular places of
30 business in the performance of services for the Commission, members
31 of the Commission shall be allowed travel expenses, including per diem
32 in lieu of subsistence, in the same manner as individuals employed
33 intermittently in the Government service are allowed expenses under
34 section 5703 of title 5.

35 **§ 207304. Duties and powers; administrative support**

36 (a) DUTIES.—The Commission shall—

37 (1) identify and publish a list of cemeteries, monuments, and historic
38 buildings located abroad that are associated with the foreign heritage
39 of United States citizens from eastern and central Europe, particularly
40 cemeteries, monuments, and buildings that are in danger of deteriora-
41 tion or destruction;

1 (2) encourage the preservation and protection of those cemeteries,
2 monuments, and historic buildings by obtaining, in cooperation with the
3 Secretary of State, assurances from foreign governments that the ceme-
4 teries, monuments, and buildings will be preserved and protected; and

5 (3) prepare and disseminate reports on the condition of, and the
6 progress toward preserving and protecting, those cemeteries, monu-
7 ments, and historic buildings.

8 (b) POWERS.—

9 (1) HOLD HEARINGS, REQUEST ATTENDANCE, TAKE TESTIMONY,
10 AND RECEIVE EVIDENCE.—The Commission or any member it author-
11 izes may, for the purposes of carrying out this chapter, hold such hear-
12 ings, sit and act at such times and places, request such attendance,
13 take such testimony, and receive such evidence, as the Commission con-
14 siders appropriate.

15 (2) APPOINT PERSONNEL AND FIX PAY.—The Commission may ap-
16 point such personnel (subject to the provisions of title 5 governing ap-
17 pointments in the competitive service) and may fix the pay of such per-
18 sonnel (subject to the provisions of chapter 51 and subchapter III of
19 chapter 53 of title 5), as the Commission considers desirable.

20 (3) PROCURE TEMPORARY AND INTERMITTENT SERVICES.—The
21 Commission may procure temporary and intermittent services to the
22 same extent as is authorized by section 3109(b) of title 5, but at rates
23 for individuals not to exceed the daily equivalent of the maximum an-
24 nual rate of basic pay then in effect under section 5376 of title 5.

25 (4) DETAIL PERSONNEL TO COMMISSION.—On request of the Com-
26 mission, the head of any Federal department or agency, including the
27 Secretary of State, may detail, on a reimbursable basis, any of the per-
28 sonnel of that department or agency to the Commission to assist it in
29 carrying out its duties under this chapter.

30 (5) SECURE INFORMATION.—The Commission may secure directly
31 from any department or agency of the United States, including the De-
32 partment of State, any information necessary to enable it to carry out
33 this chapter. On the request of the Chairman of the Commission, the
34 head of the department or agency shall furnish the information to the
35 Commission.

36 (6) GIFTS OR DONATIONS.—The Commission may accept, use, and
37 dispose of gifts or donations of money or property.

38 (7) USE OF MAILS.—The Commission may use the United States
39 mails in the same manner and on the same conditions as other depart-
40 ments and agencies of the United States.

1 (c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services
2 shall provide to the Commission on a reimbursable basis administrative sup-
3 port services as the Commission may request.

4 **§ 207305. Reports**

5 The Commission shall transmit an annual report to the President as soon
6 as practicable after the end of each fiscal year. Each report shall include
7 a detailed statement of the activities and accomplishments of the Commis-
8 sion during the preceding fiscal year and any recommendations by the Com-
9 mission for legislation and administrative actions.

10 **CHAPTER 2075—AMERICAN BATTLEFIELD PROTECTION**
11 **PROGRAM**

Sec.

207501. Purpose.

207502. Definitions.

207503. Preservation assistance.

207504. Battlefield acquisition grant program.

12 **§ 207501. Purpose**

13 The purpose of this chapter is to assist citizens, public and private insti-
14 tutions, and governments at all levels in planning, interpreting, and protect-
15 ing sites where historic battles were fought on American soil during the
16 armed conflicts that shaped the growth and development of the United
17 States, in order that present and future generations may learn and gain in-
18 spiration from the ground where Americans made their ultimate sacrifice.

19 **§ 207502. Definitions**

20 In this chapter:

21 (1) ELIGIBLE ENTITY.—The term “eligible entity” means a State or
22 local government.

23 (2) ELIGIBLE SITE.—The term “eligible site” means a site—

24 (A) that is not within the exterior boundaries of a System unit;
25 and

26 (B) that is identified in the document entitled “Report on the
27 Nation’s Civil War Battlefields”, prepared by the Civil War Sites
28 Advisory Commission, and dated July 1993.

29 (3) SECRETARY.—The term “Secretary” means the Secretary, acting
30 through the American Battlefield Protection Program.

31 **§ 207503. Preservation assistance**

32 (a) IN GENERAL.—Using the established national historic preservation
33 program to the extent practicable, the Secretary shall encourage, support,
34 assist, recognize, and work in partnership with citizens, Federal, State,
35 local, and tribal governments, other public entities, educational institutions,
36 and private nonprofit organizations in identifying, researching, evaluating,

1 interpreting, and protecting historic battlefields and associated sites on a
2 national, State, and local level.

3 (b) FINANCIAL ASSISTANCE.—To carry out subsection (a), the Secretary
4 may use a cooperative agreement, grant, contract, or other generally adopt-
5 ed means of providing financial assistance.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be ap-
7 propriated \$3,000,000 annually to carry out this section, to remain available
8 until expended.

9 **§ 207504. Battlefield acquisition grant program**

10 (a) ESTABLISHMENT.—The Secretary shall establish a battlefield acquisi-
11 tion grant program under which the Secretary may provide grants to eligible
12 entities to pay the Federal share of the cost of acquiring interests in eligible
13 sites for the preservation and protection of those eligible sites.

14 (b) NONPROFIT PARTNERS.—An eligible entity may acquire an interest
15 in an eligible site using a grant under this section in partnership with a
16 nonprofit organization.

17 (c) NON-FEDERAL SHARE.—The non-Federal share of the total cost of
18 acquiring an interest in an eligible site under this section shall be not less
19 than 50 percent.

20 (d) LIMITATION ON LAND USE.—An interest in an eligible site acquired
21 under this section shall be subject to section 105308(g) of this title.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be ap-
23 propriated to the Secretary to provide grants under this section
24 \$10,000,000 for each of fiscal year 2009 to 2013.

25 **CHAPTER 2077—NATIONAL UNDERGROUND RAILROAD**
26 **NETWORK TO FREEDOM**

Sec.

207701. Purposes.

207702. Definitions.

207703. Program.

207704. Preservation of historic sites or structures.

207705. Authorization of appropriations.

27 **§ 207701. Purposes**

28 The purposes of this chapter are—

29 (1) to recognize the importance of the Underground Railroad, the
30 sacrifices made by those who used the Underground Railroad in search
31 of freedom from tyranny and oppression, and the sacrifices made by
32 the people who helped them; and

33 (2) to authorize the Secretary to coordinate and facilitate Federal
34 and non-Federal activities to commemorate, honor, and interpret the
35 history of the Underground Railroad, its significance as a crucial ele-
36 ment in the evolution of the national civil rights movement, and its rel-

1 evance in fostering the spirit of racial harmony and national reconcili-
2 ation.

3 **§ 207702. Definition**

4 In this chapter, the term “national network” means the National Under-
5 ground Railroad Network to Freedom established under section 207703 of
6 this title.

7 **§ 207703. Program**

8 (a) ESTABLISHMENT; RESPONSIBILITIES OF SECRETARY.—The Secretary
9 shall establish in the Service a program to be known as the National Under-
10 ground Railroad Network to Freedom. Under the program, the Secretary
11 shall—

12 (1) produce and disseminate appropriate educational materials, such
13 as handbooks, maps, interpretive guides, or electronic information;

14 (2) enter into appropriate cooperative agreements and memoranda of
15 understanding to provide technical assistance under subsection (c); and

16 (3) create and adopt an official, uniform symbol or device for the
17 national network and issue regulations for its use.

18 (b) ELEMENTS.—The national network shall encompass the following ele-
19 ments:

20 (1) All System units and programs of the Service determined by the
21 Secretary to pertain to the Underground Railroad.

22 (2) Other Federal, State, local, and privately owned properties per-
23 taining to the Underground Railroad that have a verifiable connection
24 to the Underground Railroad and that are included on, or determined
25 by the Secretary to be eligible for inclusion on, the National Register
26 of Historic Places.

27 (3) Other governmental and nongovernmental facilities and programs
28 of an educational, research, or interpretive nature that are directly re-
29 lated to the Underground Railroad.

30 (c) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTAND-
31 ING.—To achieve the purposes of this chapter and to ensure effective co-
32 ordination of the Federal and non-Federal elements of the national network
33 with System units and programs of the Service, the Secretary may enter
34 into cooperative agreements and memoranda of understanding with, and
35 provide technical assistance—

36 (1) to the heads of other Federal agencies, States, localities, regional
37 governmental bodies, and private entities; and

38 (2) in cooperation with the Secretary of State, to the governments
39 of Canada, Mexico, and any appropriate country in the Caribbean.

1 **§ 207704. Preservation of historic sites or structures**

2 (a) **AUTHORITY TO MAKE GRANTS.**—The Secretary may make grants in
3 accordance with this section for the preservation and restoration of historic
4 buildings or structures associated with the Underground Railroad, and for
5 related research and documentation to sites, programs, or facilities that
6 have been included in the national network.

7 (b) **GRANT CONDITIONS.**—Any grant made under this section shall pro-
8 vide that—

9 (1) no change or alteration may be made in property for which the
10 grant is used except with the agreement of the property owner and the
11 Secretary;

12 (2) the Secretary shall have the right of access at reasonable times
13 to the public portions of the property for interpretive and other pur-
14 poses; and

15 (3) conversion, use, or disposal of the property for purposes contrary
16 to the purposes of this chapter, as determined by the Secretary, shall
17 result in a right of the United States to compensation equal to all Fed-
18 eral funds made available to the grantee under this chapter.

19 (c) **MATCHING REQUIREMENT.**—The Secretary may obligate funds made
20 available for a grant under this section only if the grantee agrees to match,
21 from funds derived from non-Federal sources, the amount of the grant with
22 an amount that is equal to or greater than the grant. The Secretary may
23 waive the requirement if the Secretary determines that an extreme emer-
24 gency exists or that a waiver is in the public interest to ensure the preserva-
25 tion of historically significant resources.

26 **§ 207705. Authorization of appropriations**

27 (a) **AMOUNTS.**—There are authorized to be appropriated to carry out this
28 chapter \$2,500,000 for each fiscal year, to be allocated as follows:

29 (1) \$2,000,000 is to be used for the purposes of section 207703 of
30 this title.

