

Calendar No. 300

104TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 104-202

ADMINISTRATION OF CERTAIN PRESIDIO PROPERTIES AT MINIMAL COST TO THE FEDERAL TAXPAYER

JANUARY 5 (legislative day, JANUARY 3), 1996.—Ordered to be printed

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

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 1296]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds that—

- (1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;
- (2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;
- (3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;
- (4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;
- (5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 2. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) **INTERIM AUTHORITY.**—The Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Act. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) **PUBLIC INFORMATION AND INTERPRETATION.**—The Secretary shall be responsible, in cooperation with Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) **OTHER.**—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) **PARK SERVICE EMPLOYEES.**—Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

SEC. 3. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) **ESTABLISHMENT.**—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the “Trust”).

(b) **TRANSFER.**—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled “Presidio Trust Number 1,” dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the “William Penn Mott Visitor Center”. Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the “Board”) consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary’s designee; and

(B) six individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, except that no officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified at level IV of the Executive Schedule.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the city and county of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 4. DUTIES AND AUTHORITIES OF THE TRUST.

(a) **OVERALL REQUIREMENTS OF THE TRUST.**—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, State and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Act. Federal laws and regulations governing procurement by federal agencies shall not apply to the Trust except that the Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark Direct Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Act shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this Act.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed \$50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) **INSURANCE.**—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) **BUILDING CODE COMPLIANCE.**—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Act to the extent practicable.

(m) **LEASING.**—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the maximum generation of revenues to the federal government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio; tenants that maximize the amount of revenues to the federal government; and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) **REVERSION.**—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (5)(b) of this Act, then all

property under the administrative jurisdiction of the Trust pursuant to section (3)(b) of this Act shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area.

SEC. 5. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than \$25,000,000 shall be available to carry out this Act in each fiscal year after the enactment of this Act until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than \$3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 4(h) of this Act.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 6 GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Act.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Act, taking into consideration the results of the study described in meeting its obligations under this Act, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

PURPOSE OF THE MEASURE

The purpose of the bill is to provide a cost-effective approach for the future management of the Presidio of San Francisco.

BACKGROUND AND NEED

The Presidio, located on the northern point of the San Francisco peninsula, was first established by Spanish explorer Juan Bautista de Anza in 1776, seven years after the arrival of the Spanish into what is today the San Francisco area. The Presidio served as a Spanish fort until Mexico's independence from Spain in 1816. The United States took possession in 1848, following the Mexican-American War. The site, the oldest continuously operated military post in the country, has been administered as an army fort follow-

ing acquisition by the United States. Today the site occupies approximately 1,480 acres within the City and County of San Francisco, at the southern end of the Golden Gate Bridge.

The Presidio includes a wide variety of natural, cultural, historical, and recreational resources. The entire Presidio complex has been designated as a National Historic Landmark. In addition, the area provides important habitat for many Federal and State threatened, rare and endangered plants and animals. The Presidio also includes over 800 buildings, of which 450 are historically significant; Lobos Creek, the last free-flowing stream remaining in San Francisco; and a forest of over 400,000 trees planted in the 1880's.

The site includes a number of recreational resources, including a golf course, swimming pool, bowling alley, tennis court, hiking trails, and beaches. Scattered throughout the grounds are over 1,200 residential units and over 6.2 million square feet of building space, including office, warehouse and industrial, retail, and medical complexes. The base houses the former Letterman Army Medical Center, a 550-bed acute care facility, and the former Letterman Army Institute of Research (LAIR). The Presidio is also the site of the San Francisco National Cemetery.

In 1972, Congress established the Golden Gate National Recreation Area (GGNRA). The GGNRA encompasses approximately 73,000 acres, including waterfront areas along the San Francisco Bay and ocean front south to the San Francisco watershed lands in San Mateo County, to lands extending north of the Golden Gate to Tomales Bay in Marin County.

Section 3(f) of the GGNRA enabling legislation (Public Law 92-589) provided that when the Presidio was determined to be excess to the needs of the Department of Defense, jurisdiction over the site was to be transferred to the Secretary of the Interior, to be administered as part of the GGNRA.

The Base Closure and Realignment Act of 1988 provided for the closure of 86 military bases, including the Presidio. Under the provisions of that Act, the Army was required to leave the Presidio no later than September, 1995. In 1990, the Department of Defense and the Department of the Interior entered into an interagency agreement to establish a framework and time line for the transfer of the Presidio to the National Park Service.

In 1993, the Base Closure and Realignment Commission amended its report to recommend that the 6th Army headquarters should remain at the Presidio. The Commission also recommended that the Department of the Interior and the Department of Defense negotiate a lease favorable to both tenets. The Park Service supported the decision to keep the 6th Army headquarters at the Presidio to help defray operating costs.

In October 1993, after 3 years of preparation, the Park Service completed its draft general management plan for the Presidio complex. Under the plan, 475 historic buildings would be rehabilitated, and 300 buildings would be removed. According to the plan, "public and private organizations would join the Park Service in demonstrating technologies and practices that reduce environmental impacts, or produce environmental benefits." At the same time, the 6th Army would continue to use approximately 30 percent of the

Presidio's square footage, including about half of the available housing.

In 1994, the Department of Defense announced that the 6th Army Headquarters would be leaving the Presidio and in September of the same year the 1,480-acre base officially became part of the GGNRA.

The Presidio General Management Plan (referred to above) proposed creating a public benefit corporation that would be responsible for leasing the buildings to tenants, similar in style to the Pennsylvania Avenue Development Corporation. H.R. 1296 would establish a functionally similar "Presidio Trust."

During the first session of the 103rd Congress, legislation was enacted (title II of Public Law 103-175), to grant the Secretary of the Interior authority to lease the Letterman-LAIR medical research complex, and for 5 years, to retain the lease proceeds to offset expenses associated with the management of the Presidio. Under provisions of the National Park Service Concessions Policy Act and the National Park Service General Authorities Act, the National Park Service has, to date, awarded twenty-four leases for several facilities throughout the Presidio.

