

NATIONAL PARKS OMNIBUS MANAGEMENT ACT OF 1998

OCTOBER 2, 1998.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany S. 1693]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 1693) to provide for improved management and increased accountability for certain National Park Service programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill 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. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

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

Sec. 101. Protection, interpretation, and research in the National Park System.
Sec. 102. National Park Service employee training.
Sec. 103. Management development and training.
Sec. 104. Park budgets and accountability.

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

Sec. 201. Purposes.
Sec. 202. Research mandate.
Sec. 203. Cooperative agreements.
Sec. 204. Inventory and monitoring program.
Sec. 205. Availability for scientific study.

- Sec. 206. Integration of study results into management decisions.
- Sec. 207. Confidentiality of information.

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

- Sec. 301. Short title.
- Sec. 302. Purpose.
- Sec. 303. Study of addition of new National Park System areas.

TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

- Sec. 401. Short title.
- Sec. 402. Congressional findings and statement of policy.
- Sec. 403. Award of concessions contracts.
- Sec. 404. Term of concessions contracts.
- Sec. 405. Protection of concessioner investment.
- Sec. 406. Reasonableness of rates.
- Sec. 407. Franchise fees.
- Sec. 408. Transfer of concessions contracts.
- Sec. 409. National Park Service Concessions Management Advisory Board.
- Sec. 410. Contracting for services.
- Sec. 411. Multiple contracts within a park.
- Sec. 412. Special rule for transportation contracting services.
- Sec. 413. Use of nonmonetary consideration in concessions contracts.
- Sec. 414. Recordkeeping requirements.
- Sec. 415. Repeal of National Park Service Concessions Policy Act.
- Sec. 416. Promotion of the sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts.
- Sec. 417. Regulations.
- Sec. 418. Commercial use authorizations.

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

- Sec. 501. Extension of the Recreational Fee Demonstration Program.
- Sec. 502. Other fees.
- Sec. 503. Distribution of golden eagle passport sales.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

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

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

- Sec. 701. Promotion of local fundraising support.

TITLE VIII—MISCELLANEOUS PROVISIONS

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

SEC. 2. DEFINITION.

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

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

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

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

SEC. 102. NATIONAL PARK SERVICE EMPLOYEE TRAINING.

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

SEC. 103. MANAGEMENT DEVELOPMENT AND TRAINING.

Within 2 years after the enactment of this Act, the Secretary shall develop a clear plan for management training and development, whereby career, professional National Park Service employees from any appropriate academic field may obtain sufficient training, experience, and advancement opportunity to enable those qualified

to move into park management positions, including explicitly the position of superintendent of a unit of the National Park System.

SEC. 104. PARK BUDGETS AND ACCOUNTABILITY.

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

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

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

SEC. 201. PURPOSES.

The purposes of this title are—

- (1) to more effectively achieve the mission of the National Park Service;
- (2) to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes;
- (3) to ensure appropriate documentation of resource conditions in the National Park System;
- (4) to encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value, where such study is consistent with the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.); and
- (5) to encourage the publication and dissemination of information derived from studies in the National Park System.

SEC. 202. RESEARCH MANDATE.

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

SEC. 203. COOPERATIVE AGREEMENTS.

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

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

SEC. 204. INVENTORY AND MONITORING PROGRAM.

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The

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

SEC. 205. AVAILABILITY FOR SCIENTIFIC STUDY.

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

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

- (1) is consistent with applicable laws and National Park Service management policies; and
- (2) will be conducted in a manner as to pose no threat to park resources or public enjoyment derived from those resources.

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

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

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

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

SEC. 207. CONFIDENTIALITY OF INFORMATION.

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

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

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

SEC. 301. SHORT TITLE.

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

SEC. 302. PURPOSE.

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

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

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

- (1) By inserting “GENERAL AUTHORITY.—” after “(a)”.
- (2) By striking the second through the sixth sentences of subsection (a).
- (3) By redesignating the last two sentences of subsection (a) as subsection (f) and inserting in the first of such sentences before the words “For the purposes of carrying” the following: “(f) AUTHORIZATION OF APPROPRIATIONS.—”.
- (4) By inserting the following after subsection (a):

“(b) **STUDIES OF AREAS FOR POTENTIAL ADDITION.**—(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Commit-

tee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

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

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

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

“(C) public petition and Congressional resolutions.

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

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

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

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

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

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

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

“(3) Each study—

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

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

“(ii) the threats to those resources;

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

“(iv) the public use potential;

“(v) the interpretive and educational potential;

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

“(vii) the socioeconomic impacts of any designation;

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

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

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

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

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

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

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

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

“(e) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which con-

tain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.”

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

TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

SEC. 401. SHORT TITLE.

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

SEC. 402. CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY.

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

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

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

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

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

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

SEC. 403. AWARD OF CONCESSIONS CONTRACTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of

\$5,000,000 or a duration of more than 10 years to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both committees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) SECRETARIAL AUTHORITY.—Nothing in this title shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions

contract or to establish its terms and conditions in furtherance of the policies expressed in this title.

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

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

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

SEC. 404. TERM OF CONCESSIONS CONTRACTS.

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

SEC. 405. PROTECTION OF CONCESSIONER INVESTMENT.

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

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

(2) A leasehold surrender interest—

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

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

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

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

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

(b) SPECIAL RULE FOR EXISTING POSSESSORY INTEREST.—

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

tion of possessory interest shall be determined in accordance with the laws in effect on the day before the date of enactment of this Act.

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

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

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

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

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

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

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

SEC. 406. REASONABLENESS OF RATES.

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

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

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

SEC. 407. FRANCHISE FEES.

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

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

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

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

SEC. 408. TRANSFER OF CONCESSIONS CONTRACTS.

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

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

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

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

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

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

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

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

(b) **DUTIES.**—

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

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

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

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

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

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

(C) The allocation of concession fees.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 410. CONTRACTING FOR SERVICES.

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

(A) Health and safety inspections.

(B) Quality control of concessions operations and facilities.

(C) Strategic capital planning for concessions facilities.

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

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

(A) Preparation of the financial aspects of prospectuses for National Park Service concessions contracts.

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

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

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

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

SEC. 411. MULTIPLE CONTRACTS WITHIN A PARK.

If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guiding, river running, or other similar services at the same approximate location or resource within a specific national park, the Secretary shall establish a comparable franchise fee structure for all such same or similar contracts, except that the terms and conditions of any existing concessions contract shall not be subject to modification or open to renegotiation by the Secretary because of a award of a new contract at the same approximate location or resource.

SEC. 412. SPECIAL RULE FOR TRANSPORTATION CONTRACTING SERVICES.

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

SEC. 413. USE OF NONMONETARY CONSIDERATION IN CONCESSIONS CONTRACTS.

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

SEC. 414. RECORDKEEPING REQUIREMENTS.

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

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

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

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

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

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

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

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

(3) The second paragraph under the heading "NATIONAL PARK SERVICE" in the Act of July 31, 1953 (67 Stat. 261, 271), is repealed.

(c) ANILCA.—Nothing in this title amends, supersedes, or otherwise affects any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

SEC. 416. PROMOTION OF THE SALE OF INDIAN, ALASKA NATIVE, NATIVE SAMOAN, AND NATIVE HAWAIIAN HANDICRAFTS.

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

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

SEC. 417. REGULATIONS.

As soon as practicable after the effective date of this title, the Secretary shall promulgate regulations appropriate for its implementation. Among other matters, such regulations shall include appropriate provisions to ensure that concession services and facilities to be provided in a unit of the National Park System are not segmented or otherwise split into separate concessions contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concessions contract below \$500,000. The Secretary shall also promulgate regulations which further define the term "United States Indian, Alaskan Native, Native Samoan and Native Hawaiian handicrafts" for the purposes of this title.

SEC. 418. COMMERCIAL USE AUTHORIZATIONS.

(a) IN GENERAL.—To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to visitors to units of the National Park System through a commercial use authorization. Such authorizations shall not be considered as concessions contracts pursuant to this title nor shall other sections of this title be applicable to such authorizations except where expressly so stated.

(b) CRITERIA FOR ISSUANCE OF AUTHORIZATIONS.—

(1) REQUIRED DETERMINATIONS.—The authority of this section may be used only to authorize provision of services that the Secretary determines will have minimal impact on resources and values of the unit of the National Park System and are consistent with the purpose for which the unit was established and with all applicable management plans and park policies and regulations.

(2) ELEMENTS OF AUTHORIZATION.—The Secretary shall—

(A) require payment of a reasonable fee for issuance of an authorization under this section, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

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

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

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

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

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

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

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

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

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

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

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

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

SEC. 501. EXTENSION OF THE RECREATIONAL FEE DEMONSTRATION PROGRAM.

(a) AUTHORITY.—The authority provided to the National Park Service under the Recreational Fee Demonstration Program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104–134; 16 U.S.C. 4601–6a note)—

(1) is extended through September 30, 2005; and

(2) shall be available for all units of the National Park System, and for system-wide fee programs.

(b) USE OF FEES.—Fees collected by the National Park Service under such Recreational Fee Demonstration Program shall be used in the National Park System in the manner provided in section 315(c)(3) of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104–134; 16 U.S.C. 4601–6a note).

(c) REPORT.—Not later than September 30, 2000, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report detailing the status of such Recreational Fee Demonstration Program conducted in units of the National Park System. The report shall contain—

(1) an evaluation of the fee demonstration program conducted at each unit of the National Park System;

(2) with respect to each unit of the National Park System where a fee is charged under the authority of such Recreational Fee Demonstration Program, a description of the criteria that were used to determine whether a recreational fee should or should not be charged at such unit; and

(3) a description of the manner in which the amount of the fee at each unit of the National Park System was established.