31 (2) \$500,000 is to be used for the purposes of section 207704 of
32 this title.

33 (b) **RESTRICTIONS.**—No amounts may be appropriated for the purposes
34 of this chapter except to the Secretary for carrying out the responsibilities
35 of the Secretary as set forth in this chapter.

36 **CHAPTER 2079—NATIONAL WOMEN’S RIGHTS HISTORY**
37 **PROJECT**

Sec.

207901. National women’s rights history project national registry.

207902. National women’s rights history project partnerships network.

1 **§ 207901. National women’s rights history project national**
2 **registry**

3 (a) IN GENERAL.—The Secretary may make annual grants to State his-
4 toric preservation offices for not more than 5 years to assist the State his-
5 toric preservation offices in surveying, evaluating, and nominating to the
6 National Register of Historic Places women’s rights history properties.

7 (b) ELIGIBILITY.—In making grants under subsection (a), the Secretary
8 shall give priority to grants relating to properties associated with the mul-
9 tiple facets of the women’s rights movement, such as politics, economics,
10 education, religion, and social and family rights.

11 (c) UPDATES.—The Secretary shall ensure that the National Register
12 travel itinerary website entitled “Places Where Women Made History” is
13 updated to contain—

- 14 (1) the results of the inventory conducted under subsection (a); and
15 (2) any links to websites related to places on the inventory.

16 (d) COST-SHARING REQUIREMENT.—The Federal share of the cost of any
17 activity carried out using any assistance made available under this section
18 shall be 50 percent.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be ap-
20 propriated to the Secretary to carry out this section \$1,000,000 for each
21 of fiscal years 2009 through 2013.

22 **§ 207902. National women’s rights history project partner-**
23 **ships network**

24 (a) GRANTS.—The Secretary may make matching grants and give tech-
25 nical assistance for development of a network of governmental and non-
26 governmental entities (referred to in this section as the “network”), the pur-
27 pose of which is to provide interpretive and educational program develop-
28 ment of national women’s rights history, including historic preservation.

29 (b) MANAGEMENT OF NETWORK.—

30 (1) IN GENERAL.—Through a competitive process, the Secretary
31 shall designate a nongovernmental managing network to manage the
32 network.

33 (2) COORDINATION.—The nongovernmental managing entity des-
34 ignated under paragraph (1) shall work in partnership with the Direc-
35 tor and State historic preservation offices to coordinate operation of the
36 network.

37 (c) COST-SHARING REQUIREMENT.—

38 (1) IN GENERAL.—The Federal share of the cost of any activity car-
39 ried out using any assistance made available under this section shall
40 be 50 percent.

1 (2) STATE HISTORIC PRESERVATION OFFICES.—Matching grants for
2 historic preservation specific to the network may be made available
3 through State historic preservation offices.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be ap-
5 propriated to the Secretary to carry out this section \$1,000,000 for each
6 of fiscal years 2009 through 2013.

7 **CHAPTER 2081—PRESERVATION OF HISTORICAL AND**
8 **ARCHAEOLOGICAL DATA**

Sec.

208101. Purpose.

208102. Definition.

208103. Notice of dam construction.

208104. Threat of irreparable loss or destruction of significant scientific, prehistorical, histor-
 ical, or archaeological data by Federal construction projects.

208105. Survey and recovery by Secretary.

208106. Progress reports by Secretary on surveys and work undertaken as result of surveys.

208107. Administration.

208108. Assistance to Secretary by Federal agencies responsible for construction projects;
 availability of appropriations.

9 **§ 208101. Purpose**

10 It is the purpose of this chapter to further the policy set forth in chapter
11 2001 of this title by specifically providing for the preservation of historical
12 and archaeological data (including relics and specimens) that might other-
13 wise be irreparably lost or destroyed as the result of—

14 (1) flooding, the building of access roads, the erection of worker's
15 communities, the relocation of railroads and highways, and other alter-
16 ations of the terrain caused by the construction of a dam by any—

17 (A) Federal agency; or

18 (B) private person or corporation holding a license issued by
19 any Federal agency; or

20 (2) any alteration of the terrain caused as a result of any Federal
21 construction project or federally licensed activity or program.

22 **§ 208102. Definition**

23 In this chapter, the term “State” includes a State, the District of Colum-
24 bia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the
25 Northern Mariana Islands.

26 **§ 208103. Notice of dam construction**

27 (a) IN GENERAL.—Before any Federal agency undertakes the construc-
28 tion of a dam, or issues a license to any private individual or corporation
29 for the construction of a dam, it shall give written notice to the Secretary
30 setting forth the site of the proposed dam and the approximate area to be
31 flooded and otherwise changed if construction is undertaken.

32 (b) DAMS WITH CERTAIN DETENTION CAPACITY OR RESERVOIR.—With
33 respect to any flood water retarding dam that provides fewer than 5,000

1 acre-feet of detention capacity, and with respect to any other type of dam
2 that creates a reservoir of fewer than 40 surface acres, this section shall
3 apply only when the constructing agency, in its preliminary surveys, finds
4 or is presented with evidence that historical or archaeological materials exist
5 or may be present in the proposed reservoir area.

6 **§ 208104. Threat of irreparable loss or destruction of signifi-**
7 **cant scientific, prehistorical, historical, or archae-**
8 **ological data by Federal construction projects**

9 (a) ACTIVITY OF FEDERAL AGENCY.—

10 (1) NOTIFICATION OF SECRETARY.—When any Federal agency finds,
11 or is notified, in writing, by an appropriate historical or archaeological
12 authority, that its activities in connection with any Federal construc-
13 tion project or federally licensed project, activity, or program may
14 cause irreparable loss or destruction of significant scientific, prehistori-
15 cal, historical, or archaeological data, the agency shall notify the Sec-
16 retary, in writing, and shall provide the Secretary with appropriate in-
17 formation concerning the project, program, or activity.

18 (2) RECOVERY, PROTECTION, AND PRESERVATION OF DATA.—The
19 agency—

20 (A) may request the Secretary to undertake the recovery, pro-
21 tection, and preservation of the data (including preliminary survey,
22 or other investigation as needed, and analysis and publication of
23 the reports resulting from the investigation); or

24 (B) may, with funds appropriated for the project, program, or
25 activity, undertake those activities.

26 (3) AVAILABILITY OF REPORTS.—Copies of reports of any investiga-
27 tions made pursuant to this section shall be submitted to the Secretary,
28 who shall make them available to the public for inspection and review.

29 (b) ACTIVITY OF PRIVATE PERSON, ASSOCIATION, OR PUBLIC ENTITY.—

30 (1) RECOVERY BY SECRETARY.—When any Federal agency provides
31 financial assistance by loan, grant, or otherwise to any private person,
32 association, or public entity, the Secretary, if the Secretary determines
33 that significant scientific, prehistorical, historical, or archaeological
34 data might be irrevocably lost or destroyed, may, with funds appro-
35 priated expressly for this purpose—

36 (A) conduct, with the consent of all persons, associations, or
37 public entities having a legal interest in the property, a survey of
38 the affected site; and

39 (B) undertake the recovery, protection, and preservation of the
40 data (including analysis and publication).

(2) COMPENSATION.—The Secretary shall, unless otherwise agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned land.

§ 208105. Survey and recovery by Secretary

(a) IN GENERAL.—The Secretary, on notification, in writing, by any Federal or State agency or appropriate historical or archaeological authority that scientific, prehistorical, historical, or archaeological data are being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if the Secretary determines that the data are significant and are being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing the project, activity, or program—

(1) conduct or cause to be conducted a survey and other investigation of the areas that are or may be affected; and

(2) recover and preserve the data (including analysis and publication) that, in the opinion of the Secretary, are not being, but should be, recovered and preserved in the public interest.

(b) WHEN SURVEY OR RECOVERY NOT REQUIRED.—No survey or recovery work shall be required pursuant to this section that, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) INITIATION OF SURVEY.—The Secretary shall initiate the survey or recovery effort within—

(1) 60 days after notification pursuant to subsection (a); or

(2) such time as may be agreed on with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) COMPENSATION BY SECRETARY.—The Secretary shall, unless otherwise agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land.

§ 208106. Progress reports by Secretary on surveys and work undertaken as result of surveys

(a) PROGRESS REPORTS TO FUNDING OR LICENSING AGENCY.—The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under this chapter or of any work undertaken as a result of a survey, in order that there will be as little disruption or delay as possible in the carrying out of the func-

1 tions of the agency. The survey and recovery programs shall terminate at
2 a time agreed on by the Secretary and the head of the agency unless ex-
3 tended by agreement.

4 (b) DISPOSITION OF RELICS AND SPECIMENS.—The Secretary shall con-
5 sult with any interested Federal and State agencies, educational and sci-
6 entific organizations, private institutions, and qualified individuals, with a
7 view to determining the ownership of, and the most appropriate repository
8 for, any relics and specimens recovered as a result of any work performed
9 as provided for in this section.

10 (c) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all
11 Federal survey and recovery activities authorized under this chapter.

12 **§ 208107. Administration**

13 In the administration of this chapter, the Secretary may—

14 (1) enter into contracts or make cooperative agreements with any
15 Federal or State agency, educational or scientific organization, or insti-
16 tution, corporation, association, or qualified individual;

17 (2) obtain the services of experts and consultants or organizations
18 of experts and consultants in accordance with section 3109 of title 5;
19 and

20 (3) accept and utilize funds made available for salvage archaeological
21 purposes by any private person or corporation or transferred to the
22 Secretary by any Federal agency.

23 **§ 208108. Assistance to Secretary by Federal agencies re-** 24 **sponsible for construction projects; availability of** 25 **appropriations**

26 (a) ASSISTANCE OF FEDERAL AGENCIES.—To carry out the purposes of
27 this chapter, any Federal agency responsible for a construction project may
28 assist the Secretary or may transfer to the Secretary funds as may be
29 agreed on, but not more than one percent of the total amount authorized
30 to be appropriated for the project, except that the one percent limitation
31 of this section shall not apply if the cost of the project is \$50,000 or less.
32 The costs of the survey, recovery, analysis, and publication shall be deemed
33 nonreimbursable project costs.