LEGISLATIVE HISTORY

H.R. 1296 was introduced by Representative Pelosi. The House passed the measure by a vote of 317 to 101. Senators Boxer and Feinstein introduced companion legislation, S. 594, on March 22, 1995. Cosponsors include Senators Campbell, Daschle, Jeffords, and Dole. The Senate Subcommittee on Parks, Historic Preservation and Recreation held a hearing on S. 594 on June 27, 1995. A hearing was held by the full Committee on both H.R. 1296 and S. 594 on December 20, 1995.

During the 103rd Congress, similar bills were introduced in both the House and Senate. Senators Boxer and Feinstein introduced S. 1639, and the Subcommittee held a hearing on May 12, 1994. The House passed H.R. 3433 on September 22, 1994. The Committee reported H.R. 3433, but the Senate failed to complete action on the bill in the final days of the 103rd Congress.

At the business meeting on December 6, 1995, the Committee on Energy and Natural Resources ordered H.R. 1296, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on December 21, 1995, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 1296, if amended as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS

NAYS

Mr. Murkowski
 Mr. Hatfield
 Mr. Domenici
 Mr. Nickels ¹
 Mr. Craig
 Mr. Campbell
 Mr. Thomas
 Mr. Kyl
 Mr. Grams
 Mr. Jeffords ¹
 Mr. Burns
 Mr. Johnston ¹
 Mr. Bumpers
 Mr. Ford ¹
 Mr. Bradley ¹
 Mr. Bingaman ¹
 Mr. Akaka
 Mr. Wellstone ¹
 Mr. Heflin ¹
 Mr. Dorgan ¹

¹ Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of H.R. 1296, the Committee adopted an amendment in the nature of a substitute. The amendment makes several substantial changes, as well as a number of technical, clarifying, and conforming changes.

The amendment directs the National Park Service to complete any infrastructure and building improvement projects funded prior to enactment of this Act.

The amendment contains a new map reference which specifies the area to be transferred to the administrative jurisdiction of the Trust. This area includes most portions of the Presidio occupied by the 6th Army prior to its departure, as well as some additional lands and structures, including the water plant adjacent to Baker Beach and maintenance buildings north of Crissy Field Avenue. The National Park Service will maintain administrative jurisdiction over most of the lands it managed prior to the departure of the 6th Army, including Baker Beach, Fort Point, and much of Crissy Field. The Trust is prohibited from transferring administrative jurisdiction for any areas transferred to it back to the Secretary of the Interior; however, this does not preclude the Trust from entering into arrangements with the Secretary to conduct activities and provide services on lands under the Trust's administrative jurisdiction, nor does it prevent the Trust and National Park Service from negotiating minor boundary adjustments along the boundaries of those lands assigned to the administrative jurisdiction of the Trust.

The amendment directs the Secretary and the Trust to determine cooperatively which personal property associated with the real property transferred to the administrative jurisdiction of the Trust (such as equipment, records, furnishings, etc.) should be transferred to the Trust. Unobligated funds, leases, contracts, licenses,

and other agreements affecting the transferred property shall also be transferred from the Secretary to the Trust.

The selection criteria for appointment of members to the Board of Directors of the Trust ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. The Trust is authorized to hire and pay staff as necessary with a limitation on salaries of that amount set for federal employees classified at level IV of the Executive Schedule.

The amendment exempts the Trust and all properties administered by the Trust from all taxes and special assessments by the State of California. This provision does not exempt the activities of tenants from applicable sales tax and other taxes as may be appropriate. The Trust is exempted from Federal procurement laws and regulations, except that the Trust must establish and promulgate, in consultation with the Administrator of Federal Procurement Policy, procedures applicable to its procurement of goods and services.

The Trust is directed to reduce expenditures by the National Park Service and increase revenue to the Federal Government by developing and carrying out a comprehensive program for managing properties under its administration jurisdiction; however, neither the Trust, nor any activity carried out by it pursuant to the comprehensive program are exempt from the requirements of any laws pertaining to historic preservation or environmental protection.

The amendment clarifies that the forum for litigation involving the Trust shall be with the District Court for the Northern District of California.

The Trust is directed to enter into a Memorandum of Agreement with the Secretary, acting through the U.S. Park Police for the provision of law enforcement services and activities on Presidio properties under the Trust's administrative jurisdiction.

The Committee recognizes that the Trust shall be insured to the same extent as the Secretary with respect to properties under its administrative jurisdiction; however, the amendment directs the Trust to require that lease holders and contractors procure the proper insurance, as is reasonable and customary.

The amendment establishes a 15-year time frame for the Trust to reach self-sufficiency. Within a year after the first meeting of the Trust, the Trust must submit a plan which includes a schedule for annually decreasing federal appropriations to meet the 15-year goal. Until the plan is submitted, \$25 million will be made available from the appropriation received by the Secretary for the operation of the Presidio. For each of the 14 fiscal years following submission of the plan, the amount set forth in the plan would be the authorized appropriation level and would be available annually until expended. From the funds authorized for the Trust, \$3 million shall be available to the Trust for law enforcement activities conducted by the U.S. Park Police on those parts of the Presidio transferred to the administrative jurisdiction of the Trust. The Trust will receive assistance from the General Services Administration in formulating and submitting the annual budget.

The amendment directs the General Accounting Office (GAO) to conduct two studies of the Trust's activities. Three years after the Trust's first Board meeting, the GAO shall conduct an interim

study on the activities of the Trust and submit the results to the Committee on Energy and Natural Resources of the Senate and Committee on Resources of the House of Representatives. Seven years after the Trust's first Board meeting, GAO shall conduct a comprehensive study of the Trust's activities. The GAO is also responsible for developing an interim plan in consultation with the Trust to reduce and replace federal appropriations for NPS interpretive services, and law enforcement, fire, and public safety services provided by the Trust.