(d) NOTICE.—At least 12 months notice shall be given to the public prior to the increase or establishment of any fee in units of the National Park System under such Recreational Fee Demonstration Program.

SEC. 502. OTHER FEES.

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

SEC. 503. DISTRIBUTION OF GOLDEN EAGLE PASSPORT SALES.

Not later than six months after the date of enactment of this title, the Secretary of the Interior and the Secretary of Agriculture shall enter into an agreement providing for an apportionment among each agency of all proceeds derived from the

sale of Golden Eagle Passports by private vendors. Such proceeds shall be apportioned to each agency on the basis of the ratio of each agency's total revenue from admission fees collected during the previous fiscal year to the sum of all revenue from admission fees collected during the previous fiscal year for all agencies participating in the Golden Eagle Passport Program.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

SEC. 601. PURPOSES.

The purposes of this title are—

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

SEC. 602. NATIONAL PARK PASSPORT PROGRAM.

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

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

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

SEC. 603. ADMINISTRATION.

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

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

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

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

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

(c) USE OF PROCEEDS.—

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

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

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

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

SEC. 604. FOREIGN SALES OF GOLDEN EAGLE PASSPORTS.

The Secretary of Interior shall—

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

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

SEC. 605. EFFECT ON OTHER LAWS AND PROGRAMS.

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

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

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

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

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

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

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

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

SEC. 701. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

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

“SEC. 11. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

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

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

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

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

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

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

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

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

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

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

“(f) **AFFILIATIONS.**—

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

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

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

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

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. UNITED STATES PARK POLICE.

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

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

- (1) the findings and recommendations of the task force;
- (2) complete justifications for any recommendations made; and
- (3) a complete description of any adverse impacts that would occur if any need identified in the report is not met.

SEC. 802. LEASES AND COOPERATIVE MANAGEMENT AGREEMENTS.

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

“(k) LEASES.—

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

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

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

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

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

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

“(4) RENTAL AMOUNTS.—

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

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

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

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

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

“(5) SPECIAL ACCOUNT.—

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

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

“(i) facility refurbishment;

“(ii) repair and replacement;

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

and

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

“(C) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this Act.

“(l) COOPERATIVE MANAGEMENT AGREEMENTS.—

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

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

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

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

PURPOSE OF THE BILL

The purpose of S. 1693 is to provide for improved management and increased accountability for certain National Park Service programs and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

S. 1693 incorporates several management directives for the National Park Service (NPS), along with new authority to raise and retain fee revenues, to be used in reducing the large backlog of NPS funding needs.

In 1992, as part of its 75th anniversary, the agency held a symposium in Vail, Colorado, to prepare recommendations to guide the NPS into the 21st century. The report from the symposium, “National Parks for the 21st Century—The Vail Agenda”, became popularly known just as the Vail Agenda. Many of the provisions of S. 1693 incorporate recommendations from the Vail Agenda. Over the past year, the Committee on Resources has held numerous hearings to review operational and funding needs of the NPS. In addition to incorporating recommendations from the Vail Agenda, S. 1693 addresses many of the concerns and recommendations identified in the Committee hearings. Because S. 1693 affects several NPS programs and functions, background on individual titles is described below.

TITLE I—NPS CAREER DEVELOPMENT, TRAINING, AND MANAGEMENT

One of the strategic objectives contained in the Vail Agenda was a recommendation that the “National Park Service must create and maintain a highly professional organization and workforce.” The report included several detailed proposals to help improve NPS personnel and management issues. In 1995, the NPS adopted the Employee Training and Development Strategy which defined 16 career fields within the NPS. A set of Universal Essential Competencies were developed that would apply to all NPS employees. The purpose of these standards is to provide employees and their supervisors the essential skills to perform their jobs at the entry, developmental, and full performance levels; to give employees insights

into the full spectrum of job requirements; and to create an employee training program for essential needs identified by employees and supervisors.

Consistent with these goals, Title I of S. 1693 establishes a career development, training and management program for the NPS. The Secretary of the Interior is directed to continually improve the ability of the NPS to provide state-of-the-art management, protection, research, and interpretation of NPS resources. The Secretary is directed to develop a comprehensive training program for NPS employees to enable them to manage, interpret and protect park resources. In addition, the Secretary is directed to develop a plan for employee management training and development, to enable future park superintendents to be better prepared for management responsibilities. S. 1693 also requires comprehensive budgets for each park to be prepared and made available to the public. The Secretary is also directed to develop and make publicly available five-year strategic plans and an annual performance plan for each park prepared pursuant to the Government Performance and Results Act.

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT

To meet resource stewardship responsibilities, the Vail Agenda recommended that park managers have solid natural resource and scientific information at their disposal to make sound resource management decisions. Title II would direct the Secretary of the Interior to establish a scientific research program for the NPS. S. 1693 directs the Secretary to enter into cooperative agreements with colleges and universities to establish cooperative study units to conduct multi-disciplinary and monitoring program to establish baseline information and information on long-term trends in the condition of park resources, and to utilize the information in park management decisions. This title also directs the NPS to implement a broad scientific research mandate to ensure that park managers have the highest quality science and information available when making resource management decisions.

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

Initially composed only of isolated scenic and natural areas, the National Park System has grown to comprise of 376 areas containing natural, cultural, and recreational resources across the nation. As directed by Congress in the General Authorities Act (16 U.S.C. 1a-5), the NPS studies areas to determine if they are nationally significant, and if so, whether they potentially could be added to the National Park System. New area studies may be initiated by the NPS or may be conducted in response to directives from Congress, and requests from other federal, state, or local agencies, or the private sector. Where new area studies are appropriate, the NPS establishes priorities and conducts studies as funds are available.

Title III establishes NPS procedure for studying areas for potential addition to the National Park System and incorporates many of the concepts set forth in a related House bill, H.R. 1728, which

ensures that new areas recommended for addition to the National Park System are appropriate for inclusion. New area studies may be initiated by the NPS or may be conducted in response to resolutions from Congress, requests from other federal, state, or local agencies, or petitions from the private sector. Where new area studies are appropriate, the NPS establishes priorities and conducts studies as funds are available. In determining whether to recommend an area for inclusion in the National Park System, a potential area must: possess nationally significant natural, cultural or recreational resources; be a suitable and feasible addition to the National Park System; and require NPS management and administration instead of alternative protection by other agencies or the private sector. These criteria are designed to ensure that the National Park System includes only outstanding examples of the nation's natural, cultural, and recreational resources.

This title also directs the Secretary of the Interior to develop annual lists for areas of possible inclusion into the park system. The Secretary will specify these areas in order of priority for addition into the National Park System.

TITLE IV—NPS CONCESSIONS MANAGEMENT

When the Congress established Yellowstone National Park in 1872, the legislation provided the Secretary of the Interior with authority to grant leases for “the erection of buildings for the accommodation of visitors.” This marked the beginning of private concession operations within National Parks, even before the creation of the NPS. Originally, the NPS provided for visitor services in parks by administrative action pursuant to general authority contained in the National Park Service Organic Act of 1916. Those authorities were formalized in 1950, when the Secretary of the Interior established official guidelines for concession operations. In 1965, Congress enacted Public Law 89–249, the Concessions Policy Act, which for the most part codified the Department's guidelines. Among the federal land managing agencies, only the NPS operates with specific concession legislative authority.

Current National Park concession operations vary in size from small, family-owned businesses, to those operated by subsidiaries of large multi-national corporations. Services provided range from year-round luxury hotels and restaurants to seasonal canoe and boat rentals. While the total number of concession operations varies during the year, there are approximately 640 concessioners operating in 133 units of the National Park System. For the most part, concession permits are issued for smaller or seasonal operators while concession contracts tend to be used for larger, long-term operations. Approximately 200 concessioners operate pursuant to a concession contract and the remainder are covered by permits. In addition, over 3,000 businesses operate under “incidental business permits” issued by the NPS. These permits (which have replaced commercial use licenses) are not governed by the provisions of the Concessions Policy Act, and are issued to companies based outside of the park but which rely on park entry for their business, such as tour operators.

The NPS is currently operating under regulations and standard contract language which emphasize a higher financial return to the

federal government, increased competition, shorter contract terms, and the elimination or revaluation of possessory interest. The regulations and revised standard contract language became effective in 1992. As more contracts are implemented under the new regulations and standard contract language, the return to the federal government has steadily increased. In 1992 the total return to the NPS from concession operations was approximately \$23 million, or 3.5 percent of gross revenues. The federal government's return can include the payment of franchise fees by a concessioner, the retirement of possessory interest, or the establishment of a "park improvement account" into which the concessioner makes deposits for use on park-related funding needs. In 1996 the total return (including all of the above) had increased to \$48 million, or 6.8 percent of gross revenues.

Although the situation has improved, Title IV of S. 1693 goes further and makes significant changes to NPS concession policies and, in fact, repeals the Concession Policy Act of 1965. These changes, for example, would direct the Secretary to award concession contracts through a competitive selection process.

Furthermore, most incumbent concessioners would no longer be granted a preferential right to renew their contract, and no concessioner would be granted a preferential right to provide new or additional services. However, concessioners with contracts authorizing outfitter and guide services and those with contracts with gross annual revenues of less than \$500,000 would be entitled to retain a preferential right of renewal, as long as the concessioner operated satisfactorily during the previous contract term and had submitted a responsive proposal. However, the contract renewal provision for outfitters and guides is meant only for those contracts which solely authorize these provided services.