34 (b) COSTS FOR IDENTIFICATION, SURVEYS, EVALUATION, AND DATA RE-
35 COVERY WITH RESPECT TO HISTORIC PROPERTIES.—Notwithstanding sub-
36 section (a) or any other provision of law—

37 (1) identification, surveys, and evaluation carried out with respect to
38 historic properties within project areas may be treated for purposes of
39 any law or rule of law as planning costs of the project and not as costs
40 of mitigation;

1 (2) reasonable costs for identification, surveys, evaluation, and data
 2 recovery carried out with respect to historic properties within project
 3 areas may be charged to Federal licensees and permittees as a condi-
 4 tion to the issuance of the license or permit; and

5 (3) Federal agencies, with the concurrence of the Secretary and after
 6 notification of the Committee on Natural Resources of the House of
 7 Representatives and the Committee on Energy and Natural Resources
 8 of the Senate, may waive, in appropriate cases, the one percent limita-
 9 tion contained in subsection (a).

10 (c) AVAILABILITY OF APPROPRIATIONS.—Sums appropriated for purposes
 11 of this section shall remain available until expended.

12 **CHAPTER 2083—NATIONAL MARITIME HERITAGE**

Sec.

208301. Declaration of policy.

208302. Definitions.

208303. National Maritime Heritage Grants Program.

208304. Funding.

208305. Designation of America's National Maritime Museum.

208306. Regulations.

208307. Application of authorities.

13 **§ 208301. Declaration of policy**

14 It shall be the policy of the Federal Government, in partnership with the
 15 States and local governments and private organizations and individuals,
 16 to—

17 (1) use measures, including financial and technical assistance, to fos-
 18 ter conditions under which our modern society and our historic mari-
 19 time resources can exist in productive harmony;

20 (2) provide leadership in the preservation of the historic maritime re-
 21 sources of the United States;

22 (3) contribute to the preservation of historic maritime resources and
 23 give maximum encouragement to organizations and individuals under-
 24 taking preservation by private means; and

25 (4) assist State and local governments to expand their maritime his-
 26 toric preservation programs and activities.

27 **§ 208302. Definitions**

28 In this chapter:

29 (1) NATIONAL TRUST.—The term “National Trust” means the Na-
 30 tional Trust for Historic Preservation created by section 207102 of this
 31 title.

32 (2) PRIVATE NONPROFIT ORGANIZATION.—The term “private non-
 33 profit organization” means any person that is exempt from taxation
 34 under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C.

1 501(a)) and described in section 501(c)(3) of the Internal Revenue
2 Code of 1986 (26 U.S.C. 501(c)(3)).

3 (3) PROGRAM.—The term “Program” means the National Maritime
4 Heritage Grants Program established by section 208303(a) of this title.

5 (4) STATE HISTORIC PRESERVATION OFFICER.—The term “State
6 Historic Preservation Officer” means a State Historic Preservation Of-
7 ficer appointed pursuant to section 202501(1) of this title by the chief
8 executive officer of a State having a State Historic Preservation Pro-
9 gram approved by the Secretary under that section.

10 **§ 208303. National Maritime Heritage Grants Program**

11 (a) ESTABLISHMENT.—There is in the Department of the Interior the
12 National Maritime Heritage Grants Program, to foster in the American
13 public a greater awareness and appreciation of the role of maritime endeav-
14 ors in our Nation’s history and culture. The Program shall consist of—

15 (1) annual grants to the National Trust for subgrants administered
16 by the National Trust for maritime heritage education projects under
17 subsection (b); and

18 (2) grants to State Historic Preservation Officers for maritime herit-
19 age preservation projects carried out or administered by those Officers
20 under subsection (c).

21 (b) GRANTS FOR MARITIME HERITAGE EDUCATION PROJECTS.—

22 (1) GRANTS TO NATIONAL TRUST.—The Secretary, subject to para-
23 graph (2), and the availability of amounts for that purpose under sec-
24 tion 208304(b)(1)(A) of this title, shall make an annual grant to the
25 National Trust for maritime heritage education projects.

26 (2) USE OF GRANTS.—Amounts received by the National Trust as
27 an annual grant under this subsection shall be used to make subgrants
28 to State and local governments and private nonprofit organizations to
29 carry out education projects that have been approved by the Secretary
30 under subsection (f) and that consist of—

31 (A) assistance to any maritime museum or historical society
32 for—

33 (i) existing and new educational programs, exhibits, edu-
34 cational activities, conservation, and interpretation of arti-
35 facts and collections;

36 (ii) minor improvements to educational and museum facili-
37 ties; and

38 (iii) other similar activities;

39 (B) activities designed to encourage the preservation of tradi-
40 tional maritime skills, including—

- 1 (i) building and operation of vessels of all sizes and types
 2 for educational purposes;
 3 (ii) special skills such as wood carving, sail making, and
 4 rigging;
 5 (iii) traditional maritime art forms; and
 6 (iv) sail training;
- 7 (C) other educational activities relating to historic maritime re-
 8 sources, including—
 9 (i) maritime educational waterborne-experience programs
 10 in historic vessels or vessel reproductions;
 11 (ii) maritime archaeological field schools; and
 12 (iii) educational programs on other aspects of maritime his-
 13 tory;
- 14 (D) heritage programs focusing on maritime historic resources,
 15 including maritime heritage trails and corridors; or
 16 (E) the construction and use of reproductions of historic mari-
 17 time resources for educational purposes, if a historic maritime re-
 18 source no longer exists or would be damaged or consumed through
 19 direct use.

20 (c) GRANTS FOR MARITIME HERITAGE PRESERVATION PROJECTS.—

21 (1) GRANTS TO STATE HISTORIC PRESERVATION OFFICERS.—The
 22 Secretary, acting through the National Maritime Initiative of the Serv-
 23 ice and subject to paragraph (2), and the availability of amounts for
 24 that purpose under section 208304(b)(1)(B) of this title, shall make
 25 grants to State Historic Preservation Officers for maritime heritage
 26 preservation projects.

27 (2) USE OF GRANTS.—Amounts received by a State Historic Preser-
 28 vation Officer as a grant under this subsection shall be used by the
 29 Officer to carry out, or to make subgrants to local governments and
 30 private nonprofit organizations to carry out, projects that have been
 31 approved by the Secretary under subsection (f) for the preservation of
 32 historic maritime resources through—

- 33 (A) identification of historic maritime resources, including un-
 34 derwater archaeological sites;
- 35 (B) acquisition of historic maritime resources for the purposes
 36 of preservation;
- 37 (C) repair, restoration, stabilization, maintenance, or other cap-
 38 ital improvements to historic maritime resources, in accordance
 39 with standards prescribed by the Secretary; and
- 40 (D) research, recording (through drawings, photographs, or
 41 otherwise), planning (through feasibility studies, architectural and

1 engineering services, or otherwise), and other services carried out
2 as part of a preservation program for historic maritime resources.

3 (d) CRITERIA FOR DIRECT GRANT AND SUBGRANT ELIGIBILITY.—To
4 qualify for a subgrant from the National Trust under subsection (b), or a
5 direct grant to or a subgrant from a State Historic Preservation Officer
6 under subsection (c), a person shall—

7 (1) demonstrate that the project for which the direct grant or
8 subgrant will be used has the potential for reaching a broad audience
9 with an effective educational program based on American maritime his-
10 tory, technology, or the role of maritime endeavors in American culture;

11 (2) match the amount of the direct grant or subgrant, on a 1-to-
12 1 basis, with non-Federal assets from non-Federal sources, which may
13 include cash or donated services fairly valued as determined by the Sec-
14 retary;

15 (3) maintain records as may be reasonably necessary to fully dis-
16 close—

17 (A) the amount and the disposition of the proceeds of the direct
18 grant or subgrant;

19 (B) the total cost of the project for which the direct grant or
20 subgrant is made; and

21 (C) other records as may be required by the Secretary, including
22 such records as will facilitate an effective accounting for project
23 funds;

24 (4) provide access to the Secretary for the purposes of any required
25 audit and examination of any records of the person; and

26 (5) be a unit of State or local government, or a private nonprofit
27 organization.

28 (e) PROCEDURES, TERMS, AND CONDITIONS.—

29 (1) APPLICATION PROCEDURES.—An application for a subgrant
30 under subsection (b), or a direct grant or subgrant under subsection
31 (c), shall be submitted under procedures prescribed by the Secretary.

32 (2) TERMS AND CONDITIONS.—A person may not receive a subgrant
33 under subsection (b), or a direct grant or subgrant under subsection
34 (c), unless the person agrees to assume, after completion of the project
35 for which the direct grant or subgrant is awarded, the total cost of the
36 continued maintenance, repair, and administration of any property for
37 which the subgrant will be used in a manner satisfactory to the Sec-
38 retary.

39 (f) ALLOCATION OF, AND LIMITATION ON, GRANT FUNDING.—

40 (1) ALLOCATION.—To the extent feasible, the Secretary shall ensure
41 that the amount made available under subsection (b) for maritime her-

1 itage education projects is equal to the amount made available under
2 subsection (c) for maritime heritage preservation projects.

3 (2) LIMITATION.—The amount provided by the Secretary in a fiscal
4 year as grants under this section for projects relating to historic mari-
5 time resources owned or operated by the Federal Government shall not
6 exceed 40 percent of the total amount available for the fiscal year for
7 grants under this section.

8 (g) PUBLICATION OF DIRECT GRANT AND SUBGRANT INFORMATION.—
9 The Secretary shall publish annually in the Federal Register and otherwise
10 as the Secretary considers appropriate—

11 (1) a solicitation of applications for direct grants and subgrants
12 under this section;

13 (2) a list of priorities for the making of those direct grants and sub-
14 grants;

15 (3) a single deadline for the submission of applications for those di-
16 rect grants and subgrants; and

17 (4) other relevant information.

18 (h) DIRECT GRANT AND SUBGRANT ADMINISTRATION.—

19 (1) RESPONSIBILITY.—

20 (A) NATIONAL TRUST.—The National Trust is responsible for
21 administering subgrants for maritime heritage education projects
22 under subsection (b).

23 (B) SECRETARY.—The Secretary is responsible for administer-
24 ing direct grants for maritime heritage preservation projects under
25 subsection (c).

26 (C) STATE HISTORIC PRESERVATION OFFICERS.—State Historic
27 Preservation Officers are responsible for administering subgrants
28 for maritime heritage preservation projects under subsection (c).

29 (2) ACTIONS.—The appropriate responsible party under paragraph
30 (1) shall administer direct grants or subgrants by—

31 (A) publicizing the Program to prospective grantees, sub-
32 grantees, and the public at large, in cooperation with the Service,
33 the Maritime Administration, and other appropriate government
34 agencies and private institutions;

35 (B) answering inquiries from the public, including providing in-
36 formation on the Program as requested;

37 (C) distributing direct grant and subgrant applications;

38 (D) receiving direct grant and subgrant applications and ensur-
39 ing their completeness;

40 (E) keeping records of all direct grant and subgrant awards and
41 expenditures of funds;

1 (F) monitoring progress of projects carried out with direct
2 grants and subgrants; and

3 (G) providing to the Secretary such progress reports as may be
4 required by the Secretary.