The amendment contains a reversionary clause which provides that if, fifteen years after the Trust is a functional entity, the Trust has been unable to meet the objectives and goals of the plan, the properties under its administrative jurisdiction shall be disposed of by the General Services Administration using procedures outline in the Defense Authorization Act of 1990.

SECTION-BY-SECTION ANALYSIS

Section 1 contains six findings about the Presidio. These findings include: statements describing the Presidio's natural, historical, scenic, cultural, and recreational resources; acknowledgment of the importance of managing those resources in a manner to protect the Presidio from uses which would destroy its resource values and scenic beauty; and a proposed public/private management structure for the Presidio.

Section 2 outlines the responsibilities of the Secretary of the Interior at the Presidio until the Presidio Trust (the "Trust") is established and until administrative jurisdiction of certain Presidio properties is transferred from the Secretary to the Trust.

Subsection (a) allows the Secretary to continue to manage leases for properties to be transferred to the Presidio Trust in existence on the date of enactment of the Act until the Trust is a functional entity. Additionally, the section provides for the continuation of any leases which may expire prior to establishment of the Trust. This section also permits NPS to retain proceeds from any lease and utilize such funds, without further appropriation, to assist in funding for the Presidio until the transfer of administrative jurisdiction of the leased property. The subsection waives the requirement that the Federal Government receive only monetary consideration for a lease to give the Secretary flexibility to negotiate a lease agreement which would allow the tenant to finance the repair or rehabilitation of all or part of the building it is occupying.

Subsection (b) recognizes the expertise of NPS in providing interpretive services, and visitor information and education programs. This subsection establishes that the Secretary shall be responsible for these services and programs throughout the Presidio, both on lands managed by the Secretary and on lands under the administrative jurisdiction of the Trust.

Subsection (c) provides that those lands not transferred to the Trust will continue to be managed by the Secretary as part of Golden Gate National Recreation Area. These lands consist primarily of lands within the Presidio which were managed by the Secretary prior to October 1, 1994. Funding for the administration of these lands has been previously estimated by NPS to be about \$400,000 and these funds are already included in the operating base for

Golden Gate National Recreation Area. This subsection also authorizes the National Park Service to complete infrastructure and building improvement projects that were funded prior to enactment of this Act.

Subsection (d) protects NPS career employees from any termination action as a result of the implementation of this legislation. The Committee recognizes that there are a number of long-term career employees who could be adversely affected by this legislation and expects the National Park Service to find suitable positions for these employees within the agency. The Trust may elect to hire some employees currently working for the NPS; however, the Committee does not intend this provision to establish any requirement that the Trust hire NPS employees, nor that any NPS employee be required to work for or be detailed to the Trust.

Section 3 establishes the Presidio Trust and outlines its duties and authorities. The Presidio Trust would be an independent government corporation established in accord with the Government Corporation Control Act.

Subsection (b) transfers administrative jurisdiction over about 80 percent of the lands at the Presidio, depicted as "Area B" on the map referred to in the subsection from the Secretary to the Trust over a period of up to one year the first meeting of the Trust's Board of Directors. The Trust and the Secretary may make jointly technical and clerical revisions in the boundary depicted on the map.

All properties within Area B are to be transferred to the administrative jurisdiction of the Trust within one year of the first meeting of the Trust's Board of Directors. The Trust may request transfer of administrative jurisdiction over properties within Area B at any time after its establishment, with the Secretary to transfer such properties within 60 days of a request from the Trust. In addition to parcels identified on the referenced map, 60 days after the first meeting of the Trust's Board, the Trust and the Secretary are to determine jointly which records, equipment, and other personal property are needed for administration of those portions of the Presidio transferred to the Trust. Within one year of the Trust's first Board meeting, the Trust and the Secretary shall agree on what additional records, equipment, etc. shall be transferred to the Trust.

With the transfer of administrative jurisdiction over any property, any remaining unobligated funds and revenues associated with operation of those portions of the Presidio transferred to the Trust, all leases, licenses, permits, and other agreements associated with the transferred property shall also be transferred from the Secretary to the Trust.

This subsection also authorizes NPS to establish a visitor center at the main post of the Presidio, to be named for in honor of the former NPS Director, William Penn Mott. While the visitor center will be located on properties administratively transferred to the Trust, the Committee acknowledges that it is a suitable site for this facility and will enhance public enjoyment of all lands within the Presidio.

The Committee recognizes there are certain buildings within Area B currently occupied and used by the National Park Service

which serve essential purposes for Golden Gate National Recreation Area and could benefit the operations of the Trust. These include buildings used for public safety, fire protection, a communications center, U.S. Park Police stables, maintenance facilities, a records center, museum, and other similar activities. It is the intent of the Committee that the Trust make every effort to accommodate continued National Park Service use and occupancy of those facilities needed for overall park operations of Golden Gate National Recreation Area.

Subsection (c) provides for establishment of a seven member Board of Directors to guide the activities of the Trust. There is a 90-day deadline for the appointment by the President of the Board of Directors. The Committee continues it essential that the Board be established as soon as possible. The makeup of the Board is to include expertise in the fields of city planning, finance, real estate development, and resource conservation. Upon establishment of the Board, the Chairman of the Board of Directors of the Trust is directed to meet with the Chairmen of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. This subsection also describes terms to be served by Board members and directs that members shall serve without pay, but may be reimbursed for travel and other incidental expenses incurred during the conduct of Trust duties.

The Board of Directors is expected to adopt guidelines consistent with current Federal law and regulations concerning ethics, conflict of interest and financial disclosure.

Subsection (c)(6) require the Board to meet at least three times per year in San Francisco, with two of those meetings open to the public. The Trust is a government corporation acting on behalf of the public benefit and interest; therefore, the Board is encouraged, to the extent practicable, to be open and accessible to persons and organizations interested in the activities of the Trust.

Subsection (c)(7) authorizes the Trust to hire such staff as are necessary. The salary of any staff member shall not exceed the salary payable to Federal employees classified at level IV of the Executive Schedule.