Title IV also provides that a concessioner would be entitled to an interest in newly-built facilities equal to the concessioner's construction cost, with annual adjustments for inflation based on the Consumer Price Index. This interest, termed as a "leasehold surrender interest," will not be depreciated over time, other than adjustments for wear and tear. Title to all structures will remain in the United States. A concessioner would be entitled to receive payment for the leasehold surrender value from the United States or a successor concessioner, in cases where the incumbent is not awarded a subsequent contract. A concessioner with an existing possessory interest will be entitled to compensation for that interest upon contract expiration or termination in an amount described in such contract or otherwise provided by law. In cases where the prior concessioner is awarded the new concessions contract, the concessioner will now have a leasehold surrender interest in lieu of a possessory interest. This leasehold surrender interest will be an amount equal to the value of the existing possessory interest as of the termination date of the existing contract.

This title additionally allows the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services to the public. These rates and charges, however, are subject to the approval of the Secretary. Concessioner rates and charges may not exceed market rates and charges for comparable facilities, goods,

and services after taking into account factors such as length of season, peakloads, and accessibility.

This title also directs that 80 percent of the franchise fees are to be retained in special accounts and expended by the Secretary for park purposes, without further appropriation, in each unit where the fee was collected, and that 20 percent will be deposited in another special account for expenditure throughout the National Park System at the discretion of the Secretary, also without further appropriation.

Title IV of S. 1693 provides for the establishment of a broad-based concessions advisory board to advise the Secretary on concession management activities. Among other things, the advisory board will advise and make recommendations to the Secretary regarding policies, programs, and how concession fees will be allocated within park units.

In addition, this title directs the Secretary, to the maximum extent practicable, to contract with private entities to conduct health and safety inspections, quality control of concession operations, and analysis of appropriate prices set by a concessioner. Provisions also allow the Secretary to contract with private entities to assist the Secretary in financial aspects of contract prospectuses, guidelines for capital improvement program, and the conduct of annual audits of concession fee expenditures.

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

Title V extends the authority of the 1996 Recreational Fee Demonstration Program, which is scheduled to expire at the end of fiscal year (FY) 1999. Under this title, the program will be extended through FY 2005. This extension is granted solely to the NPS and also broadens the scope of the program to include all park units. Under the 1996 fee demonstration program, each agency could designate up to 100 demonstration sites. The FY 1998 Department of the Interior appropriations law authorized the federal land management agencies to retain and expend all fee revenues without further appropriation, with 80 percent retained at the collecting site and 20 percent to be spent by the agency at other sites. The NPS has by far the largest fee collection program among the federal land management agencies. For FY 1999, the NPS estimates that it will collect approximately \$132 million under the fee demonstration program.

Under the demonstration program, the agencies are required to dedicate the majority of new recreation fee revenues to reducing identified backlogged maintenance, infrastructure, and resource management needs. It is the intent of the Committee that fees collected under this program will be expended primarily on the backlogged maintenance and infrastructure identified by the NPS and not be expended on peripheral expenditures such as employee salaries. In addition, some of the demonstration fee revenue will be re-invested in new collection methodologies and associated infrastructure to expand the fee collection capabilities to other areas. This title also broadens the scope of the program to include all park units, as well as system-wide fee projects.

Title V of S. 1693 also directs the Secretary of the Interior and the Secretary of Agriculture to apportion the revenues from the

sale of Golden Eagle Passports by private vendors. The revenues are to be apportioned among the agencies in the same ratio as admission fees collected by the participating agencies.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

Title VI authorizes the Secretary of the Interior to issue a new “National Park Passport” which will authorize the holder unlimited access to every unit of the National Park System for a specified period of time. National Park Passports, which would cost \$50, would be valid for one year from the date of purchase. The NPS has indicated a desire to try and market these type of “collectible” passports by issuing a stamp, which will be selected by a competitive process, along with the passport. The passport will also bring a greater awareness to the public about the benefits of purchasing an annual pass. All revenues collected from the sale of these passports would remain available for expenditure within the National Park System. The existing Golden Eagle Passport program, which also allows for unlimited annual access to park and other federal recreation fee areas, would not be affected by this program. However, this title does extend the authority to sell the Golden Eagle Passport outside of the United States through commercial tourism channels and consulates.

TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

The National Park Foundation is the official non-profit partner of the NPS. Created by Congress in 1967, the Foundation raises support from corporations, foundations, and individuals to preserve and enhance America’s National Parks. The National Park Foundation has raised \$53 million in the past 30 years for the National Park System with donations from both concerned individuals and special partnerships that the Foundation has developed with corporations and private foundations. In the past fiscal year the National Park Foundation distributed a total of \$9.3 million to National Park units, including over \$320,000 to Yellowstone National Park. Through the first nine months of this fiscal year, the Foundation has directed over \$10 million to benefit National Park System.

The Foundation has found that while a few corporate entities and private foundations tend to support NPS programs on a national scale, the majority of corporate sponsors, private foundations and concerned individuals tend to direct their philanthropic support to local site-specific parks. While there are parks with very active park “friends” groups that are adept in raising funds from the private sector to support and augment individual park programs, there are many park support groups who lack expertise to initiate a program to encourage philanthropic support. This title would amend the National Park Foundation’s enabling legislation to authorize the Foundation to develop a program to encourage and assist local non-profit organizations in increasing fundraising for individual park areas.

TITLE VIII—MISCELLANEOUS PROVISIONS

United States Park Police

The United States Park Police (USPP) has responsibilities for providing law enforcement services within the District of Columbia, as well as on other federal reservations in the Washington metropolitan area, New York, and San Francisco. The USPP Aviation Program provides law enforcement, medical evacuation, rescue, and other emergency services 24 hours a day, seven days a week. In 1997, the District of Columbia metropolitan police eliminated its aviation program leaving the USPP with the only aviation program within the Nation's capital. However, one of the USPP's helicopters has more than 3,200 flight hours, while another has more than 7,600 flight hours. The Department of the Interior's Office of Aircraft Services recommends replacement of helicopters at 5,000 flight hours.

The USPP program base funds are used to fund a separate equipment replacement program. Years of budget reductions and program deferrals within their base funds have, for the most part, depleted the USPP's equipment replacement program. The USPP is also facing other significant funding needs. For example, the National Telecommunications and Information Administration has mandated that all federal agencies must switch to digital narrowband radio frequencies by 2004. The Department of the Interior has ordered all of its bureaus to convert east coast operations to the narrowband frequencies by 1999. To meet this requirement, the USPP needs to replace its entire radio system, including two transmitter sites, 14 satellite receiver sites, four consoles, and 250 mobile radio units. Because of the problems faced by the USPP, this title directs the Secretary of the Interior to conduct a study of law enforcement needs in the NPS, including a separate report of the USPP needs.

Leases and cooperative management agreements

With the exception of Redwood National Park, the NPS is not authorized to enter into cooperative agreements with state, local, or other public entities to acquire from or provide to goods and services for the cooperative management of lands that are contiguous to federal properties. This title provides the NPS with generic authority to enter into cooperative management agreements with state or local park agencies.

The NPS began leasing historic properties in 1982, in accordance with the 1980 amendments to the National Historic Preservation Act. By law, the NPS is limited to leasing historic buildings, structures, and lands designated as historic. This title would broaden the leasing authority to enable the NPS to lease any structure located on park land, so long as the lease is for an activity which is consistent with park purposes and programs, and will not result in any degradation in park values.

COMMITTEE ACTION

S. 1693 was introduced on March 27, 1998, by Senator Craig Thomas (R-WY). Senate hearings were held on S. 1693 on April 1, 1998, May 7, 1998, and May 14, 1998. On May 20, 1998, the Sen-

ate Committee on Energy and Natural Resources ordered S. 1693 favorably reported with an amendment in the nature of a substitute (see Senate Report 105-202). On June 11, 1998, S. 1693, as amended, was passed by the Senate by unanimous consent with an amendment to the title.

In the House of Representatives, S. 1693 was referred to the Committee on Resources, and within the Committee, to the Subcommittee on National Parks and Public Lands. On June 23, 1998, the Subcommittee met to consider S. 1693 which was reported without recommendation to the Full Committee by voice vote. The Full Resources Committee met on August 5, 1998, to consider S. 1693. Congressman James V. Hansen (R-UT) offered an amendment in the nature of a substitute. Ten amendments to the substitute were offered. Congressman George Miller (D-CA) offered an amendment to strike section 405 of the amendment in the nature of a substitute, which dealt with protection of concessioner investment. The amendment failed in a rollcall vote of 21 to 22, as follows:

**Committee on Resources
U.S. House of Representatives
105th Congress**

Full Committee

Date 8-5-98

Roll No. 1

Bill No. S. 1693 Short Title "Vision 2020 National Parks Restoration Act."

Amendment (or matter) voted on: Miller Amendment #1

Member	Yea	Nay	Pres.	Member	Yea	Nay	Pres.
Mr. Young (Chairman)		X		Mr. Miller	X		
Mr. Tauzin				Mr. Markey			
Mr. Hansen		X		Mr. Rahall			
Mr. Saxton				Mr. Vento	X		
Mr. Gallegly		X		Mr. Kildee	X		
Mr. Duncan		X		Mr. DeFazio	X		
Mr. Hefley		X		Mr. Faleomavaega	X		
Mr. Doolittle		X		Mr. Abercrombie	X		
Mr. Gilchrest		X		Mr. Ortiz	X		
Mr. Calvert		X		Mr. Pickett	X		
Mr. Pombo		X		Mr. Pallone	X		
Mrs. Cubin		X		Mr. Dooley	X		
Mrs. Chenoweth		X		Mr. Romero-Barcelo	X		
Mrs. Linda Smith		X		Mr. Hinchey	X		
Mr. Radanovich		X		Mr. Underwood	X		
Mr. Jones	X			Mr. Farr	X		
Mr. Thornberry		X		Mr. Kennedy			
Mr. Shadegg		X		Mr. Adam Smith	X		
Mr. Ensign		X		Mr. Delahunt	X		
Mr. Bob Smith				Mr. John	X		
Mr. Cannon		X		Ms. Green	X		
Mr. Brady	X			Mr. Kind			
Mr. Peterson		X		Mr. Doggett	X		
Mr. Hill		X					
Mr. Schaffer		X					
Mr. Gibbons		X					
Mr. Crapo		X		TOTAL	21	22	

Congressman Peter DeFazio (D-OR) offered an amendment to strike the National Park Passport Program. The amendment failed by voice vote. Congressman Sam Farr (D-CA) offered an amendment regarding the availability of National Park units for scientific study and benefit-sharing arrangements. The amendment was ruled non-germane.