5 (i) ASSISTANCE OF MARITIME PRESERVATION ORGANIZATIONS.—The
6 Secretary, the National Trust, and the State Historic Preservation Officers
7 may, individually or jointly, enter into cooperative agreements with any pri-
8 vate nonprofit organization with appropriate expertise in maritime preserva-
9 tion issues, or other qualified maritime preservation organizations, to assist
10 in the administration of the Program.

11 (j) REPORT TO CONGRESS.—The Secretary shall submit to Congress an
12 annual report on the Program, including—

13 (1) a description of each project funded under the Program in the
14 period covered by the report;

15 (2) the results or accomplishments of each such project; and

16 (3) recommended priorities for achieving the policy set forth in sec-
17 tion 208301 of this title.

18 **§ 208304. Funding**

19 (a) AVAILABILITY OF FUNDS FROM SALE AND SCRAPPING OF OBSOLETE
20 VESSELS.—

21 (1) IN GENERAL.—Notwithstanding any other provision of law, the
22 amount of funds credited in a fiscal year to the Vessel Operations Re-
23 volving Fund established by section 50301(a) of title 46 that is attrib-
24 utable to the sale of obsolete vessels in the National Defense Reserve
25 Fleet that are scrapped or sold under section 57102, 57103, or 57104
26 of title 46 shall be available until expended as follows:

27 (A) Fifty percent shall be available to the Administrator of the
28 Maritime Administration for such acquisition, maintenance, repair,
29 reconditioning, or improvement of vessels in the National Defense
30 Reserve Fleet as is authorized under other Federal law.

31 (B) Twenty five percent shall be available to the Administrator
32 of the Maritime Administration for the payment or reimbursement
33 of expenses incurred by or on behalf of State maritime academies
34 or the United States Merchant Marine Academy for facility and
35 training ship maintenance, repair, and modernization, and for the
36 purchase of simulators and fuel.

37 (C) The remainder shall be available to the Secretary to carry
38 out the Program, as provided in subsection (b).

39 (2) APPLICABILITY.—Paragraph (1) does not apply to amounts cred-
40 ited to the Vessel Operations Revolving Fund before July 1, 1994.

41 (b) USE OF AMOUNTS FOR PROGRAM.—

1 (1) IN GENERAL.—Except as provided in paragraph (2), of amounts
2 available each fiscal year for the Program under subsection (a)(1)(C)—

3 (A) one half shall be used for grants under section 208303(b)
4 of this title; and

5 (B) one half shall be used for grants under section 208303(c)
6 of this title.

7 (2) ADMINISTRATIVE EXPENSES.—

8 (A) IN GENERAL.—Not more than 15 percent or \$500,000,
9 whichever is less, of the amount available for the Program under
10 subsection (a)(1)(C) for a fiscal year may be used for expenses of
11 administering the Program.

12 (B) ALLOCATION.—Of the amount available under subpara-
13 graph (A) for a fiscal year—

14 (i) one half shall be allocated to the National Trust for ex-
15 penses incurred in administering grants under section
16 208303(b) of this title; and

17 (ii) one half shall be allocated as appropriate by the Sec-
18 retary to the Service and participating State Historic Preser-
19 vation Officers.

20 (c) DISPOSAL OF VESSELS.—

21 (1) REQUIREMENT.—The Secretary of Transportation shall dispose
22 of all vessels described in paragraph (2)—

23 (A) in accordance with a priority system for disposing of vessels,
24 as determined by the Secretary, that shall include provisions re-
25 quiring the Maritime Administration to—

26 (i) dispose of all deteriorated high priority ships that are
27 available for disposal within 12 months of their designation
28 as available for disposal; and

29 (ii) give priority to the disposition of those vessels that pose
30 the most significant danger to the environment or cost the
31 most to maintain;

32 (B) in the manner that provides the best value to the Federal
33 Government, except in any case in which obtaining the best value
34 would require towing a vessel and the towing poses a serious
35 threat to the environment; and

36 (C) in accordance with the plan of the Department of Transpor-
37 tation for disposal of those vessels and requirements under sec-
38 tions 57102 to 57104 of title 46.

39 (2) VESSELS DESCRIBED.—The vessels referred to in paragraph (1)
40 are the vessels in the National Defense Reserve Fleet after July 1,
41 1994, that—

1 (A) are not assigned to the Ready Reserve Force component of
2 the National Defense Reserve Fleet; and

3 (B) are not specifically authorized or required by statute to be
4 used for a particular purpose.

5 (d) TREATMENT OF AVAILABLE AMOUNTS.—Amounts available under
6 this section shall not be considered in any determination of the amounts
7 available to the Department of the Interior.

8 **§ 208305. Designation of America's National Maritime Mu-**
9 **seum**

10 (a) IN GENERAL.—America's National Maritime Museum is comprised of
11 those museums designated by law to be museums of America's National
12 Maritime Museum on the basis that they—

13 (1) house a collection of maritime artifacts clearly representing the
14 Nation's maritime heritage; and

15 (2) provide outreach programs to educate the public about the Na-
16 tion's maritime heritage.

17 (b) INITIAL DESIGNATION.—The following museums (meeting the criteria
18 specified in subsection (a)) are designated as museums of America's Na-
19 tional Maritime Museum:

20 (1) The Mariners' Museum, located at 100 Museum Drive, Newport
21 News, Virginia.

22 (2) The South Street Seaport Museum, located at 207 Front Street,
23 New York, New York.

24 (c) FUTURE DESIGNATION OF OTHER MUSEUMS NOT PRECLUDED.—The
25 designation of the museums referred to in subsection (b) as museums of
26 America's National Maritime Museum does not preclude the designation by
27 law of any other museum that meets the criteria specified in subsection (a)
28 as a museum of America's National Maritime Museum.

29 (d) REFERENCE TO MUSEUMS.—Any reference in any law, map, regula-
30 tion, document, paper, or other record of the United States to a museum
31 designated by law to be a museum of America's National Maritime Museum
32 shall be deemed to be a reference to that museum as a museum of Ameri-
33 ca's National Maritime Museum.

34 **§ 208306. Regulations**

35 The Secretary, after consultation with the National Trust, the National
36 Conference of State Historic Preservation Officers, and appropriate mem-
37 bers of the maritime heritage community, shall prescribe appropriate guide-
38 lines, procedures, and regulations to carry out the chapter, including direct
39 grant and subgrant priorities, the method of solicitation and review of direct
40 grant and subgrant proposals, criteria for review of direct grant and
41 subgrant proposals, administrative requirements, reporting and record-

1 keeping requirements, and any other requirements the Secretary considers
2 appropriate.

3 **§ 208307. Application of authorities**

4 The authorities contained in this chapter shall be in addition to, and shall
5 not be construed to supercede or modify those contained in division B of
6 this subtitle.

7 **CHAPTER 2085—PRESERVE AMERICA PROGRAM**

Sec.

208501. Purpose.

208502. Definitions.

208503. Establishment.

208504. Designation of Preserve America Communities.

208505. Regulations.

208506. Authorization of appropriations.

8 **§ 208501. Purpose**

9 The purpose of this chapter is to authorize the Preserve America Pro-
10 gram, including—

11 (1) the Preserve America grant program within the Department of
12 the Interior;

13 (2) the recognition programs administered by the Advisory Council
14 on Historic Preservation; and

15 (3) the related efforts of Federal agencies, working in partnership
16 with State, tribal, and local governments and the private sector, to sup-
17 port and promote the preservation of historic resources.

18 **§ 208502. Definitions**

19 In this chapter:

20 (1) COUNCIL.—The term “Council” means the Advisory Council on
21 Historic Preservation.

22 (2) HERITAGE TOURISM.—The term “heritage tourism” means the
23 conduct of activities to attract and accommodate visitors to a site or
24 area based on the unique or special aspects of the history, landscape
25 (including trail systems), and culture of the site or area.

26 (3) PROGRAM.—The term “program” means the Preserve America
27 Program established under section 208503(a).

28 **§ 208503. Establishment**

29 (a) IN GENERAL.—There is established in the Department of the Interior
30 the Preserve America Program, under which the Secretary, in partnership
31 with the Council, may provide competitive grants to States, local govern-
32 ments (including local governments in the process of applying for designa-
33 tion as Preserve America Communities under section 208504 of this title,
34 Indian tribes, communities designated as Preserve America Communities
35 under section 208504 of this title, State historic preservation offices, and

1 tribal historic preservation offices to support preservation efforts through
2 heritage tourism, education, and historic preservation planning activities.

3 (b) ELIGIBLE PROJECTS.—

4 (1) IN GENERAL.—The following projects shall be eligible for a grant
5 under this chapter:

6 (A) A project for the conduct of—

7 (i) research on, and documentation of, the history of a
8 community; and

9 (ii) surveys of the historic resources of a community.

10 (B) An education and interpretation project that conveys the
11 history of a community or site.

12 (C) A planning project (other than building rehabilitation) that
13 advances economic development using heritage tourism and his-
14 toric preservation.

15 (D) A training project that provides opportunities for profes-
16 sional development in areas that would aid a community in using
17 and promoting its historic resources.

18 (E) A project to support heritage tourism in a Preserve America
19 Community designated under section 208504 of this title.

20 (F) Other nonconstruction projects that identify or promote his-
21 toric properties or provide for the education of the public about
22 historic properties that are consistent with the purposes of this
23 chapter.

24 (2) LIMITATION.—In providing grants under this chapter, the Sec-
25 retary shall provide only one grant to each eligible project selected for
26 a grant.

27 (c) PREFERENCE.—In providing grants under this chapter, the Secretary
28 may give preference to projects that carry out the purposes of both the pro-
29 gram and the Save America's Treasures Program.

30 (d) CONSULTATION AND NOTIFICATION.—

31 (1) CONSULTATION.—The Secretary shall consult with the Council in
32 preparing the list of projects to be provided grants for a fiscal year
33 under the program.

34 (2) NOTIFICATION.—Not later than 30 days before the date on
35 which the Secretary provides grants for a fiscal year under the pro-
36 gram, the Secretary shall submit to the Committee on Energy and Nat-
37 ural Resources and the Committee on Appropriations of the Senate and
38 the Committee on Natural Resources and the Committee on Appropria-
39 tions of the House of Representatives a list of any eligible projects that
40 are to be provided grants under the program for the fiscal year.

41 (e) COST-SHARING REQUIREMENT.—

1 (1) IN GENERAL.—The non-Federal share of the cost of carrying out
2 a project provided a grant under this chapter shall be not less than
3 50 percent of the total cost of the project.