Subsection (c)(8) provides that the Trust shall have all necessary and proper powers for the exercise of authorities vested in it.

Subsection (c)(9) provides that the Trust will be exempt from State and local taxes. Activities of tenants are not exempted from applicable sales tax and other taxes as may be appropriate.

Subsection (c)(10) provides that the financial records of the Trust shall be audited in accordance with the Government Corporation Control Act (31 U.S.C. 9105). This analysis, along with a detailed annual report, shall be submitted to the appropriate Congressional committees.

Section 4 outlines the duties and authorities of the Trust. Subsection (4)(a) directs that the Trust carry out its activities in accord with Section 1 of the legislation establishing Golden Gate National Recreation Area, as well as the general objectives of the approved general management plan for the Presidio. The Committee notes that each of the authorities provided the Trust in this section is to

be exercised in accordance with this applicable law and general management plan.

Subsection (b) authorizes the Trust to enter into contracts, leases, cooperative agreements, or other agreements with any person, firm, organization, corporation or government entity as necessary to carry out its activities. This subsection waives the requirement that the Trust receive only monetary consideration for a lease to give the Trust the flexibility to negotiate a lease agreement which would allow the tenant to finance the repair or rehabilitation of part or all of the building it is occupying. This subsection also exempts the Trust from Federal procurement laws and regulations, except that the Trust, in consultation with the Administrator of Federal Procurement Policy, must establish and promulgate procedures applicable to the Trust's procurement of goods and services.

Subsection (c) directs the Trust to develop a program to reduce costs associated with the portions of the Presidio under its administrative jurisdiction. Development of a comprehensive program is essential to ensure the success of the Presidio Trust and the long-term preservation of the historical and other resources of the Presidio. The Trust is directed to carefully examine the retention of each building at the Presidio, using criteria of: (1) cost-effectiveness of rehabilitation and specific recommendations for building demolition in the General Management Plan; (2) evaluation of buildings in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report of 1985; (3) new construction limited to replacement of existing structures; and (4) examination of a full range of options for carrying out routine administrative and facility management programs. This section does not exempt the Trust from the provisions of any environmental or historic preservation law.

Subsection (d) provides several authorities designed to augment or encourage the use of non-Federal funds of finance capital improvements. The Trust is authorized to guarantee loans to a potential lessee. This authority could only be exercised upon approval of the Treasury Department. This subsection authorizes the Treasury Department to purchase debt issued by the Trust to the extent provided in advance in appropriation acts. The amount of borrowed funds outstanding at any one time can not exceed \$50 million. The authorization of funding under this section would be based on the Secretary of the Treasury's determination of the creditworthiness of projects.

Subsection (e) authorizes the Trust to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private entities, consistent with applicable laws and regulations.

Subsection (f) authorizes the Trust to retain any revenues from leases or other agreements concerning property under the administrative jurisdiction of the Trust.

Subsection (g) provides that the Trust may be sued in its own name to the same extent as the Federal Government. The Attorney General shall conduct litigation arising out of the Trust's activities. Any suit filed against the Trust shall be under the exclusive jurisdiction of the District Court for the Northern District of California.

Subsections (h) and (i) direct the Trust to enter into an agreement with the Secretary for the United States Park Police to provide law enforcement activities and services within the Presidio. The Trust is further authorized to adopt and enforce rules and regulations applicable to Golden Gate National Recreation area.

Subsection (j) provides that the Trust shall work directly with appropriate local, State and Federal regulatory agencies. It is the intent of the Committee that the Trust shall comply as a Federal agency with the provisions of all historic preservation and environmental laws.

Subsection (k) directs that the Trust shall require that all leaseholders and contractors procure proper insurance, as is reasonable and customary, against loss in connection with properties or authorized activities under lease or contract.

Subsection (l) requires the Trust to bring the buildings under its jurisdiction into compliance with Federal building codes and regulations within 10 years, to the extent practicable.

Subsection (m) sets forth the criteria to be used in the selection of tenants for the Presidio. In leasing properties, the Trust is directed to give priority to tenants that enhance the financial viability of the Presidio, tenants that maximize the amount of revenues to the Federal Government, and tenants that facilitate the cost-effective preservation of historic buildings.

Subsection (n) outlines a reversionary clause for lands and facilities under the administrative jurisdiction of the Trust. In the event that the Presidio Trust fails to meet the goals and objectives of the plan required by section (5)(b) after 15 years, lands and facilities under the administrative jurisdiction of the Trust would revert to the General Services Administration for disposal in accordance with procedures outlined in the Defense Authorization Act of 1990. Should such disposal occur, those areas concerned would be deleted from the boundary of Golden Gate National Recreation Area.

Section 5 provides limitations on funding for the Presidio. Until the plan is submitted, no more than \$25 million per year shall be available for carrying out the provisions of this Act and shall remain available until expended. Within one year of its first meeting of the Board, the Trust is required to submit a plan to Congress which includes a schedule of how the Trust intends to achieve self sufficiency over 15 years, with annually decreasing appropriations. After the first year, the Trust is authorized a level of appropriated funds as outlined in that plan, of which, not more than \$3 million shall be available annually through the Trust for the U.S. Park Police to provide law enforcement activities and police services within the Presidio. The Administrator of the General Services Administration shall assist the Trust in the formulation and submission of the annual budget request for operation of those portions of the Presidio under the Trust's administrative jurisdiction.

Section 6 directs the General Accounting Office (GAO) to conduct a study three years after the Trust's first meeting of the Board, and to report the results to the Committee of Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The study shall include details of how the Trust is meeting its obligations. Seven years after the Trust's first meeting of the Board, GAO is

directed to conduct a comprehensive study of the Trust's activities and submit the results to the Committees noted above. Additionally, GAO, in consultation with the Trust, shall develop an interim plan and schedule to reduce and replace Federal appropriations, to the extent practicable, for interpretive services conducted by the NPS, and law enforcement activities, fire, and public safety programs conducted by the Trust.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 22, 1995.