The seven amendments which were adopted by voice vote were: (1) offered by Congressman George Miller which struck the exception for pending contract solicitations; (2) offered by Congressman Joel Hefley (R-CO) which included Congressional resolutions and public petitions as part of new area study considerations; (3) offered by Congressman Hefley which struck the section authorizing commercial filming fees in national parks; (4) offered by Congressman Sam Farr which authorized the Secretary to enter into benefits-sharing agreements; (5) offered by Congressman Bruce Vento (D-MN) which authorized the Secretary to expend franchise fees without further appropriation; (6) offered by Congressman George Miller which included nonprofit institutions as part of the commercial use authorization limitations; and (7) offered by Delegate Eni Faleomavaega (D-AS) which included Native Samoans as part of the promotion of the sale of native peoples handicrafts. The amendment in the nature of a substitute offered by Congressman Hansen, as amended, was adopted by voice vote. S. 1693, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

Section 1 (a) contains the bill's short title, the National Parks Omnibus Management Act of 1998.

Subsection (b) displays the table of contents.

Section 2. Definition

Section 2 defines the term "Secretary of the Interior".

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

Section 101. Protection, interpretation, and research in the National Park System

Section 101 directs the Secretary of the Interior to continually improve the ability of the NPS to provide state-of-the-art management, protection, interpretation, and research on National Park System resources.

Section 102. National Park Service employee training

Section 102 requires the Secretary to develop a NPS-wide comprehensive training program for all professional areas of employment in the National Park Service.

Section 103. Management development and training

Section 103 directs the Secretary to develop a clear plan for management training and development plan, where career professional

employees from all fields can qualify for management positions, including superintendent of a unit of the National Park System.

Section 104. Park budgets and accountability

Section 104(a) directs each park unit to prepare and make available to the public an annual performance plan and 5-year strategic plan developed under the Government Performance and Results Act. It is the Committee's intent that the performance plan be linked with the park operating budget.

Subsection (b) describes the specific components that are to be included in the annual park budget.

TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND
MANAGEMENT

Section 201. Purposes

Section 201 sets forth the purposes of the title, which are to enable the NPS to more effectively achieve its mission, to enhance management and protection of park resources, and to use the scientific information gathered for management purposes.

Section 202. Research mandate

Section 202 directs the Secretary to assure that there is a broad program for scientific research and data collection available for use in managing the units of the National Park System.

Section 203. Cooperative agreements

Section 203(a) directs the Secretary to utilize cooperative agreements with colleges and universities, including land grant schools, order to establish university-based cooperative study units for multi-disciplinary research on both the parks and the larger regions of which they are a part.

Subsection (b) requires a report to the appropriate Committees of Congress within one year on the progress in establishing these cooperative study units.

Section 204. Inventory and monitoring program

Section 204 directs the Secretary to undertake a program, coordinated with other such efforts, of inventorying and monitoring park resources to develop baseline information on the trends and conditions of the resources.

Section 205. Availability of scientific study

Section 205(a) authorizes the Secretary to solicit and consider requests from other public or private entities or individuals to conduct scientific study activities in park units.

Subsection (b) describes the criteria that the Secretary is to apply in considering whether to approve requests for scientific study. Specifically, the proposed study activity must be consistent with applicable NPS laws and management policies and must not pose a significant threat to park resources or public enjoyment of the park.

Subsection (c) authorizes the Secretary to waive park entrance fees for study activities.

Subsection (d) authorizes the Secretary to enter into negotiations with the research community and private industry in regard to benefits-sharing arrangements.

Section 206. Integration of study results into management decisions

Section 206 requires the Secretary to incorporate the results of scientific research into park management decisions, and requires the NPS to document when resource impairment may occur because of NPS actions, and whether the results of research were taken into account in proposing the action. For example, the administrative record for those actions taken by the NPS which are causing significant adverse effects must reflect how resource studies have been taken into account. However, it is the intent of the Committee that this section is not to be construed as an additional administrative requirement to produce an environmental assessment, environmental impact statement, or any other additional documentation like that required for the National Environmental Policy Act (NEPA) or other authorities akin to NEPA. Further, this section does not create any other environmental standard that is to be met by the NPS.

Section 207. Confidentiality of information

Section 207 gives the Secretary the discretion to withhold information on the location of park natural and cultural resources from the public whenever the Secretary determines that disclosing the information would jeopardize the integrity of the resources.

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

Section 301. Short title

Section 301 contains the short title, the National Park System New Areas Studies Act.

Section 302. Purpose

Section 302 defines the purpose to reform the process by which areas are considered for addition to the National Park System.

Section 303. Study of additional new National Park System areas

Section 303 amends the National Park Service General Authorities Act (16 U.S.C. 1a–5) by requiring the Secretary to submit an annual list of areas for potential inclusion into the National Park System and also identifying criteria to be considered by the NPS in compiling the annual list, including areas of national significance, themes and sites not adequately represented, and resolutions from Congress and public petitions. This subsection further places no limit on the authority of the NPS to conduct preliminary studies if they require an expenditure of less than \$25,000.

The section further requires the Secretary to complete studies for additional area inclusions within three fiscal years following the date that funds are first made available to conduct the study and establishes the factors to be used by the NPS in conducting the study.

The section also authorizes the Secretary to designate a new area study office. Finally, the section requires the Secretary to submit to the appropriate Congressional Committees an annual list of areas which have been previously studied in order of priority for addition into the National Park System. This priority means that the potential areas for inclusion will be compared and then tabulated in terms the natural or cultural significance, rarity, integrity, threats, and other such factors. This comparison and priority will assist the Congressional Committees in reviewing those areas which are truly appropriate and suitable for inclusion. For carrying out this title, \$2 million is authorized to be appropriated for each fiscal year.

TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT

Section 401. Short title

Section 401 contains the short title, the National Park Service Concessions Management Improvement Act of 1998.

Section 402. Congressional finding and statement of policy

Section 402 sets out Congressional findings and statements of purposes. This section basically remains unchanged from the 1965 Concessions Policy Act. The Committee considers that fundamental policies regarding concession activities in units of the National Park System as expressed in the 1965 Act are still valid, and are as follows: (1) visitor accommodations, facilities and services should be provided only under carefully controlled safeguards so that visitation will not unduly impair park resources and values; (2) development of such facilities is best limited to locations where the least damage to park values will occur; and (3) such development shall be limited to that which is consistent to the highest degree practicable with the conservation of the resources and values of the park units.

Section 403. Award of concession contracts

Section 403 sets out new policies and procedures requiring, in most circumstances, the competitive award of NPS concession contracts. This is a change from the 1965 Act and previous law which does not require a fully competitive process in the award of concession contracts.

Paragraph (1) requires that concession contracts be awarded on a competitive basis, except as provided by this title or otherwise authorized by law, to the bidder submitting the best proposal, as determined by the Secretary. In developing procedures for the competitive selection process the Secretary is directed to develop simplified procedures for small, individually-owned concessions.

Paragraph (2) establishes public notice requirements for the solicitation of concession proposals, including, but not limited to, publication in local or national newspapers and/or the Commerce Business Daily, as appropriate.

Paragraph (3) states the kinds of information to be included in prospectuses for concession contract opportunities, including the terms and conditions of the new contract; an estimate of the amount of compensation, if any, due to be paid to a prior conces-

sioner by a new concessioner; and, where applicable, a description of the preferential right to award of the contract held by a prior concessioner.

Paragraph (4) describes the minimum concession contract proposal requirements, including franchise fees or other forms of monetary consideration due the government under the contract, the capital investment required of the concessioner, and measures necessary to ensure the protection of park resources. It also requires the Secretary to reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the submitter is not qualified to properly operate the facilities, is not likely to provide satisfactory service, or if the proposal is not responsive to the objectives of protecting park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates. The paragraph further provides that if all proposals submitted are rejected by the Secretary or do not meet the minimum requirements of the prospectus, the Secretary must reinitiate the competitive selection process. Finally, the paragraph prohibits the Secretary from executing a concession contract which materially amends or does not incorporate the terms and conditions contained in the prospectus. If material changes to those terms and conditions are proposed after selection of a proposal, the Secretary is required to resolicit offers for the concession contract incorporating the changed terms and conditions.

Paragraph (5) sets forth the principal factors the Secretary is to utilize in selecting the best proposal received in response to a concession contract prospectus, including: (1) the responsiveness of the proposal to the objectives of protecting park resources and values and of providing necessary and appropriate facilities and services to the public at reasonable rates; (2) the experience and related background of the person, corporation, or entity submitting the proposal, including but not limited to, the past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services; (3) the financial capability of the person, corporation or entity submitting the proposal; and (4) the proposed franchise fee, although the consideration of revenue to the United States is to be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities to the public at reasonable rates. Within the competitive selection process, it is the intent of the Committee that the Secretary, when reviewing the principle factors for selecting the best proposal, give substantial consideration and weight to the experience, background, and past performance of those submitting the proposal. The proven and acceptable experience and expertise the prospective concessioner exhibits in providing the goods or services to the public should be regarded as highly important to the selection of the best proposal.