4 (2) FORM OF NON-FEDERAL SHARE.—The non-Federal share re-
5 quired under paragraph (1) shall be in the form of—

6 (A) cash; or

7 (B) donated supplies and related services, the value of which
8 shall be determined by the Secretary.

9 (3) REQUIREMENT.—The Secretary shall ensure that each applicant
10 for a grant has the capacity to secure, and a feasible plan for securing,
11 the non-Federal share for an eligible project required under paragraph
12 (1) before a grant is provided to the eligible project under the program.

13 **§ 208504. Designation of Preserve America Communities**

14 (a) APPLICATION.—To be considered for designation as a Preserve Amer-
15 ica Community, a community, tribal area, or neighborhood shall submit to
16 the Council an application containing such information as the Council may
17 require.

18 (b) CRITERIA.—To be designated as a Preserve America Community
19 under the program, a community, tribal area, or neighborhood that submits
20 an application under subsection (a) shall, as determined by the Council, in
21 consultation with the Secretary, meet criteria required by the Council and,
22 in addition, consider—

23 (1) protection and celebration of the heritage of the community, trib-
24 al area, or neighborhood;

25 (2) use of the historic assets of the community, tribal area, or neigh-
26 borhood for economic development and community revitalization; and

27 (3) encouragement of people to experience and appreciate local his-
28 toric resources through education and heritage tourism programs.

29 (c) LOCAL GOVERNMENTS PREVIOUSLY CERTIFIED FOR HISTORIC PRES-
30 ERVATION ACTIVITIES.—The Council shall establish an expedited process
31 for Preserve America Community designation for local governments pre-
32 viously certified for historic preservation activities under section 202702 of
33 this title.

34 (d) GUIDELINES.—The Council, in consultation with the Secretary, shall
35 establish any guidelines that are necessary to carry out this section.

36 **§ 208505. Regulations**

37 The Secretary shall develop any guidelines and issue any regulations that
38 the Secretary determines to be necessary to carry out this chapter.

39 **§ 208506. Authorization of appropriations**

40 There is authorized to be appropriated to carry out this chapter
41 \$25,000,000 for each fiscal year, to remain available until expended.

1 **CHAPTER 2087—SAVE AMERICA’S TREASURES**
 2 **PROGRAM**

Sec.

208701. Purpose.
 208702. Definitions.
 208703. Establishment.
 208704. Regulations.
 208705. Authorization of appropriations.

3 **§ 208701. Purpose**

4 The purpose of this chapter is to authorize within the Department of the
 5 Interior the Save America’s Treasures Program, to be carried out by the
 6 Director, in partnership with—

- 7 (1) the National Endowment for the Arts;
 8 (2) the National Endowment for the Humanities;
 9 (3) the Institute of Museum and Library Services;
 10 (4) the National Trust for Historic Preservation;
 11 (5) the National Conference of State Historic Preservation Officers;
 12 (6) the National Association of Tribal Historic Preservation Officers;
 13 and
 14 (7) the President’s Committee on the Arts and the Humanities.

15 **§ 208702. Definitions**

16 In this chapter:

17 (1) **COLLECTION.**—The term “collection” means a collection of intel-
 18 lectual and cultural artifacts, including documents, sculpture, and
 19 works of art.

20 (2) **ELIGIBLE ENTITY.**—The term “eligible entity” means a Federal
 21 entity, State, local, or tribal government, educational institution, or
 22 nonprofit organization.

23 (3) **HISTORIC PROPERTY.**—The term “historic property” has the
 24 meaning given the term in section 201103 of this title.

25 (4) **NATIONALLY SIGNIFICANT.**—The term “nationally significant”
 26 means a collection or historic property that meets the applicable cri-
 27 teria for national significance, in accordance with regulations promul-
 28 gated by the Secretary pursuant to section 202303 of this title.

29 (5) **PROGRAM.**—The term “program” means the Save America’s
 30 Treasures Program established under section 208703(a) of this title.

31 (6) **SECRETARY.**—The term “Secretary” means the Secretary, acting
 32 through the Director.

33 **§ 208703. Establishment**

34 (a) **IN GENERAL.**—There is established in the Department of the Interior
 35 the Save America’s Treasures Program, under which the amounts made
 36 available to the Secretary under section 208705 of this title shall be used

1 by the Secretary, in consultation with the organizations described in section
2 208701 of this title, subject to subsection (f)(1)(B), to provide grants to
3 eligible entities for projects to preserve nationally significant collections and
4 historic properties.

5 (b) DETERMINATION OF GRANTS.—Of the amounts made available for
6 grants under section 208705 of this title, not less than 50 percent shall be
7 made available for grants for projects to preserve collections and historic
8 properties, to be distributed through a competitive grant process adminis-
9 tered by the Secretary, subject to the eligibility criteria established under
10 subsection (e).

11 (c) APPLICATION FOR GRANTS.—To be considered for a competitive grant
12 under the program an eligible entity shall submit to the Secretary an appli-
13 cation containing such information as the Secretary may require.

14 (d) COLLECTIONS AND HISTORIC PROPERTIES ELIGIBLE FOR COMPETI-
15 TIVE GRANTS.—

16 (1) IN GENERAL.—A collection or historic property shall be provided
17 a competitive grant under the program only if the Secretary determines
18 that the collection or historic property is—

19 (A) nationally significant; and

20 (B) threatened or endangered.

21 (2) ELIGIBLE COLLECTIONS.—A determination by the Secretary re-
22 garding the national significance of collections under paragraph (1)(A)
23 shall be made in consultation with the organizations described in sec-
24 tion 208701 of this title, as appropriate.

25 (3) ELIGIBLE HISTORIC PROPERTIES.—To be eligible for a competi-
26 tive grant under the program, a historic property shall, as of the date
27 of the grant application—

28 (A) be listed in the National Register of Historic Places at the
29 national level of significance; or

30 (B) be designated as a National Historic Landmark.

31 (e) SELECTION CRITERIA FOR GRANTS.—

32 (1) IN GENERAL.—The Secretary shall not provide a grant under
33 this chapter to a project for an eligible collection or historic property
34 unless the project—

35 (A) eliminates or substantially mitigates the threat of destruc-
36 tion or deterioration of the eligible collection or historic property;

37 (B) has a clear public benefit; and

38 (C) is able to be completed on schedule and within the budget
39 described in the grant application.

1 (2) PREFERENCE.—In providing grants under this chapter, the Sec-
2 retary may give preference to projects that carry out the purposes of
3 both the program and the Preserve America Program.

4 (3) LIMITATION.—In providing grants under this chapter, the Sec-
5 retary shall only provide one grant to each eligible project selected for
6 a grant.

7 (f) CONSULTATION AND NOTIFICATION BY SECRETARY.—

8 (1) CONSULTATION.—

9 (A) IN GENERAL.—Subject to subparagraph (B), the Secretary
10 shall consult with the organizations described in section 208701
11 of this title in preparing the list of projects to be provided grants
12 for a fiscal year by the Secretary under the program.

13 (B) LIMITATION.—If an entity described in subparagraph (A)
14 has submitted an application for a grant under the program, the
15 entity shall be recused by the Secretary from the consultation re-
16 quirements under that subparagraph and subsection (a).

17 (2) NOTIFICATION.—Not later than 30 days before the date on
18 which the Secretary provides grants for a fiscal year under the pro-
19 gram, the Secretary shall submit to the Committee on Energy and Nat-
20 ural Resources of the Senate, the Committee on Appropriations of the
21 Senate, the Committee on Natural Resources of the House of Rep-
22 resentatives, and the Committee on Appropriations of the House of
23 Representatives a list of any eligible projects that are to be provided
24 grants under the program for the fiscal year.

25 (g) COST-SHARING REQUIREMENT.—

26 (1) IN GENERAL.—The non-Federal share of the cost of carrying out
27 a project provided a grant under this chapter shall be not less than
28 50 percent of the total cost of the project.

29 (2) FORM OF NON-FEDERAL SHARE.—The non-Federal share re-
30 quired under paragraph (1) shall be in the form of—

31 (A) cash; or

32 (B) donated supplies or related services, the value of which shall
33 be determined by the Secretary.

34 (3) REQUIREMENT.—The Secretary shall ensure that each applicant
35 for a grant has the capacity and a feasible plan for securing the non-
36 Federal share for an eligible project required under paragraph (1) be-
37 fore a grant is provided to the eligible project under the program.

38 **§ 208704. Regulations**

39 The Secretary shall develop any guidelines and issue any regulations that
40 the Secretary determines to be necessary to carry out this chapter.

1 **§ 208705. Authorization of appropriations**

2 There is authorized to be appropriated to carry out this chapter
3 \$50,000,000 for each fiscal year, to remain available until expended.

4 **CHAPTER 2089—COMMEMORATION OF FORMER**
5 **PRESIDENTS**

Sec.

208901. Sites and structures that commemorate former Presidents.

6 **§ 208901. Sites and structures that commemorate former**
7 **Presidents**

8 (a) SURVEY.—The Secretary may conduct a survey of sites that the Sec-
9 retary considers exhibit qualities most appropriate for the commemoration
10 of each former President. The survey may—

11 (1) include sites associated with the deeds, leadership, or lifework of
12 a former President; and

13 (2) identify sites or structures historically unrelated to a former
14 President but that may be suitable as a memorial to honor that Presi-
15 dent.

16 (b) REPORTS.—The Secretary shall, from time to time, prepare and
17 transmit to the Committee on Natural Resources of the House of Rep-
18 resentatives and the Committee on Energy and Natural Resources of the
19 Senate reports on individual sites and structures identified in a survey
20 under subsection (a), together with the Secretary's recommendation as to
21 whether the site or structure is suitable for establishment as a national his-
22 toric site or national memorial to commemorate a former President. Each
23 report shall include pertinent information with respect to the need for acqui-
24 sition of land and interests in land, the development of facilities, and the
25 operation and maintenance of the site or structure and the estimated cost
26 of the operation and maintenance.

27 (c) ESTABLISHMENT AS NATIONAL HISTORIC SITE.—If during the 6-
28 month period following the transmittal of a report pursuant to subsection
29 (b) neither Committee has by vote of a majority of its members disapproved
30 a recommendation of the Secretary that a site or structure is suitable for
31 establishment as a national historic site, the Secretary may by appropriate
32 order establish the site or structure as a national historic site, including the
33 land and interests in land identified in the report accompanying the recom-
34 mendation of the Secretary.

35 (d) ACQUISITION OF LAND AND INTERESTS IN LAND.—The Secretary
36 may acquire the land and interests in land by donation, purchase with do-
37 nated or appropriated funds, transfer from any other Federal agency, or ex-
38 change.