Hon. FRANK M. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the federal taxpayer, as ordered reported by the Senate Committee on Energy and Natural Resources on December 21, 1995.

We estimate that implementing this bill would cost the federal government \$50 million over the next five years, plus any subsidy costs associated with new direct loans and/or guarantees, depending on the level and type of credit subsidies provided and assuming appropriation of the necessary sums. Most of such spending would occur after 1998. Enacting H.R. 1296 would affect direct spending; therefore, pay-as-you-go procedures would apply to the bill.

H.R. 1296 would have no direct impact on the budgets of state or local governments.

Bill purpose: H.R. 1296 would establish a wholly owned government corporation to be known as the Presidio Trust. Once operational, the trust would accept administrative jurisdiction of about 80 percent of the property located at the Presidio in San Francisco. At that time, the trust would assume responsibility for managing, leasing, maintaining, and improving this property. The remaining areas of the Presidio, along with any lands transferred back by the trust, would continue to be administered by the National Park Service (NPS) as part of the Golden Gate National Recreation Area (GGNRA).

The bill would require the NPS to transfer all leases, contracts, and other agreements related to lands under the trust's jurisdiction, along with: (1) future proceeds from the agreements, (2) unobligated balances of previous collections, and (3) unobligated funds appropriated for Presidio operations. In addition, the bill would authorize the trust to enter into new leases and other agreements and to accept donations. The trust would be authorized to retain and use, without further appropriation, both donated funds and proceeds from commercial activities for related operation, maintenance, and capital expenditures.

For the purpose of financing capital improvements to the transferred properties, H.R. 1296 would authorize the trust to: (1) bor-

row funds from the federal Treasury, provided that outstanding obligations cannot exceed \$50 million at any time; (2) make loans to occupants of trust properties, subject to appropriation; and (3) guarantee loans to occupants made by private lenders, subject to approval of the Secretary of the Treasury and other conditions. All financing provided from these sources would be subject to appropriation of the necessary funds.

Finally, H.R. 1296 would provide for future limitations on federal funding for operation of the Presidio. Specifically, the bill would authorize the appropriation of no more than \$25 million annually for the Presidio until the trust submits a budget plan to eliminate the need for federal appropriations within 15 years. For each year covered by the plan, the bill would authorize the appropriation of the budgeted amount.

Estimated cost to the Federal Government: Capital Spending. The total cost of developing commercial space within the Presidio is very uncertain. Depending on the condition of each property and the needs of future tenants, such costs would include rehabilitation of historic buildings, construction of new facilities, and demolition of unusable structures. Based on the limited information available at this time, CBO estimates that such expenditures would require funding of between \$125 million and \$175 million over the next five years, and additional amounts of between \$225 million and \$325 million over the following ten years. Assuming appropriation of the authorized amounts, we estimate that the trust would borrow \$50 million over the 1997–1999 period for high-priority projects. Depending on the availability of nonfederal financing, and assuming appropriation of the necessary amounts for the subsidy costs of providing credit assistance, some or all of the remaining capital needs could be provided through federal loans or guarantees. Because the bill does not establish any limitations on loan levels or specify other credit terms, CBO cannot estimate the subsidy cost to the federal government of projects that may be funded through such assistance.

Operating Income and Expenses. For the next few years, commercial activities authorized by H.R. 1296 would be limited to the rental of properties that can be occupied without significant capital improvements. As a result, the trust would probably produce little or no net income over this period. Once projects involving more marketable buildings have been funded and completed, net income would gradually increase.

Authorizations. H.R. 1296 would authorize the appropriation of up to \$25 million annually for the Presidio, including the trust established by this bill. Because such appropriations (except for the trust) are already authorized under current law, and because recent appropriations for managing the Presidio are already at the \$25 million level, this provision would not result in additional spending of appropriated funds. Trust expenses (including start-up costs of about \$2 million for each of fiscal years 1996–1998 and ongoing administrative overhead of about \$5 million annually beginning in 1997 or 1998) are assumed to be included in the \$25 million operating budget for the Presidio. The bill also provides that unobligated balances of previous years' appropriations for the Presidio would be transferred to the trust once it becomes operational.

Presumably any such transfers would be reduced by any amounts that the NPS would need to operate its portion of the site.

Basis of estimate: This estimate is based on information provided by the NPS, its consultants, and other affected groups, such as prospective tenants. For purposes of this estimate, CBO has assumed that H.R. 1296 would be enacted in fiscal year 1996. We assume that members of the Presidio Trust would be appointed during the year and that the NPS would transfer all lease properties to the trust sometime in 1997.

Pay-as-you-go effects: H.R. 1296 would affect direct spending by authorizing the trust to collect and spend rental and other income from commercial activities as well as donated funds. CBO estimates that offsetting receipts generated from these sources would be minimal over the 1996–1998 period and would in any case be offset by additional direct spending.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	(¹)	(¹)	(¹)

¹ Not applicable.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and John R. Righter.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1296. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

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

Little, if any, additional paperwork would result from the enactment of H.R. 1296, as ordered reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Office of Management and Budget and from the National Park Service setting forth Executive agency recommendation relating to H.R. 1296 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, November 3, 1995.

Hon. BEN NIGHORSE CAMPBELL,
*Chairman, Subcommittee on Parks, Historic Preservation and
Recreation, Committee on Energy and Natural Resources, U.S.
Senate, Washington, DC.*

DEAR SENATOR CAMPBELL: As you are aware, on June 29, 1995, the Senate subcommittee on Parks, Historic Preservation and Recreation held a hearing on S. 594, a bill to provide for the establishment of a Presidio Trust, which would administer certain Presidio properties at minimal cost to the Federal taxpayer. This bill is identical to H.R. 1296, which was introduced in the House by Congresswoman Nancy Pelosi. The House Resources Committee subsequently amended H.R. 1296 and the substitute was passed by the House on September 19, 1995. We have reviewed both bills and we believe each includes provisions that would assure the establishment of an effective Trust. We offer the following principles that we believe the final legislation should incorporate.