This paragraph also authorizes the Secretary to consider such secondary factors as the Secretary deems appropriate and directs that in developing implementing regulations for this title, the Secretary is to consider the extent to which plans for employment of Indians and Native Alaskans and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of

a concession contracts should be identified as a factor in the selection of a best proposal.

Paragraph (6) requires the Secretary to submit any proposed concession contract with anticipated annual gross receipts in excess of \$5 million or a duration of ten years or more to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives and provides that the Secretary is not to award any contract within this category until at least 60 days subsequent to the notification of both Committees.

Paragraph (7) states that except as provided in paragraph (7)(B) (relating to outfitting and guide contracts and small operations) the Secretary shall not grant a preferential right of renewal, or any other form of preference to a concession contract.

The term "preferential right of renewal" (for contracts specified in paragraph (8)) is defined to mean that the Secretary shall allow a concessioner qualifying for a preferential right of renewal the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal. The right is contingent on a determination by the Secretary that the facilities or services authorized under the prior contract continue to be necessary and appropriate.

Under the 1965 Act, all satisfactory concessioners are entitled to preference in renewal of their concession contracts or permits. However, in light of the current circumstances of the National Park System and in recognition of current business conditions, the Committee considers that generally there is now no need to provide a preferential right of renewal to concessioners to obtain qualified operators. Accordingly, to foster appropriate competition in the award of NPS concession contracts, the preferential right of renewal provided as a statutory right to existing concessioner under the 1965 Act is repealed by S. 1693. However, as discussed with respect to paragraph (8) below, a preferential right of renewal is maintained for two categories of concession contracts.

Paragraph (8) provides a preferential right to renewal to: (1) concession contracts authorizing outfitting and guide services; and (2) concession contracts with anticipated annual gross receipts of less than \$500,000. This provision should not be construed to include concessioners who have outfitting and guiding services as part of a larger contract or who have outfitting and guiding as part of their business function.

Paragraph (8)(B) defines an outfitter and guide concessioner as a concessioner holding a concession contract which solely authorizes the provision of specialized backcountry outdoor recreation guide services which require the employment of specially trained and experienced guides to accompany park visitors in the backcountry so as to provide a safe and enjoyable experience for visitors who otherwise may not have the skills and equipment to engage in such activity. The paragraph also describes the types of operations that qualify as outfitters and guides, including concessioners which provide guided river running, hunting, fishing, horseback, camping, and mountaineering experiences. The fact that a concessioner is entitled to a preferential right of renewal with respect to a contract under this subsection does not qualify the con-

cessioner for such a preferential right of renewal for any other contracts the concessioner may hold which are not for the provision of outfitting and guide services or which exceed \$500,000 in annual gross revenues.

Under paragraph (8), to be entitled to a preferential right of renewal, an otherwise qualified concessioner must also: (1) hold a concession contract which does not grant the concessioner any interest in capital improvements on lands owned by the United States within an area of the National Park System (subject to a grandfather clause with respect to capital improvements constructed by a concessioner pursuant to the terms of a concession contract prior to the effective date of this title); (2) have operated satisfactorily, as determined by the Secretary, during the term of the prior contract; and (3) have submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary. The Committee notes that there may be some instances where a concessioner has an interest in an improvement that was not constructed pursuant to a concession contract, for example, where a structure was built prior to the establishment of the park unit, or for other minor structures. The Committee intends that these structures are not inconsistent with the provisions of this paragraph.

The Committee notes that outfitters and guides often operate within any specific year on lands administered by the NPS, Forest Service, Bureau of Land Management, and a state. This is particularly true in Alaska. Currently the NPS determines the fees for outfitters and guides on a percentage of actual use of lands under its jurisdiction, which results in a burdensome and complex accounting system. The Committee encourages the Secretary to consider utilizing the fee system used by the U.S. Fish and Wildlife Service, which employs a "fixed fee per man-day of use" schedule.

National Park System units in Alaska are governed, in part, by provisions of the Alaska National Interest Lands Conservation Act (ANILCA), in addition to the other laws governing the management and administration of units of the National Park System. The Committee encourages the Secretary to ensure that all park superintendents working in the State of Alaska are well versed in and use the applicable provisions of ANILCA.

Paragraph (8)(C) maintains the preferential right of renewal for concession contracts with anticipated annual gross revenues of less than \$500,000 where: (1) the Secretary has determined that the concessioner operated satisfactorily during the term of the prior contract; and (2) the concessioner submitted a responsive proposal for a proposed new concession contract which satisfies the minimum requirements established by the Secretary.

The Committee considers it appropriate to extend a statutory preference in renewal to these two categories of concessioners. With respect to outfitter and guide concessioners, it is important to encourage the continuity of concessioner operations because of the need to encourage the retention of the highly-skilled guides necessary to provide a safe and enjoyable experience to backcountry visitors who desire expert assistance. With respect to concessioners where the concession contract is expected to gross less than \$500,000, the Committee considers that encouragement of oper-

ations of concessioners with this modest level of revenue is appropriate and that, in light of the small investment generally necessary to make a proposal for such a business, there will be an adequate level of competition for such a concession contract even under the preference to renewal.

Paragraph (9) provides that the Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a park area. This is a change to the 1965 Act, in the interest of enhanced competition. The 1965 Act authorizes the Secretary, under the terms of a contract, to grant such preferential right of first refusal to an existing concessioner to new or additional services during the term of its contract. Although preferential right of contract renewal shall not be granted to a concessioner providing new or additional services, this should not be construed to prohibit the Secretary from making minor modifications to a contract which are reasonable extensions of that existing contract. It is noted by the Committee that the NPS is to retain sufficient authority to modify contracts, either existing or new, to authorize concession contract holders to provide additional or expanded services that are reasonable extensions of services the holder already provides. As an example, the Secretary should not be prohibited from granting a contract modification to a concessioner who is providing recreational boats to the public because of adding more boats or jet skis at that same facility.

Paragraph (10) makes clear that nothing in this title, including the granting of a preferential right of renewal in certain instances, limits the authority of the Secretary to determine whether to issue a concession contract or to establish its terms and conditions in furtherance of the policies expressed in this title.

Paragraph (11) authorizes the non-competitive award of concession contracts without public solicitation in two very limited circumstances. First, the Secretary may award, without public solicitation, a temporary concession contract or extend an existing concession contract for a term not to exceed three years to avoid interruption of services to the public at a park. However, prior to making such an award, the Secretary must take all reasonable and appropriate steps to consider alternatives to avoid the interruption. Second, the Secretary may award, without public solicitation, a concession contract in compelling equitable circumstances which require the award of a concession contract to a particular party in the public interest. Both types of non-competitive awards require 30 days advance notice in the Federal Register, including an explanation of the reasons for such an award.

The Committee emphasizes that this authority for the non-competitive award of a concession contract without public solicitation is to be very narrowly exercised by the Secretary. All feasible and prudent measures should be taken by the Secretary to avoid having to award temporary concession contracts to avoid interruption of services of visitors. In addition, occasions where the Secretary determines that compelling equitable circumstances warrant award of a concession contract to a particular party in the public interest should be extremely rare. Undisputable equitable concerns are to be the determinant of such circumstances. For example, the Committee considers that use of this authority for one contract term

would be appropriate where a new park unit or land is added to the National Park System and an existing business is providing visitor services that the Secretary wishes to continue. Another example where the use of such authority would be appropriate is where a concession contract is held by a sole proprietor, and upon, the proprietor's death, the surviving spouse wishes, and is qualified, to continue the business.

Section 404. Term of concession contracts

Section 404 establishes concession contracts for a term of ten years or less, although the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term. It is the Committee's intent that the term of a concession contract should be consistent with providing the concessioner a reasonable business opportunity.

Section 405. Protection of concessioner investment

Section 405 provides for the protection of concessioner investments and that a concessioner shall have a leasehold surrender interest in capital improvements it makes under the terms of a concession contract.

Subsection (a) states that a concessioner which, after the effective date of this title, constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concession contract shall have a leasehold surrender interest in the capital improvement, subject to certain terms and conditions. The leasehold surrender interest is to constitute a right, consisting solely of a right to compensation for the capital improvement, to the extent of the value of the concessioner's leasehold surrender interest.

A leasehold surrender interest: (1) may be pledged as security for financing of a capital improvement or the acquisition of a concession contract when approved by the Secretary; (2) shall be transferred by the concessioner in connection with any transfer of the concession contract and may be relinquished or waived by the concessioner; (3) shall not be extinguished by the expiration or other termination of a concession contract and may not be taken for public use except on payment of just compensation.

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

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

The Committee notes that certain concession contracts awarded under the 1965 Concessions Policy Act (Public Law 89-249) provide the concessioner with a "possessory interest" in capital improvements made by the concessioner on park lands within the boundaries of a unit of the National Park System. Such possessory interest is, in several ways, similar to the surrender leasehold interest established in section 405. However, there are significant differences, and, accordingly, subsection (b) provides a special rule for converting possessory interest under prior concession contracts to a leasehold surrender interest under this title.

Specifically, subsection (b) provides that a concessioner which has obtained a possessory interest as defined by the 1965 Act under the terms of a concession contract entered into prior to the date of enactment of this title, shall, upon the expiration or termination of the contract: (1) be entitled to receive compensation for such possessory interest improvements in the amount and manner as described by the prior concession contract or otherwise provided by law; and (2) in the event such prior concessioner is awarded a new concession contract concerning the same facilities and services after the effective date of this title, the existing concessioner, instead of directly receiving possessory interest compensation, is to have a leasehold surrender interest in its existing possessory interest improvements under the terms of the new contract. The leasehold surrender interest is to be an amount equal to the value of the existing possessory interest as of the termination date of the prior contract and shall carry over as the initial value of the leasehold surrender interest (instead of construction cost). In the event of a dispute between the concessioner and the Secretary as to the value of such possessory interest, the matter is to be resolved through binding arbitration. In regard to the use of binding arbitration, the Committee notes that binding arbitration is a legitimate and legal avenue to settle or resolve disputes between the Secretary or NPS and a concession contract holder. Within the arbitration, the concession contract holder may seek equitable and legal remedies pursuant to its contract and existing law before a United States District Court.