(e) EFFECT OF SECTION.—Nothing in this section shall be construed as diminishing the authority of the Secretary under chapter 201 of this title or as authorizing the Secretary to establish any national memorial, creation of which is expressly reserved to Congress.

DIVISION D—AMERICAN ANTIQUITIES
CHAPTER 2201—MONUMENTS, RUINS, SITES, AND
OBJECTS OF ANTIQUITY

Sec.

220101. National monuments.

220102. Permits.

220103. Regulations.

220104. Criminal penalty.

§ 220101. National monuments

(a) PRESIDENTIAL DECLARATION.—The President may declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments.

(b) RESERVATION OF LAND.—The President may reserve a parcel of land as a part of a national monument. The limits of the parcel shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

(c) RELINQUISHMENT TO FEDERAL GOVERNMENT.—When an object is situated on a parcel covered by a bona fide unperfected claim or held in private ownership, the parcel, or so much of the parcel as may be necessary for the proper care and management of the object, may be relinquished to the Federal Government and the Secretary may accept the relinquishment of the parcel on behalf of the Federal Government.

(d) LIMITATION ON EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS IN WYOMING.—No extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.

§ 220102. Permits

(a) AUTHORITY TO GRANT PERMIT.—The Secretary, the Secretary of Agriculture, or the Secretary of the Army may grant a permit for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity on land under their respective jurisdictions to an institution that the Secretary, Secretary of Agriculture, or Secretary of the Army, as applicable, considers properly qualified to conduct the examination, excavation, or gathering. The permit may be granted subject to such regulations as the Secretary, Secretary of Agriculture, or Secretary of the Army may prescribe.

1 (b) PURPOSE OF EXAMINATION, EXCAVATION, OR GATHERING.—A per-
2 mit may be granted only if—

3 (1) the examination, excavation, or gathering is undertaken for the
4 benefit of a reputable museum, university, college, or other recognized
5 scientific or educational institution, with a view to increasing the
6 knowledge of the objects; and

7 (2) the gathering shall be made for permanent preservation in a pub-
8 lic museum.

9 **§ 220103. Regulations**

10 The Secretary, the Secretary of Agriculture, and the Secretary of the
11 Army shall make and publish uniform regulations for the purpose of carry-
12 ing out this chapter.

13 **§ 220104. Criminal penalty**

14 Any person that appropriates, excavates, injures, or destroys any historic
15 or prehistoric ruin or monument, or any object of antiquity, situated on land
16 owned or controlled by the Federal Government without the permission of
17 the Secretary having jurisdiction over the land on which the antiquity is sit-
18 uated, shall be fined under title 18, imprisoned not more than 90 days, or
19 both.

20 **SEC. 4. CONFORMING AMENDMENTS.**

21 (a) TITLE 28.—

22 (1) IN GENERAL.—Part VI of title 28, United States Code, is
23 amended by adding at the end the following:

24 **“CHAPTER 190—MISCELLANEOUS**

“Sec.

“5001. Civil action for death or personal injury in national park or other place subject to
exclusive jurisdiction of United States.

25 **“§ 5001. Civil action for death or personal injury in national**
26 **park or other place subject to exclusive jurisdic-**
27 **tion of United States**

28 “(a) DEATH.—In the case of the death of an individual by the neglect
29 or wrongful act of another in a national park or other place subject to the
30 exclusive jurisdiction of the United States, within the exterior boundaries of
31 any State, a right of action shall exist as though the national park or other
32 place were under the jurisdiction of the State within whose exterior bound-
33 aries the national park or other place may be.

34 “(b) PERSONAL INJURY.—In a civil action brought to recover on account
35 of injuries sustained in a place described in subsection (a), the rights of the
36 parties shall be governed by the laws of the State within the exterior bound-
37 aries of which the place may be.”.

1 (2) ANALYSIS.—The analysis of chapters for part VI of title 28,
2 United States Code, is amended by adding at the end the following:

“190. Miscellaneous 5001”.

3 (b) ACT OF MAY 26, 2000.—Section 1 of the Act of May 26, 2000 (Pub-
4 lic Law 106–206, 114 Stat. 314), is amended to read as follows:

5 **“SECTION 1. COMMERCIAL FILMING.**

6 “(a) COMMERCIAL FILMING FEE.—The Secretary of Agriculture (here-
7 after referred to as the ‘Secretary’) shall require a permit and shall estab-
8 lish a reasonable fee for commercial filming activities or similar projects on
9 Federal land administered by the Secretary. Such fee shall provide a fair
10 return to the United States and shall be based upon the following criteria:

11 “(1) The number of days the filming activity or similar project takes
12 place on Federal land under the Secretary’s jurisdiction.

13 “(2) The size of the film crew present on Federal land under the
14 Secretary’s jurisdiction.

15 “(3) The amount and type of equipment present.

16 “The Secretary may include other factors in determining an appropriate fee
17 as the Secretary deems necessary.

18 “(b) RECOVERY OF COSTS.—The Secretary shall also collect any costs in-
19 curred as a result of filming activities or similar project, including but not
20 limited to administrative and personnel costs. All costs recovered shall be
21 in addition to the fee assessed in subsection (a) of this section.

22 “(c) STILL PHOTOGRAPHY.—(1) Except as provided in paragraph (2), the
23 Secretary shall not require a permit nor assess a fee for still photography
24 on land administered by the Secretary if such photography takes place
25 where members of the public are generally allowed. The Secretary may re-
26 quire a permit, fee, or both, if such photography takes place at other loca-
27 tions where members of the public are generally not allowed, or where addi-
28 tional administrative costs are likely.

29 “(2) The Secretary shall require and shall establish a reasonable fee for
30 still photography that uses models or props which are not a part of the
31 site’s natural or cultural resources or administrative facilities.

32 “(d) PROTECTION OF RESOURCES.—The Secretary shall not permit any
33 filming, still photography or other related activity if the Secretary deter-
34 mines—

35 “(1) there is a likelihood of resource damage;

36 “(2) there would be an unreasonable disruption of the public’s use
37 and enjoyment of the site; or

38 “(3) that the activity poses health or safety risks to the public.

1 “(e) USE OF PROCEEDS.—(1) All fees collected under this section shall
2 be available for expenditure by the Secretary, without further appropriation.
3 All fees collected shall remain available until expended.

4 “(2) All costs recovered under this section shall be available for expendi-
5 ture by the Secretary, without further appropriation, at the site where col-
6 lected. All costs recovered shall remain available until expended.

7 “(f) PROCESSING OF PERMIT APPLICATIONS.—The Secretary shall estab-
8 lish a process to ensure that permit applicants for commercial filming, still
9 photography, or other activity are responded to in a timely manner.”.

10 (e) CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE
11 ACT OF 2009.—Section 512 of the Credit Card Accountability Responsibil-
12 ity and Disclosure Act of 2009 (Public Law 111–24, 123 Stat. 1764) is
13 amended to read as follows:

14 **“SEC. 512. PROTECTING AMERICANS FROM VIOLENT**
15 **CRIME.**

16 “(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

17 “(1) The Second Amendment to the Constitution provides that ‘the
18 right of the people to keep and bear Arms, shall not be infringed’.

19 “(2) Section 27.42 of title 50, Code of Federal Regulations, provides
20 that, except in special circumstances, citizens of the United States may
21 not ‘possess, use, or transport firearms on national wildlife refuges’ of
22 the United States Fish and Wildlife Service.

23 “(3) The regulations described in paragraph (2) prevent individuals
24 complying with Federal and State laws from exercising the second
25 amendment rights of the individuals while at units of the National
26 Wildlife Refuge System.

27 “(4) The existence of different laws relating to the transportation
28 and possession of firearms at different units of the National Wildlife
29 Refuge System entrapped law-abiding gun owners while at units of the
30 National Wildlife Refuge System.

31 “(5) Although the Bush administration issued new regulations relat-
32 ing to the Second Amendment rights of law-abiding citizens in units
33 of the National Wildlife Refuge System that went into effect on Janu-
34 ary 9, 2009—

35 “(A) on March 19, 2009, the United States District Court for
36 the District of Columbia granted a preliminary injunction with re-
37 spect to the implementation and enforcement of the new regula-
38 tions; and

39 “(B) the new regulations—

40 “(i) are under review by the administration; and

41 “(ii) may be altered.

1 “(6) Congress needs to weigh in on the new regulations to ensure
2 that unelected bureaucrats and judges cannot again override the Sec-
3 ond Amendment rights of law-abiding citizens on 90,790,000 acres of
4 land under the jurisdiction of the United States Fish and Wildlife Serv-
5 ice.

6 “(7) Federal laws should make it clear that the second amendment
7 rights of an individual at a unit of the National Wildlife Refuge System
8 should not be infringed.

9 “(b) PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS IN UNITS
10 OF THE NATIONAL WILDLIFE REFUGE SYSTEM.—The Secretary shall
11 not promulgate or enforce any regulation that prohibits an individual from
12 possessing a firearm, including an assembled or functional firearm, in any
13 unit of the National Wildlife Refuge System if—

14 “(1) the individual is not otherwise prohibited by law from possess-
15 ing the firearm; and

16 “(2) the possession of the firearm is in compliance with the law of
17 the State in which the unit of the National Wildlife Refuge System is
18 located.”.

19 **SEC. 5. CONFORMING CROSS-REFERENCES.**

20 (a) TITLE 10.—Section 2684(c)(1) of title 10, United States Code, is
21 amended by striking “section 101(a) of the National Historic Preservation
22 Act (16 U.S.C. 470a(a))” and substituting “section 202301 of title 54”.

23 (b) TITLE 23.—Title 23, United States Code, is amended—

24 (1) in section 103(c)(5)—

25 (A) in subparagraph (B), by striking “section 106 of the Na-
26 tional Historic Preservation Act (16 U.S.C. 470f)” and substitut-
27 ing “section 205302 of title 54”; and

28 (B) in subparagraph (C), by striking “section 106 of the Na-
29 tional Historic Preservation Act (16 U.S.C. 470f)” and substitut-
30 ing “section 205302 of title 54”;

31 (2) in section 133(e)(5)(B)—

32 (A) by striking “title II of the National Historic Preservation
33 Act (16 U.S.C. 470i et seq.)” and substituting “section 204101
34 of title 54”; and

35 (B) by striking “section 106 of such Act (16 U.S.C. 470f)” and
36 substituting “section 205302 of title 54”; and

37 (3) in section 138(b)(2)(A), by striking “section 106 of the National
38 Historic Preservation Act (16 U.S.C. 470f)” and substituting “section
39 205302 of title 54”.