1. The Presidio should remain a part of the Golden Gate National Recreation Area.

2. The Presidio Trust should be established as a Federal entity, subject to the Government Corporation Control Act, within the Department of the Interior (DOI) with authority to lease buildings and facilities at the Presidio of San Francisco. The Trust should be responsible for real estate, property management and related activities.

3. Within 180 days of its authorization, the Trust should prepare and present to DOI and Congress a financial plan, including timeframes for implementation, which identify realistic financial goals and objectives for the greatest degree of self-sufficiency based upon sound financial analysis.

4. The Trust should be subject to the provisions of the National Park Service's (NPS) General Management Plan for the Presidio. The rules and regulations which control activity on NPS property and which are contained in Title 36 of the Code of Federal Regulations (C.F.R.) should be enforceable within those areas transferred to the Trust.

5. The Trust and the NPS should jointly prepare a transition agreement to facilitate the orderly transfer of functions from the NPS to the Trust. The agreement should describe properties, jurisdiction limits, timelines, contracts, personnel, and operational responsibilities. Upon completion of the agreement, the transfer should occur within 60 days after notification by the Trust that it is ready to accept administration from the NPS. The NPS should transfer funds required to support Trust operations. A map should accompany the completed transition agreement, showing any areas of facilities to be administered by the Trust and by NPS.

6. The NPS should retain responsibility and support facilities for all traditional park operations; i.e., public safety, information and education, grounds maintenance, roads and trails, special events, museum curatorial services and resource management. The NPS should be funded, either by appropriation or by agreement with the Trust, to carry out its responsibilities.

7. The NPS should continue its leasing activities until the Trust is established and in position to assume responsibility. All leases must be at fair market value and be supported by an approved appraisal.

8. The NPS should complete all infrastructure and building improvement projects that were funded prior to FY 1996.

9. In case of default, those properties under administration of the Trust should revert to the Department of the Interior.

10. The terms of the Presidio Trust's guarantee and direct loan authority should be clarified.

We are encouraged by the strong bipartisan support for the concept of a Presidio Trust and the opportunity to demonstrate a way to greatly reduce Federal costs of this new park while preserving its rich natural and cultural history. We are prepared to work with you to develop language that will carry out the principles enumerated above. We plan to present to the Committee soon a detailed report on H.R. 1296, that will recommend specific changes to the bill as passed by the House.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, December 19, 1995.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On November 3 the Department of the Interior sent the Subcommittee on Parks, Historic Preservation and Recreation a letter outlining the principles we believe should guide the final Presidio legislation reported from your committee. We are enclosing the detailed legislative report promised in our previous letter, with our suggested changes to H.R. 1296 as passed by the House.

We would be pleased to work with you as this legislation moves ahead.

The Office of Management and Budget has advised that it has no objection to the preservation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

Enclosure.

LEGISLATIVE REPORT—DEPARTMENT OF THE INTERIOR
SUBSTITUTE FOR PRESIDIO LEGISLATION

This legislative report contains the Department of the Interior's recommended amendments of H.R. 1296. To formulate these recommendations, the National Park Service (NPS) reviewed both S. 594, and H.R. 1296 as passed by the House of Representatives on September 19, 1995, and

relied upon its experience in accepting transfer of jurisdiction from the Army, as well as in managing the Presidio for the last year. There are provisions of both the House and Senate bills that we support and which should be incorporated into the final version of the legislation.

These amendments amplify the principles presented to the Committee in the letter dated November 3, 1995 and fall into one of three categories: (1) recommendations that state the roles and responsibilities of the Trust and NPS now and into the future; (2) recommendations that establish an effective transition process for transfer of property management authority from NPS to the Trust; and (3) recommendations that ensure that the Trust has the necessary legal authorities to perform its mission.

The modifications are organized in a section-by-section format. If we have proposed no amendments to a subsection of H.R. 1296, we have not commented on that subsection in this report. It is important to recognize that acceptance or rejection of a recommended modification may have impacts throughout the legislation. We have attempted to identify instances where this may be the case.

Section 1. Findings

To clarify the responsibilities of the Trust and NPS, we support the findings of S. 594 which will clarify the Presidio should remain a part of the GGNRA.

Strike "is located within the boundary" in (4) and insert "is a part"; insert "as part of the Golden Gate National Recreation Area," at the beginning of (5).

We also recommend the deletion of finding (6), which references an "innovative public/private partnership." This finding is a remnant from a vastly different bill considered last year.

Sec. 2. Interim authority

Subsection 2(a). To protect the resources of the Presidio during the transition period, the NPS must be fully authorized and funded to carry out its responsibilities, including but not limited to the leasing of buildings and facilities. We support the concept set forth in Section 2 of S. 594 which would allow the leasing of facilities at the Presidio to continue, with the proceeds retained to fund the cost of operating the Presidio. We recommend substituting the language from S. 594 into H.R. 1296, with two amendments (1) to clarify that the Secretary's interim authority to retain proceeds extends not only to leases, but also to use and occupancy agreements, and (2) to ensure that any proceeds may be retained by the Secretary for the Presidio without further appropriation.

Strike the subsection and insert the following: "(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to negotiate and enter into leases, at fair market rental and without regard to section 321 of chapter 314 of the

Act of June 30, 1932 (40 U.S.C. 303b), for all or part of the Presidio of San Francisco that is under the administrative jurisdiction of the Secretary until such time as the property concerned is transferred to the administrative jurisdiction of the Presidio Trust as set forth in subsection 3(b)(1) of this Act. The proceeds from any such lease or other agreements at the Presidio shall be retained by the Secretary and used, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. For purposes of any such lease, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties within the Presidio.”