The subsection also provides that, in circumstances where a new concessioner is awarded a concession contract and is required to pay a prior concessioner for possessory interest in prior improvements, the new concessioner shall have a leasehold surrender interest in such improvements and the initial value in such leasehold surrender interest (instead of construction cost) is to be the value of the possessory interest as of the termination date of the prior contract (the amount of money the new concessioner was required to pay the prior concessioner for its possessory interest under the terms of the prior contract).

Subsection (c) states that, upon expiration or termination of a concession contract entered into after the effective date of this title, a concessioner is entitled under the terms of the concession contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of such expiration or termination. The next concessioner, if any, shall have a leasehold surrender interest in such capital improvement under the terms of a new contract and

the initial value of the leasehold surrender interest in such capital improvement (instead of construction cost) is to be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concession contract.

Subsection (d) provides that title to any capital improvement constructed by a concessioner on lands owned by the United States in a unit of the National Park System is to be vested in the United States.

The Committee considers that the leasehold surrender interest described by this section will provide concessioners with adequate security for investments in capital improvements they make. This will assist in encouraging such investment in visitor facilities in the National Park System. However, the value of a leasehold surrender interest, i.e., the original construction cost, less depreciation as evidenced by physical condition and prospective serviceability, plus what amounts to interest on the investment based on the Consumer Price Index, should accurately reflect the real value of the improvements and should not result in any undue compensation to a concessioner upon expiration of a concession contract. Additionally, the value of the leasehold surrender interest will be relatively easy to estimate so that a prospective new concessioner and the Secretary can accurately calculate the amount for purposes of competitive solicitation of concession contracts.

In this regard, possessory interest as authorized by 1965 Act has frequently been criticized as anti-competitive, because, in many older concession contracts, the value of an existing concessioner's possessory interest was difficult to estimate, thereby discouraging submittal of competitive offers for renewal of concession contracts. It is the Committee's opinion that the leasehold surrender interest approach addresses this concern.

Subsection (e) defines "Consumer Price Index" and "capital improvement" as used in this section.

Section 406. Reasonableness of rates

Section 406 addresses the rates and charges concessioners require in providing facilities, goods, and services to the public.

Subsection (a) allows the concessioner to set reasonable and appropriate rates and charges to the public, subject to the provisions of subsection (b).

Subsection (b) requires that the rates and charges set by the concessioner be approved by the Secretary. The approval process must be prompt and not burdensome to the concessioner. Unless otherwise provided in the contract, the determination by the Secretary of rates and charges is to be judged primarily by a comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed relevant by the Secretary. These rates and charges may not exceed market rates for comparable facilities, goods, or services after taking into account the factors listed above.

Past problems have been identified in the timeliness of the NPS in approving changes in the rates and charges recommended to them by concessioners. Inaction by the NPS has been especially burdensome to seasonal concessioners where rates and charges are frequently approved after the visitor season has ended. Thus, an expedited process is necessary and it is the Committee's full expectation that the NPS will be able to review and approve concessioner's rates and charges within 15 days of receiving notice of such rates or charges.

Subsection (c) authorizes that the rates and charges recommendations developed by the Advisory Board under section 409(a) will be implemented by the Secretary no later than 6 months after receiving these recommendations.

Section 407. Franchise fees

Section 407(a) states that a concession contract shall provide for payment to the government of a franchise fee and/or other monetary consideration based on the probable value to the concessioner of the privileges granted by the particular contract involved. "Probable value" is defined as a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. However, consideration of revenue to the United States is to be subordinate to the objectives of protecting park areas and of providing adequate and appropriate services for visitors at reasonable rates.

Subsection (b) provides that the amount of the franchise fee or other monetary consideration is to be specified in the concession contract and may only be modified to reflect extraordinary, unanticipated changes from the conditions anticipated as of the effective date of the contract. It also provides that the Secretary is to include in concession contracts with a term of more than five years a provision which allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of substantial, unanticipated changes. The provision is to provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances. The Committee again recognizes the utility and legitimacy of binding arbitration as referenced in section 405(b) above.

Subsection (c) states that all franchise fees (and other forms of monetary consideration paid to the government by concessioners) are to be deposited into a special account established in the Treasury. Twenty percent of the funds contained in the special account are to be available for expenditure by the Secretary, without further appropriation, to support activities throughout the National Park System, until expended.

Subsection (d) provides that 80 percent of the funds are to be credited to a subaccount and shall be available for expenditure by the Secretary, also without further appropriation, for use at the National Park System unit for visitor services and to fund high-priority resource management programs and operations. These funds shall remain available until expended. The Committee considers that making such revenues available for expenditure will provide an incentive for the Secretary to obtain appropriate franchise fees

and other forms of monetary consideration from concessioners and that these will, in effect, return to applicable park areas for the benefit of visitors.

Section 408. Transfer of concessions contracts

Section 408 states that no concession contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and with the approval of, the Secretary.

Subsection (b) requires the Secretary to approve the transfer or pledge unless the Secretary determines that: (1) the individual, corporation or entity seeking to acquire the concession contract is not qualified or not able to satisfy the terms and conditions of the concession contract; (2) the conveyance or pledge will have an adverse impact on the protection and conservation of park resources or the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and (3) the terms of the conveyance or pledge are likely, directly or indirectly, to reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract, adversely affect the quality of facilities and services provided by the concessioner, or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

Subsection (c) states that the terms and conditions of any contract under this section will not be subject to modification or open to renegotiation if such contract is transferred or conveyed unless this transfer would have an adverse impact as described in paragraph (2) of subsection (b).

The Committee considers it essential as a matter of good business practice that a concessioner be able to sell its concession contract or pledge its assets for appropriate purposes but that the public interest must also be considered in such transactions. The Committee believes that section 408 provides an appropriate balancing of these considerations.

Section 409. National Park Service Concessions Management Advisory Board

Section 409(a) establishes the National Park Service Concessions Management Advisory Board to advise the Secretary and NPS on matters relating to management of concessions.

Subsection (b) spells out the duties of the Advisory Board and, among other matters, the Board is to advise on policies and procedures intended to assure that services and facilities provided by concessioners meet acceptable standards at reasonable rates with a minimum of impact on park resources and values, and provide the concessioners with a reasonable opportunity to make a profit. The Board is also to advise on ways to make NPS concession programs and procedures more cost effective, efficient, and less burdensome, including recommendations regarding NPS contracting with the private sector to conduct appropriate elements of concessions management, along with the allocation of concession fees, especially in terms of how these fees will be used in park units where facilities and infrastructure have fallen into disrepair. This subsection also requires that the Advisory Board submit to the Sec-

retary its recommendations on rates and charges within one year of its first meeting and requires it to provide an annual report to the appropriate Congressional Committees.

Subsection (c) states that the Advisory Board members shall be appointed by the Secretary on a staggered basis for a term not to exceed four years and is to be comprised of not more than seven individuals chosen from among citizens of the United States not in the employment of the federal government and not in the employment of or having an interest in a NPS concession. Of the seven members of the Board, one is to be privately employed in the hospitality industry with broad knowledge of hotel or food service management and experience in the parks or recreation business, one is to be privately employed in the tourism industry, one is to be privately employed in the accounting industry, one is to be privately employed in the outfitting and guide industry, one is to be a state government employee expert in park concession management, one is to be active in promotion of traditional arts and crafts, and one is to be active in a non-profit conservation organization involved in parks or recreation programs.

Subsection (d) provides that the Advisory Board will terminate on December 31, 2008.

Subsection (e) states that service on the Advisory Board is not to be considered as service or employment bringing such individual within the provisions of any federal law relating to federal employment.

The Committee is concerned that the policies and practices of the NPS in managing concessions have become unduly bureaucratic in certain respects and do not reflect as well as they should contemporary business practices otherwise consistent with the conduct of a concession in an area of the National Park System. The Committee expects that the Advisory Board will provide the Secretary with appropriate advice in these areas so as to assist in improving the quality of NPS concessions management for the benefit of both concessioners and park visitors. The Committee encourages the Secretary to include a request in the Administration's annual budget to fund the operation of the Advisory Board and contractual services authorized by this title. In the interim, the Secretary is encouraged to fund the Advisory Board within existing funds.

Section 410. Contracting for services

Section 410 directs the Secretary, to the maximum extent practicable, to contract with private entities to conduct the following elements of the management of the NPS concessions program suitable for non-federal fulfillment: (1) health and safety inspections; (2) quality control of concession operations and facilities; (3) strategic capital planning for concessions facilities; and (4) analysis of rates and charges to the public. Further, the Secretary may contract with private entities to assist in: (1) preparation of the financial aspects of concessions prospectuses; (2) development of guidelines for a park system capital improvement and maintenance program; and (3) recommendations regarding annual audits of concession fee expenditures. The Secretary is also to consider, taking into account the recommendations of the National Park Service Concessions Management Advisory Board, contracting out other elements

of the concessions management program, as appropriate. However, the section also makes clear that it is not intended to diminish the governmental responsibilities and authority of the Secretary to administer concession contracts and activities pursuant to this title and the National Park Service Organic Act.