40 (c) TITLE 36.—Section 153513(a)(1) of title 36, United States Code, is
41 amended by striking “the Act of August 25, 1916 (16 U.S.C. 1 et seq.)

1 (known as the National Park Service Organic Act)” and substituting “chap-
2 ter 1003 and sections 100901(a), 100906, 102101, and 102102 of title 54”.

3 (d) TITLE 40.—Title 40, United States Code, is amended—

4 (1) in section 550(h)(1)(B), by striking “section 3 of the Act of Au-
5 gust 21, 1935 (16 U.S.C. 463) (known as the Historic Sites, Buildings,
6 and Antiquities Act)” and substituting “section 103902 of title 54”;

7 (2) in section 1303(c), by striking “the Act of August 21, 1935 (16
8 U.S.C. 461 et seq.) (known as the Historic Sites, Buildings, and Antiq-
9 uities Act)” and substituting “chapter 2001 of title 54”;

10 (3) in section 1314(a)(2)(A)(ii), by striking “the Act of August 25,
11 1916 (16 U.S.C. 1, 2, 3, 4) (known as the National Park Service Or-
12 ganic Act)” and substituting “chapter 1003 and sections 100901(a),
13 100906, 102101, and 102102 of title 54”;

14 (4) in section 3303(c), by striking “title II of the National Historic
15 Preservation Act (16 U.S.C. 470i et seq.)” and substituting “section
16 204101 of title 54”; and

17 (5) in section 3306(a)(4), by striking “section 101 of the National
18 Historic Preservation Act (16 U.S.C. 470a)” and substituting “chapter
19 2023 of title 54”.

20 **SEC. 6. TRANSITIONAL AND SAVINGS PROVISIONS.**

21 (a) DEFINITIONS.—In this section:

22 (1) SOURCE PROVISION.—The term “source provision” means a provi-
23 sion of law that is replaced by a title 54 provision.

24 (2) TITLE 54 PROVISION.—The term “title 54 provision” means a
25 provision of title 54, United States Code, that is enacted by section 3.

26 (b) CUTOFF DATE.—The title 54 provisions replace certain provisions of
27 law enacted on or before July 31, 2009. If a law enacted after that date
28 amends or repeals a source provision, that law is deemed to amend or re-
29 peal, as the case may be, the corresponding title 54 provision. If a law en-
30 acted after that date is otherwise inconsistent with a title 54 provision or
31 a provision of this Act, that law supersedes the title 54 provision or provi-
32 sion of this Act to the extent of the inconsistency.

33 (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of de-
34 termining whether one provision of law supersedes another based on enact-
35 ment later in time, a title 54 provision is deemed to have been enacted on
36 the date of enactment of the source provision that the title 54 provision re-
37 places.

38 (d) REFERENCES TO TITLE 54 PROVISIONS.—A reference to a title 54
39 provision is deemed to refer to the corresponding source provision.

1 (e) REFERENCES TO SOURCE PROVISIONS.—A reference to a source pro-
 2 vision, including a reference in a regulation, order, or other law, is deemed
 3 to refer to the corresponding title 54 provision.

4 (f) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A
 5 regulation, order, or other administrative action in effect under a source
 6 provision continues in effect under the corresponding title 54 provision.

7 (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or
 8 an offense committed under a source provision is deemed to have been taken
 9 or committed under the corresponding title 54 provision.

10 **SEC. 7. REPEALS.**

11 The following provisions of law are repealed, except with respect to rights
 12 and duties that matured, penalties that were incurred, or proceedings that
 13 were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Act	Section	United States Code Former Classification
Act of June 8, 1906 (ch. 3060)	1	16 U.S.C. 433.
	2	16 U.S.C. 431.
	3	16 U.S.C. 432.
	4	16 U.S.C. 432.
Act of August 25, 1916 (ch. 408)	1	16 U.S.C. 1.
	2	16 U.S.C. 2.
	3	16 U.S.C. 3.
	4	16 U.S.C. 4.
Act of June 12, 1917 (ch. 27)	1 (13th undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 453.
	1 (21st undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 452.
Act of June 5, 1920 (ch. 235)	1 (2d undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 6.
Act of May 24, 1922 (ch. 199)	(1st sentence in 9th undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 452.
Act of April 9, 1924 (ch. 86)	1	16 U.S.C. 8.
	4	16 U.S.C. 8a.
	5	16 U.S.C. 8b.
	6	16 U.S.C. 8c.
Act of May 10, 1926 (ch. 277)	1 (28th undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 456.
	1 (last undesignated paragraph under heading "NATIONAL PARKS").	16 U.S.C. 11.
Act of June 11, 1926 (ch. 555)	1	16 U.S.C. 455.
	2	16 U.S.C. 455a.
	3	16 U.S.C. 455b.
	4	16 U.S.C. 455c.
Act of July 3, 1926 (ch. 792)	1	16 U.S.C. 12.
	2	16 U.S.C. 13.
Act of February 1, 1928 (ch. 15)	16 U.S.C. 457.

Schedule of Laws Repealed—Continued

Act	Section	United States Code Former Classification
Act of March 7, 1928 (ch. 137)	1 (28th undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 15.
Act of March 8, 1928 (ch. 152)	16 U.S.C. 458.
Act of April 18, 1930 (ch. 187)	16 U.S.C. 16.
Act of May 26, 1930 (ch. 324)	1	16 U.S.C. 17.
	3	16 U.S.C. 17b.
	4	16 U.S.C. 17c.
	5	16 U.S.C. 17d.
	6	16 U.S.C. 17e.
	7	16 U.S.C. 17f.
	8	16 U.S.C. 17g.
	9	16 U.S.C. 17h.
	10	16 U.S.C. 17i.
	11	16 U.S.C. 17j.
Act of March 4, 1931 (ch. 522)	title I (proviso in last undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 9a.
Act of March 2, 1933 (ch. 180)	1	16 U.S.C. 9a.
Act of May 9, 1935 (ch. 101)	1 (34th undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 14b, 456a.
Act of August 21, 1935 (ch. 593)	1	16 U.S.C. 461.
	2	16 U.S.C. 462.
	3	16 U.S.C. 463.
	4	16 U.S.C. 464.
	5	16 U.S.C. 465.
	6	16 U.S.C. 466.
	7	16 U.S.C. 467.
Act of June 23, 1936 (ch. 735)	1	16 U.S.C. 17k.
	2	16 U.S.C. 17l.
	3	16 U.S.C. 17m.
	4	16 U.S.C. 17n.
Act of May 10, 1939 (ch. 119)	1 (41st undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 14a.
Act of June 18, 1940 (ch. 395)	1 (proviso in 3d undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 17j-1.
Act of July 19, 1940 (ch. 642)	1	16 U.S.C. 18.
	2	16 U.S.C. 18a.
	3	16 U.S.C. 18b.
	4	16 U.S.C. 18c.
	5	16 U.S.C. 18d.
Act of August 27, 1940 (ch. 690)	1	16 U.S.C. 458a.
Act of June 28, 1941 (ch. 259)	1 (41st undesignated paragraph under heading "NATIONAL PARK SERVICE").	16 U.S.C. 14c.
Act of August 7, 1946 (ch. 788)	16 U.S.C. 17j-2.
Act of June 3, 1948 (ch. 401)	1	16 U.S.C. 8c.

Schedule of Laws Repealed—Continued

Act	Section	United States Code Former Classification
	2	16 U.S.C. 8f.
Act of October 26, 1949 (ch. 755)	1	16 U.S.C. 468.
	2	16 U.S.C. 468a.
	3	16 U.S.C. 468b.
	4	16 U.S.C. 468c.
	5	16 U.S.C. 468d.
Act of March 18, 1950 (ch. 72)	1	16 U.S.C. 7a.
	2	16 U.S.C. 7b.
	3	16 U.S.C. 7c.
	4	16 U.S.C. 7d.
	5	16 U.S.C. 7e.
Act of September 14, 1950 (ch. 950)	1 (last sentence proviso relating to national monuments).	16 U.S.C. 431a.
	1 (last sentence proviso relating to national parks).	16 U.S.C. 451a.
Act of August 8, 1953 (ch. 384)	1	16 U.S.C. 1b.
	2	16 U.S.C. 1c.
	3	16 U.S.C. 1d.
Act of August 31, 1954 (ch. 1163)		16 U.S.C. 452a.
Act of July 1, 1955 (ch. 259)	1	16 U.S.C. 18f.
	2	16 U.S.C. 18f-2.
	3	16 U.S.C. 18f-3.
Act of June 27, 1960 (Pub. L. 86-523)	1	16 U.S.C. 469.
	2	16 U.S.C. 469a.
	3	16 U.S.C. 469a-1.
	4	16 U.S.C. 469a-2.
	5	16 U.S.C. 469a-3.
	6	16 U.S.C. 469b.
	7	16 U.S.C. 469c.
	8	16 U.S.C. 469c-1.
Act of August 24, 1962 (Pub. L. 87-608)		16 U.S.C. 3b.
Act of May 28, 1963 (Pub. L. 88-29) ...	1	16 U.S.C. 460l.
	2	16 U.S.C. 460l-1.
	3	16 U.S.C. 460l-2.
	4	16 U.S.C. 460l-3.
Land and Water Conservation Fund Act of 1965 (Pub. L. 88-578)	title I, § 1(b)	16 U.S.C. 460l-4.
	title I, § 2	16 U.S.C. 460l-5.
	title I, § 3	16 U.S.C. 460l-6.
	title I, § 4(i)(1)(C)	16 U.S.C. 460l-6a(i)(1)(C).
	title I, § 4(j)-(n)	16 U.S.C. 460l-6a(j)-(n).
	title I, § 5	16 U.S.C. 460l-7.
	title I, § 6	16 U.S.C. 460l-8.
	title I, § 7	16 U.S.C. 460l-9.
	title I, § 8	16 U.S.C. 460l-10.
	title I, § 9	16 U.S.C. 460l-10a.
	title I, § 10	16 U.S.C. 460l-10b.
	title I, § 11	16 U.S.C. 460l-10c.
	title I, § 12	16 U.S.C. 460l-10d.
	title I, § 13	16 U.S.C. 460l-10e.
	title II, § 201	16 U.S.C. 460l-11.
National Historic Preservation Act (Pub. L. 89-665)	1	16 U.S.C. 470.
	2	16 U.S.C. 470-1.
	101	16 U.S.C. 470a.
	102	16 U.S.C. 470b.
	103	16 U.S.C. 470c.
	104	16 U.S.C. 470d.
	105	16 U.S.C. 470e.
	106	16 U.S.C. 470f.
	107	16 U.S.C. 470g.
	108	16 U.S.C. 470h.