Subsection 2(c). We support the concept of Subsection 2(c) of H.R. 1296 which outlines the responsibilities of NPS after the transition but we recommend some additional clarification regarding preexisting agreements with the Defense Department and ongoing building improvement projects.

At the end of the subsection add the following: “The Secretary shall retain administration over those properties subject to preexisting agreements with the Department of Defense for housing, the PX and the commissary unless all parties agree otherwise. Upon expiration of these use and occupancy agreements, the properties shall be transferred to the administration of the Trust. Any infrastructure and building improvement projects that were funded prior to enactment shall be completed by the National Park Service.”

Subsection 2(e). To ensure that both the Trust and NPS have appropriate statutory authority to act, the legislation should explicitly amend the Golden Gate National Recreation Area legislation to allow the Secretary to allow leasing of buildings or other facilities for any purpose consistent with the preservation of the historic and natural character of the area. We recommend the addition of a new subsection.

Insert a new subsection 2(e) as follows: “(e) CONFORMING AMENDMENT.—Section 1 of the Act entitled ‘An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes’, approved October 27, 1972, is amended by inserting the following after the second sentence: ‘In addition, to the extent authorized herein, the Secretary may engage in the leasing of buildings or other facilities for any purpose consistent with the preservation of the historic and natural character of the area.’”

Sec. 3. The Presidio Trust

Subsection 3(a). We support the establishment of the Presidio Trust as a wholly owned government corporation

and recommend that the language of Section 3(a) of H.R. 1296 be adopted with one amendment, which will clarify that the corporation is within the Department of the Interior. If the Trust is established within the Department of the Interior, increased budgetary, operational and organizational efficiencies will be achieved in addition to providing for a more orderly transition from the National Park Service.

Insert the words "within the Department of the Interior" after the word "corporation".

Subsection 3(b)(1). To ensure an effective transfer to property management from NPS to the Trust, based on our experience with the Army, we recommend the following transition process.

Strike subsection 3(b)(1) and insert the following: "(b) TRANSFER.—(1)(i) Within 60 days after receipt of a request from the Trust for any properties to be used for administrative purposes or for any property which has immediate lease potential within the area depicted as area B on the map entitled 'Presidio Trust Number 1,' dated June 1995, the Secretary shall transfer such property to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust at which a quorum is present, the Trust shall enter into an agreement with the Secretary for the transfer of administrative jurisdiction for any remaining properties in area B depicted on the map. This agreement shall detail the specific responsibilities of the Secretary for any areas on the map within area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on the map and may amend the agreement as appropriate. Should the Trust and the Secretary be unable to complete an agreement within the one-year period, all remaining properties depicted on the map within area B shall be transferred to the administrative jurisdiction of the Trust. Such areas shall remain part of the Golden Gate National Recreation Area.

"(ii) With the consent of the Secretary, the Trust may transfer at any time to the administrative jurisdiction of the Secretary and properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area, and may transfer any authorization or functions the Trust exercises at the Presidio. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have a high public use potential.

"(iii) The Secretary shall retain those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The building shall be named the 'William Penn Mott Visitor Center'."

Subsection 3(b)(2). To ensure the effective transfer of property management to the Trust including transfer for revenue associated with the properties transferred, we recommend a revised version of the language of S. 594 be substituted in this subsection of H.R. 1296.

Strike the subsection and insert the following: “(2) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, funds for the administrative support of the Trust; all leases, concessions, licenses, permits, and other agreements affecting such property, including any revenues associated with them; and any unobligated funds for such transferred property.”

Subsection 3(c)(1)(B). To ensure that the Trust has the proper legal authority to act, and to ensure that the Trust will consider resource conservation in making its decisions, we support the board composition set forth in Subsection 3(c) of H.R. 1296 only if the residency requirement is made advisory rather than mandatory and the President is not restricted with unreasonable deadlines for appointment of the board.

Strike the last two sentences of the subsection and insert the following: “The President shall give consideration to appointing at least three individuals with extensive knowledge about the region in which the Presidio is located. The President shall make the appointments as soon as possible after enactment of this Act.”

Subsection 3(c)(5). To ensure that the Trust has the proper legal authority to act and that there is an enforcement mechanism to guide conflict of interest and financial disclosure of the Trust Board of Directors, we propose one amendment.

Strike the period at the end of the subsection and insert the following: “, and the provisions of chapter 11 of title 18, United States Code (relating to conflicts of interest), and the executive branch standards of conduct.”

Subsection 3(d)(3). To ensure the executive director is compensated in accordance with government-wide practice, and that a requirement is included to appoint a Chief Financial Officer, we propose one amendment.

After the words “pay rates” add “except that the salary may not exceed that of Level IV of the Executive Schedule. The Trust shall also designate a Chief Financial Officer in accordance with the Chief Financial Officers Act of 1990, P.L. 101-576.”

Subsection 3(d)(4). To ensure that the Trust has the appropriate legal authority to act, we recommend that the language regarding direct loan and loan guarantees be amended to reflect compliance with the Federal Credit Reform Act of 1990.

In the first sentence after the words “shall have” add the following: “authority to make direct loans and loan guarantees. Direct loans and loan guarantees may be entered into under the provisions of this section only to the extent that appropriations of budget authority that cover their costs

(as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) are made in advance, or authority is otherwise provided in appropriations acts. No loan guaranteed to any one borrower shall exceed 75 percent of the outstanding principal on the loan.”

Section 3(d)(4)(A). To ensure that the Trust has the appropriate authority to guarantee loans, we propose one amendment.

After “(ii) adequate” strike “guarantee authority” and insert “subsidy budget authority”.

Subsection 3(d)(4)(C). To ensure that the Trust will have appropriate financial resources to manage the Presidio, we support the provision of this subsection in S. 594 providing for borrowing authority, subject to appropriation, of \$150,000,000.

Strike the number “\$50,000,000” and insert “\$150,000,000”.