Section 411. Multiple contracts within a park

Section 411 addresses multiple contracts within a park and states that the Secretary shall establish a comparable franchise fee structure for same of similar services at the same or similar location and also that existing contracts will not be open for modification or renegotiation because of a contract award at the same location or resource.

Section 412. Special rule for transportation contracting services

Section 412 establishes a special rule for transportation contracting services which provides that a service contract entered into solely for providing transportation shall be no more than ten years in length with allowable five year extensions, notwithstanding any other provision of law. This provision is not to be construed to affect concession contracts in which transportation is an element or component part of the authorized service.

Section 413. Use of nonmonetary consideration in concessions contracts

Section 413 states that section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this title.

Section 414. Recordkeeping requirements

Section 414 establishes a recordkeeping requirement applicable to the concessioner and that the Secretary shall have access to such records. It also allows the Comptroller General access to all such records and contracts.

Section 415. Repeal of National Park Service Concessions Policy Act

Section 415(a) repeals the Concessions Policy Act of 1965, Public Law 89-249, but provides that such repeal is not to affect the validity of any concession contract or permit entered into under Public Law 89-249 and that the provisions of this title are to apply to any such contract or permit except to the extent that such provisions are inconsistent with the terms and conditions of any Public Law 89-249 contract or permit.

It is noted by the Committee that S. 1693 does not repeal the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and nothing in this Act should be interpreted to eliminate, prohibit, or diminish provisions found in the Randolph-Sheppard Act.

Subsection (b) makes certain conforming amendments to the 1916 Park Service Organic Act (16 U.S.C. 3) necessary to reflect the provisions of this title.

Subsection (c) makes clear that nothing in this title is intended to amend, supersede, or otherwise affect any provision of the Alas-

ka National Interest Lands Conservation Act relating to revenue-producing visitor services.

Section 416. Promotion of the sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts

Section 416 provides for promoting the sale by concessioners of authentic Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System. In addition, the Secretary is to ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade where it currently does not exist. To further these purposes, the revenue derived from the sale of United States Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts is to be exempt from any franchise fee payments under this title.

Section 417. Regulations

Section 417 directs the Secretary to adopt regulations as soon as practicable after the effective date of this title. Among other matters, the regulations are to include appropriate provisions to ensure that concession services and facilities to be provided in a unit of the National Park System are not segmented or otherwise split into separate concession contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concession contract below \$500,000. The Secretary is also to further define the term "United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts" for the purposes of this title, taking into account the recommendations in this regard of the National Park Service Concessions Management Advisory Board. The Committee considers that the policies and procedures of this title as implemented by the Secretary's regulations are the governing requirements for concession contracts and that such contracts do not constitute contracts for the procurement of goods and services for the benefit of the government or otherwise.

Section 418. Commercial use authorizations

Section 418(a) provides that certain types of visitor facilities and services in park units may be authorized by the Secretary under commercial use authorizations rather than concession contracts. In general, the Secretary, when requested, may authorize a private party to provide services to visitors to park areas through a commercial use authorization if the Secretary determines that the use will have minimal impact on park resources and values and is consistent with the purposes for which the unit was established and with all applicable management plans, park policies and regulations.

Subsection (b) provides that in issuing such commercial use authorizations, the Secretary is to: (1) require payment of a reasonable fee, the fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs; (2) require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the conservation of park resources and values; (3) take appropriate steps to limit the liabil-

ity of the United States arising from the provision of services under such an authorization; and (4) not issue more authorizations than are consistent with the conservation and proper management of park resources and values. In addition, the Secretary is to establish other conditions as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the National Park unit.

Subsection (c) states that commercial use authorizations are to be limited to: (1) commercial operations with annual gross receipts of not more than \$25,000 resulting from services originating and provided solely within a park; (2) the incidental use of park resources by commercial operations which provide services originating and terminating outside of the park's boundaries, provided that, such an authorization shall not provide for the construction of any structure, fixture, or improvement on federally-owned lands within the boundaries of the park; or (3) such uses by organized children's camps, outdoor clubs, nonprofit institutions, and other such uses the Secretary may deem appropriate. Nonprofit institutions are not required to obtain a commercial use authorization unless taxable income is derived by the institution from the authorized use.

Subsection (d) states that any authorization issued under this section shall not provide for the construction of structures, fixtures, or improvements on federal land within the boundaries of the park unit.

Subsection (e) provides that the term of any commercial use authorization shall not exceed two years and that no preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

Subsection (f) allows private entities to submit proposals for concessions contracts if they are seeking or have a commercial use authorization.

The Committee considers that commercial operations that meet the criteria of this section may appropriately be authorized under the less restrictive controls and conditions applicable to concession contracts because of their limited scope and impacts. However, the Committee also expects that the Secretary, in administering commercial use authorizations, will exercise due caution to assure that the statutory criteria set forth above are adhered to and that operations that properly should be treated as concession operations are not permitted under the terms of a commercial use authorization.

TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

Section 501. Extension of the Recreational Fee Demonstration Program

Section 501(a) extends the duration of the Recreational Fee Demonstration Program for the NPS for six additional years, until September 30, 2005. It also broadens the scope of the program to include all units of the National Park System, and for system-wide fee programs. Currently, the fee demonstration fee program is limited to 100 sites.

Subsection (b) states that fees collected under the Recreational Fee Demonstration Program shall be used by the NPS in a manner provided in section 315(c)(3) of the Department of the Interior and Related Agencies Appropriations Act of 1996 (Public Law 104–134).

Subsection (c) requires the Secretary to report to Congress on the status of the fee program conducted in park units. The report is to be submitted no later than September 30, 2000.

Subsection (d) requires the NPS to provide public notice at least 12 months in advance of any new or increased fee.

Section 502. Other fees

Section 502 provides that where the NPS or private entity under a service contract is providing transportation to all or a portion of any National Park System unit, the Secretary may impose a reasonable and appropriate charge to the public for the transportation provided in addition to any park admission fee. Both fees can be collected at the transportation staging area or other convenient location. This section further provides that the Secretary may have qualifying entities collect the fees and that such fees shall be retained in the unit where it was collected and shall be used only for costs associated with such transportation systems in that unit.

Section 503. Distribution of Golden Eagle Passport sales

Section 503 directs the Secretary of Interior and the Secretary of Agriculture to enter into an agreement for the sharing of proceeds from the sale, by private vendors, of the Golden Eagle Passport. The section directs that the proceeds be divided among the agencies based on each agency's percentage of total admission fees collected during the previous fiscal year. The Committee notes that this revenue-sharing requirement is consistent with the original legislative authority authorizing the sale of Golden Eagle Passports by private vendors.

TITLE VI—NATIONAL PARK PASSPORT PROGRAM

Section 601. Purposes

Section 601 states that the purposes of the title are to establish a new program to offer an annual passport and commemorative stamp for admission to units of the National Park System and to generate revenue for support of the National Park System.

Section 602. National Park Passport Program

Section 602(a) directs the Secretary to establish a new National Park Passport program, including a collectible commemorative stamp.

Subsection (b) states that the passport and stamp will be effective for admission to all National Parks for 12 months from the date of purchase.

Subsection (c) states that the passport is non-transferable.

Section 603. Administration

Section 603(a) provides that the Secretary is to hold an annual competition for the stamp design, and that the competition be open

to the public and used to educate the public about the National Park System.

Subsection (b) authorizes sale of the National Park Passport and stamp through the NPS and by private vendors, on a consignment basis. These private vendors may collect a commission on each sale. The number of private vendors may be limited by the Secretary.

Subsection (c) allows the Secretary to use up to ten percent of the sales proceeds of National Park Passports and stamps to administer the program and to promote both the passport and the National Park System. The subsection also establishes a special account in the Treasury into which all proceeds from sale of the park passports are to be deposited. These funds are to be made available to the NPS, without further appropriation, to be used for high priority visitor service and resource management projects.

Subsection (d) authorizes the Secretary to enter into cooperative agreements with the National Park Foundation and others to develop and implement the passport program.

Subsection (e) sets the fee for a National Park Passport and stamp at \$50.

Section 604. Foreign sales of Golden Eagle Passports

Section 604 directs the Secretary to make Golden Eagle Passports available to foreign visitors and travelers to the United States and provides that the Golden Eagle Passport can be offered for sale outside the United States through commercial tourism channels and consulates.

Section 605. Effects on other laws and programs

Section 605 addresses effects on other laws and programs and makes clear that a passport is not required for persons wishing to purchase a single visit admission to a park, or for holders of Golden Age or Golden Access Passports. In addition, the Golden Eagle Passport continues to be valid for unlimited admission to units of the National Park System. Further, this section states that the National Park Passport provides access to every National Park System unit under the same conditions, rules, and regulations, as applied to the Golden Eagle Passport, that the National Park Passport cannot be used to gain access to other federal recreation fee areas outside of the National Park System, and that the National Park Passport does not exempt the holder from or provide the holder a discount on any other recreation use fee imposed under the Land and Water Conservation Fund or the Recreational Fee Demonstration Program.

TITLE VII—NATIONAL PARK FOUNDATION PARK SUPPORT

Section 701. Promotion of local fundraising support

Section 701 amends the National Park Foundation enabling legislation (Public Law 90–209) to authorize the Foundation to design and implement a comprehensive program to assist and promote philanthropic programs to support individual park units. The purpose of the program developed by the Foundation is to assist in the creation of local non-profit support organizations and provide sup-

port for those organizations. The Foundation shall report the progress of the program in an annual report.

TITLE VIII—MISCELLANEOUS PROVISIONS

Section 801. United States Park Police

Section 801 directs the Secretary of the Interior to appoint a task force to study all law enforcement needs of the NPS, including a separate analysis of the needs of the U.S. Park Police. The Secretary is required to report to Congress on the findings and recommendations of the study by the task force.