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Act	Section	United States Code Former Classification
	109	16 U.S.C. 470h-1.
	110	16 U.S.C. 470h-2.
	111	16 U.S.C. 470h-3.
	112	16 U.S.C. 470h-4.
	113	16 U.S.C. 470h-5.
	201	16 U.S.C. 470i.
	202	16 U.S.C. 470j.
	203	16 U.S.C. 470k.
	204	16 U.S.C. 470l.
	205	16 U.S.C. 470m.
	206	16 U.S.C. 470n.
	207	16 U.S.C. 470o.
	208	16 U.S.C. 470p.
	209	16 U.S.C. 470q.
	210	16 U.S.C. 470r.
	211	16 U.S.C. 470s.
	212	16 U.S.C. 470t.
	213	16 U.S.C. 470u.
	214	16 U.S.C. 470v.
	215	16 U.S.C. 470v-1.
	216	16 U.S.C. 470v-2.
	301	16 U.S.C. 470w.
	302	16 U.S.C. 470w-1.
	303	16 U.S.C. 470w-2.
	304	16 U.S.C. 470w-3.
	305	16 U.S.C. 470w-4.
	306	16 U.S.C. 470w-5.
	307	16 U.S.C. 470w-6.
	308	16 U.S.C. 470w-7.
	309	16 U.S.C. 470w-8.
	401	16 U.S.C. 470x.
	402	16 U.S.C. 470x-1.
	403	16 U.S.C. 470x-2.
	404	16 U.S.C. 470x-3.
	405	16 U.S.C. 470x-4.
	406	16 U.S.C. 470x-5.
	407	16 U.S.C. 470x-6.
Demonstration Cities and Metropolitan Development Act of 1966 (Pub. L. 89-754)	603	16 U.S.C. 470b-1.
Act of December 18, 1967 (Pub. L. 90-209)	1	16 U.S.C. 19e.
	2	16 U.S.C. 19f.
	3	16 U.S.C. 19g.
	4	16 U.S.C. 19h.
	5	16 U.S.C. 19i.
	6	16 U.S.C. 19j.
	7	16 U.S.C. 19k.
	8	16 U.S.C. 19l.
	9	16 U.S.C. 19m.
	10	16 U.S.C. 19n.
	11	16 U.S.C. 19o.
Act of July 15, 1968 (Pub. L. 90-401)	5	16 U.S.C. 460l-22.
Volunteers in the Parks Act of 1969 (Pub. L. 91-357)	1	16 U.S.C. 18g.
	2	16 U.S.C. 18h.
	3	16 U.S.C. 18i.
	4	16 U.S.C. 18j.
Act of August 18, 1970 (Pub. L. 91-383)	1	16 U.S.C. 1a-1.
	3	16 U.S.C. 1a-2.
	6	16 U.S.C. 1a-3.
	7	16 U.S.C. 1a-4.
	8	16 U.S.C. 1a-5.
	10	16 U.S.C. 1a-6.
	12	16 U.S.C. 1a-7.
	13	16 U.S.C. 1a-7a.
Act of September 28, 1976 (Pub. L. 94-429)	1	16 U.S.C. 1901.
	2	16 U.S.C. 1902.
	4	16 U.S.C. 1903.
	5	16 U.S.C. 1904.
	6	16 U.S.C. 1905.
	7	16 U.S.C. 1906.

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Act	Section	United States Code Former Classification
	8	16 U.S.C. 1907.
	9	16 U.S.C. 1908.
	10	16 U.S.C. 1909.
	11	16 U.S.C. 1910.
	12	16 U.S.C. 1911.
	13	16 U.S.C. 1912.
Act of August 15, 1978 (Pub. L. 95-344)	title III, § 301	16 U.S.C. 2301.
	title III, § 302	16 U.S.C. 2302.
	title III, § 303	16 U.S.C. 2303.
	title III, § 304	16 U.S.C. 2304.
	title III, § 305	16 U.S.C. 2305.
	title III, § 306	16 U.S.C. 2306.
Act of March 5, 1980 (Pub. L. 96-199)	title I, § 120	16 U.S.C. 467b.
National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515)	208	16 U.S.C. 469c-2.
	401	16 U.S.C. 470a-1.
	402	16 U.S.C. 470a-2.
Act of October 12, 1984 (Pub. L. 98-473)	title I, § 101(e) [title I, § 100]	16 U.S.C. 1e.
Act of October 24, 1984 (Pub. L. 98-540)	4(a)	16 U.S.C. 1a-8(a).
International Security and Development Cooperation Act of 1985 (Pub. L. 99-83)	1303	16 U.S.C. 469j.
Act of July 27, 1990 (Pub. L. 101-337)	1	19jj.
	2	19jj-1.
	3	19jj-2.
	4	19jj-3.
	5	19jj-4.
Department of the Interior and Related Agencies Appropriations Act, 1991 (Pub. L. 101-512)	116	16 U.S.C. 18f-1.
Act of November 28, 1990 (Pub. L. 101-628)	title XII, § 1213	16 U.S.C. 1a-9.
	title XII, § 1214	16 U.S.C. 1a-10.
	title XII, § 1215	16 U.S.C. 1a-11.
	title XII, § 1216	16 U.S.C. 1a-12.
	title XII, § 1217	16 U.S.C. 1a-13.
Department of the Interior and Related Agencies Appropriations Act, 1993 (Pub. L. 102-381)	title I (1st proviso in paragraph under heading "ADMINISTRATIVE PROVISIONS" under heading "NATIONAL PARK SERVICE").	16 U.S.C. 14d.
Act of October 26, 1992 (Pub. L. 102-525)	title III, § 301	16 U.S.C. 1a-14.
Agricultural Reconciliation Act of 1993 (Pub. L. 103-66)	title I, § 1401	16 U.S.C. 460l-6e.
Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138)	title I (3d proviso in paragraph under heading "ADMINISTRATIVE PROVISIONS" under heading "NATIONAL PARK SERVICE").	16 U.S.C. 3a.

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National Maritime Heritage Act of 1994 (Pub. L. 103-451)	3	16 U.S.C. 5402.	
	4	16 U.S.C. 5403.	
	5	16 U.S.C. 5404.	
	6	16 U.S.C. 5405.	
	7	16 U.S.C. 5406.	
	8	16 U.S.C. 5407.	
	9	16 U.S.C. 5408.	
	Omnibus Consolidated Appropriations Act, 1997 (Pub. L. 104-208)	div. A, title I, § 101(d) [title I (3d undesignated paragraph under heading “ADMINISTRATIVE PROVISIONS” under heading “NATIONAL PARK SERVICE”)].	16 U.S.C. 1g.
	Omnibus Parks and Public Lands Man- agement Act of 1996 (Pub. L. 104- 333)	div. I, title VI, § 604	16 U.S.C. 469k.
div. I, title VIII, § 814(a)		16 U.S.C. 17a.	
div. I, title VIII, § 814(g)		16 U.S.C. 1f.	
National Underground Railroad Network to Freedom Act of 1998 (Pub. L. 105-203)	2	16 U.S.C. 469l.	
	3	16 U.S.C. 469l-1.	
	4	16 U.S.C. 469l-2.	
Strom Thurmond National Defense Au- thorization Act for Fiscal Year 1999 (Pub. L. 105-261)	div. A, title X, § 1068	16 U.S.C. 5409.	
National Parks Omnibus Management Act of 1998 (Pub. L. 105-391)	2	16 U.S.C. 5901.	
	101	16 U.S.C. 5911.	
	102	16 U.S.C. 5912.	
	103	16 U.S.C. 5913.	
	104	16 U.S.C. 5914.	
	201	16 U.S.C. 5931.	
	202	16 U.S.C. 5932.	
	203	16 U.S.C. 5933.	
	204	16 U.S.C. 5934.	
	205	16 U.S.C. 5935.	
	206	16 U.S.C. 5936.	
	207	16 U.S.C. 5937.	
	402	16 U.S.C. 5951.	
	403	16 U.S.C. 5952.	
	404	16 U.S.C. 5953.	
	405	16 U.S.C. 5954.	
	406	16 U.S.C. 5955.	
	407	16 U.S.C. 5956.	
	408	16 U.S.C. 5957.	
	409	16 U.S.C. 5958.	
410	16 U.S.C. 5959.		
411	16 U.S.C. 5960.		
412	16 U.S.C. 5961.		
413	16 U.S.C. 5962.		
414	16 U.S.C. 5963.		
416	16 U.S.C. 5964.		
417	16 U.S.C. 5965.		
418	16 U.S.C. 5966.		
501	16 U.S.C. 5981.		
801	16 U.S.C. 6011.		
Act of May 26, 2000 (Pub. L. 106-206)	1 (relating to the Secretary of the Interior).	16 U.S.C. 460l-6d (relating to the Secretary of the Interior).	
Department of the Interior and Related Agencies Appropriations Act, 2002 (Pub. L. 107-63)	title I (paragraph under heading “CONTRIBUTION FOR ANNUITY BENEFITS” under heading “NATIONAL PARK SERVICE”).	16 U.S.C. 14e.	
Civil War Battlefield Preservation Act of 2002 (Pub. L. 107-359)	2(b)	16 U.S.C. 469k note.	

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Act	Section	United States Code Former Classification
Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7)	div. F, title I (words before proviso in last undesignated paragraph under heading “ADMINISTRATIVE PROVISIONS” under heading “NATIONAL PARK SERVICE”).	16 U.S.C. 1h.
	div. F, title I (proviso in last undesignated paragraph under heading “ADMINISTRATIVE PROVISIONS” under heading “NATIONAL PARK SERVICE”).	16 U.S.C. 1i.
Consolidated Natural Resources Act of 2008 (Pub. L. 110-229)	title III, subtitle A, § 301	16 U.S.C. 1j.
	title III, subtitle G, § 361(1) ...	16 U.S.C. 469-1.
	title III, subtitle G, § 361(2) ...	16 U.S.C. 469-2.
	title III, subtitle G, § 361(3) ...	16 U.S.C. 469-3.
Omnibus Public Land Management Act of 2009 (Pub. L. 111-11)	title VII, subtitle B, § 7111(b)	16 U.S.C. 469m(b).
	title VII, subtitle B, § 7111(e)	16 U.S.C. 469m(e).
	title VII, subtitle D, § 7301	16 U.S.C. 469k-1.
	title VII, subtitle D, § 7302	16 U.S.C. 469n.
	title VII, subtitle D, § 7303	16 U.S.C. 469o.
Credit Card Accountability Responsibility and Disclosure Act of 2009 (Pub. L. 111-24)	title VII, subtitle E, § 7403	16 U.S.C. 5958.
	title V, § 512 (relating to National Park System).	16 U.S.C. 1a-7b (relating to National Park System).