Subsection 3(d)(4)(D). To ensure that the Trust has the appropriate legal authority to enter into joint powers agreements, this provision must be amended to authorize specifically the Trust to enter into such arrangements.

Strike the language of the subsection and insert the following: “(D) The Trust is an entity of the federal government authorized to jointly exercise any power common to it and any contracting local or state agency.”

Subsection 3(d)(5). To clarify the responsibility of the Trust with respect to conflict of interest rules and regulations which apply to the solicitation and acceptance of donations, we recommend an amendment to the subsection:

Insert the following language after the first section: “No gift may be accepted that attaches conditions inconsistent with applicable laws and regulations. The Trust shall establish written rules setting forth criteria to be used in determining whether the acceptance of donations of funds, property, supplies, or services authorized in this paragraph would reflect unfavorably upon the ability of the Trust or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its program or any official involved in those programs.”

Subsection 3(d)(6). To ensure that the Trust meets the financial requirements of the Antideficiency Act and follows the standard practice for Government corporations to bank through the Treasury, we strongly recommend striking this subsection and inserting a substitute.

Strike the subsection and insert the following: “There is established in the Treasury a Presidio Trust Fund, into which shall be deposited all receipts of the Trust. Amounts in the Fund shall be available to the Trust, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under the Trust’s jurisdiction. Such amounts may remain available without fiscal year limitation until expended.

Upon the request of the Trust, the Secretary of the Treasury shall invest such portion of the Fund as is not in the judgement of the Trust required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Trust, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.”

Subsection 3(d)(7). To ensure that the Trust has the legal authority to defend itself, we recommend that the Attorney General represent the government in litigation and that the forum for litigation against the Trust should be the District Court for the Northern District of California. This will limit the venue of lawsuits against the Trust so that these suits may not be brought in the Federal Claims Court or anywhere else in the country. The Trust would still have the authority to select the venue for its litigation.

Strike the subsection and insert the following: “(7) The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel.”

Subsection 3(d)(8). To ensure that the Trust has the appropriate legal authority to issue and enforce rules, including National Park Service Rules and regulations, we propose two amendments.

Strike the period at the end of the sentence and insert the following: “including but not limited to rulemaking authority.” and designate this subsection as Subsection 3(d)(8)(A).

Insert a new subsection 3(d)(8)(B) as follows: “(B) The Trust is authorized, in consultation with the Secretary of the Interior, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.”

Subsection 3(e). Understanding that the federal government self-insures its properties, we propose deleting the authority for the Trust to procure insurance.

Strike the subsection and renumber the following subsections accordingly.

Subsection 3(h). To ensure that the Presidio Trust is properly established as a wholly owned government corporation, we propose an amendment.

Amend the title of the subsection to read “Status of the Trust” and add at the end of the subsection the following:

“(3) Section 9101(3) of title 31 United States Code is amended to add the following: ‘(p) Presidio Trust.’”

Subsection 3(k). In the event of a default, the property should revert to the administration of the Secretary of Interior. The Department of Defense is not in a position to accept management responsibility of this property. We support the reversion language as provided in S. 594.

Strike the subsection and insert the following: “(k) REVERSION.—In the event of failure or default, all interests, assets, and liabilities of the Trust shall revert to the Secretary to be administered by the National Park Service.”

Subsection 3(l)(1). We recommend the language of H.R. 1296 addressing the authorization of appropriations be amended to ensure there is no confusion about either the source of funds for the Trust, which we believe should come from the funds appropriated for the Presidio, or the availability of appropriations after the plan in paragraph (2) is submitted.

Strike the subsection and insert the following: “(1) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated not more than \$25,000,000 to carry out this Act in each fiscal year after the enactment of this Act. Such sums shall remain available until expended.”

Subsection 3(l)(2). We recommend that the language of Subsection 3(l)(2) of H.R. 1296 regarding decreasing annual appropriations and the time for self-sufficiency be amended to be consistent with the agreement between the Trust and the Secretary as recommended in subsection 3(b)(1). It is important that the Trust be given the flexibility to determine the most appropriate process and timeframe for processing toward self-sufficiency.

Strike the language of the subsection and insert: “(2) Within 180 days after reaching an agreement with the Secretary, or in the case of no agreement, one year from the first meeting of the Board of Directors as set forth in subsection 3(b)(1), the Trust shall submit to Congress a business plan, including timeframes for implementation, which identifies realistic financial goals and objectives for the greatest degree of self-sufficiency based upon sound financial analysis.”

MINORITY VIEWS OF SENATOR DALE BUMPERS

I voted to report H.R. 1296 because I wanted to move the bill along and support the efforts of the Senators Boxer and Feinstein and Congresswoman Pelosi who wanted this bill reported before the end of the year. There are several aspects of this bill that are troublesome and should be fixed. For example, as reported from the Committee, the bill waives federal procurement laws and regulations for the newly formed Presidio Trust. This is a new provision which never appeared in any Presidio legislation prior to the circulation of the Chairman's Mark preceding the Committee's consideration of H.R. 1296. The Trust is to be a wholly owned government corporation and, as such, should be held to the same standards of procurement as other government agencies. The Committee heard very little testimony on the implications of such a provision and should not have included it without completely understanding the impact of this departure from existing law and procedure.

In addition, the Committee reported bill deletes a very important provision contained in the House passed bill which provided discretion to the Trust, with the consent of the Secretary, to transfer back to the Secretary the administrative jurisdiction over properties transferred to the Trust which are surplus to its needs and which serve essential purposes of the Golden Gate National Recreation Area. The language also encourage the Trust to transfer administrative jurisdiction over open space areas which have high public use potential and which are contiguous to other lands administered by the Secretary. This authority would have given the Park Service an opportunity to remain involved in recreational, open space and other activities at the Presidio on lands not needed by the Trust. This is a very important provision that should be included in any Presidio legislation.

I am hopeful that the bill can be amended to address these concerns before the bill is presented to the President for his signature.

DALE BUMPERS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 1296, as ordered reported.