Section 802. Leases and cooperative management agreements

Section 802(a) amends section 3 of Public Law 91–383 by expanding the authority of the NPS to lease buildings and associated property within units of the National Park System, so long as the activity leased is compatible with the purpose of the park in which it is located and does not derogate the values of the park. Payment of rental amounts for leases will be based on fair market value rental and the Secretary may adjust the rental amount as appropriate. Proceeds from these leases are to be deposited in a special account in the Treasury to be used, without further appropriation, for infrastructure needs in units of the National Park System. The Secretary shall also promulgate regulations for implementing this section.

This subsection also expands the NPS’ authority to enter into cooperative management agreements with adjacent state or local parks to enhance management efficiency and reduce operating costs and duplications. The section makes clear that the Secretary may not transfer responsibility for administration of a park to a state or local government.

Subsection (b) directs the Secretary to simplify the existing regulations and procedures for leasing of historic structures in units of the National Park System.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources’ oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committees authorized in S. 1693 are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact S. 1693.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out S. 1693. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, S. 1693 does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of S. 1693 would result in increased direct spending from revenues from concession fees, recreational fees, a new National Park Passport, and leases of unneeded buildings over the 1999–2003 time period. The bill would result in increased revenues to the federal government of over \$430 million through 2003.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of S. 1693.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for S. 1693 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 1998.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1693, the National Parks Omnibus Management Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 1693—National Parks Omnibus Management Act of 1998

Summary: S. 1693 would reform various policies and practices of the National Park Service (NPS). The act also would extend and

modify the agency's authority to collect and spend certain fees from park visitors, concessioners, and other users of park property. Finally, it would authorize appropriations of \$2 million a year for carrying out studies of new areas as potential additions to the National Park System.

CBO estimates that enacting S. 1693 would result in additional net outlays from direct spending of \$8 million in fiscal year 1999 and of \$260 million over the 1999–2003 period. The act also would affect programs carried out with discretionary funds but would have no significant impact on the NPS's budget—except for the authorized funding of \$2 million a year for studies of new areas—because most of the actions mandated by the legislation are already being carried out by the agency. Because S. 1693 would affect direct spending, pay-as-you-go procedures would apply. S. 1693 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs as a result of the legislation's enactment, but these costs would be voluntary.

Description of major provisions: Several titles of S. 1693 would affect direct spending. These provisions include:

Title IV, which would reform the concessions activities of the NPS in order to improve the financial benefits received by the park system. This title would repeal the existing law governing the use of concessions contracts by the NPS and would establish new contracting policies and practices that would enhance competition in the bidding process.

Title V, which would extend through fiscal year 2005 the recreation fee demonstration program authorized by Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act, 1996) and would eliminate the existing cap on the number of park units that may participate. The extension and expansion of the existing program would apply only to the NPS.

Title VI, which would direct the NPS to create a new national park passport program. The new \$50 annual passport, with an accompanying collectible stamp, would be nontransferable and could be sold on consignment, for an unspecified commission, by private vendors. This title also would direct the Secretary to make the Golden Eagle Passport (a similar form of annual admissions pass already sold under existing, permanent fee authority) available for sale outside the United States under the same terms as it is sold domestically.

Title VIII, which would authorize the NPS to lease unneeded buildings and related property to any person or governmental entity.

For all of the above provisions, the act would direct the NPS to deposit all receipts (including franchise fees and recreation fees collected under existing, permanent authority) into special accounts in the U.S. Treasury. Upon deposit, all such documents would become available to the NPS without further appropriation for various specified purposes.

S. 1693 also would make changes to activities of the NPS that are funded with discretionary appropriations. Title I would require the agency to establish a plan for management training and devel-

opment and to develop a comprehensive training program for all of its professional employees. Title II would establish a specific research mandate for the NPS to ensure that Park Service managers benefit from high-quality science and information. The agency also would have to implement a program to inventory and monitor all park resources. Finally, Title III would codify recent administrative changes made to procedures governing the study of potential new park areas and would authorize the appropriation of an additional \$2 million annually to conduct new studies.

Other provisions of S. 1693 would have little or no effect on the federal budget. Some of these provisions would grant the NPS statutory authority to execute cooperative agreements with state and local government agencies and to promote local fundraising support through the National Park Foundation.

Estimated cost to the Federal Government: CBO estimates that implementing S. 1693 would result in additional offsetting receipts of \$76 million in fiscal year 2000 and of over \$360 million through 2003. The NPS would be able to spend not only these new receipts but also those collected under current authority from recreation fees, concession franchise fees, and deposits in the concessions improvement accounts. As a result, direct spending would increase by about \$8 million in 1999 and by over \$620 million through 2003. The net effect of these changes would be additional direct spending of \$8 million in 1999 and of \$260 million through 2003. The estimated impact of these provisions is summarized in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

Basis of estimate: For purposes of this estimate, CBO assumes that S. 1693 will be enacted by or near the start of fiscal year 1999. We also assume that the NPS would develop all of the necessary rules and procedures in 1999 so that it could implement the new, reformed, or extended fee programs beginning in 2000. Amounts earned from new fees would become available to the NPS for obligation in the year collected. Estimated outlays from the spending of fee receipts are based on historical spending patterns for these and similar programs. Information for this estimate was provided by the Office of Management and Budget, the Department of the Interior, and the NPS.

Direct spending

Concessions fees. CBO expects that the reforms made by Title IV to the competitive bidding process would raise franchise fees paid to the government by concessioners, which under the legislation would be deposited to mandatory special funds rather than the U.S. Treasury as under current law. They would also raise, by similar amounts, deposits by concessioners into the bank accounts that they hold and use for park improvements, as required by many concession contracts. These special bank accounts—known as “improvement accounts”—are often maintained in lieu of paying franchise fees and are used for on-site improvements at the direction of the park superintendent.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
Net Direct Spending Under Current Law:						
Receipts and Spending from NPS Recreation and Concessions Fees:						
Estimated budget authority	-23	-23	-94	-97	-97	-100
Estimated outlays	-71	-26	-14	-69	-97	-101
Proposed Changes:						
NPS Recreation and Concessions Fees:						
Estimated budget authority	0	0	-76	-86	-97	-104
Estimated outlays	0	0	-76	-86	-97	-104
NPS Spending of Fees:						
Estimated budget authority	0	15	170	183	194	204
Estimated outlays	0	8	90	144	185	196
Net Changes:						
Estimated budget authority	0	15	94	97	97	100
Estimated outlays	0	8	14	58	88	92
Net Direct Spending Under S. 1693:						
Receipts and Spending from NPS Recreation and Concessions Fees:						
Estimated budget authority	-23	-8	0	0	0	0
Estimated outlays	-71	-18	0	-11	-9	-9
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ¹						
Authorization level	0	2	2	2	2	2
Estimated outlays	0	2	2	2	2	2

¹ Amounts shown for proposed changes to discretionary spending represents the additional \$2 million authorized for studies for new park areas; \$1 million was appropriated for that purpose in 1998. No other amounts are included in the table for changes in programs funded with appropriations because CBO expects that such changes would occur even in the absence of this legislation.

CBO estimates that franchise fees and deposits to improvement accounts would increase in total by about \$4 million in fiscal year 2000 and by about \$38 million through 2003. Spending of the new franchise fees and improvement account deposits would increase by similar amounts, but more slowly. Because the new receipts and resulting new spending would offset each other in the long run, the provisions of Title IV intended to increase returns to the federal government would have no net effect on the federal budget over time, although they would provide additional resources to the NPS. Because this title also would allow the NPS to spend without further appropriation any franchise fees that are earned under existing law, it would cause a net increase in direct spending of \$8 million in 1999 and of nearly \$50 million through 2003.

Recreation fees. Title V would extend through fiscal year 2005 the NPS's recreation fee demonstration program, which was authorized in Public Law 104-134. That program (as amended by subsequent laws) allows the NPS, among other land management agencies, to establish recreation fees beyond those allowed by the Land and Water Conservation Fund Act (LWCFA) for up to 100 demonstration areas. Under the demonstration program, the NPS is allowed to spend without further appropriation all receipts earned at a demonstration area. (Park units that are not part of the demonstration program may keep only 15 percent of their receipts, as allowed under the LWCFA.) Once this temporary authority expires at the end of fiscal year 1999, most receipts collected by the NPS pursuant to that authority will fall to levels consistent with the permanent fee-collection authority provided in the LWCFA (about \$94 million in 2000, compared to an estimated \$146 million for 1999 under the demonstration program). Direct spend-

ing authority will also fall—to 15 percent of total fee receipts, or \$14 million in 2000.

CBO estimates that extending the demonstration program would raise receipts from recreation fees to about \$3 million a year more than the 1999 level because all park units would be able to participate. When new collections from the national passport program authorized under Title VI are added, the total estimated effect on offsetting receipts from the extended and expanded authority provided by S. 1693 is an increase of \$72 million in 2000 and of nearly \$325 million through 2003. (The additional receipts from the passport program—which does not expire—are primarily the result of one provision of Title VI that clarifies that the NPS may sell the new passports on consignment through private vendors.)

Because S. 1693 would allow the NPS to spend all new fees generated by the demonstration program and the passport program, as well as receipts earned under other, existing authority, new direct spending would be much higher than new receipts. We estimate that outlays would increase by \$76 million in 2000 and by \$535 million over the 2000–2003 period. The net budgetary effect of the changes in offsetting receipts and new spending from recreation fees would be additional outlays of \$4 million in 2000 and \$212 million through 2003.

Other NPS fees. S. 1693 also would allow the NPS to lease space in agency buildings to persons or governmental agencies. The additional rental income would be available to the agency without further appropriation. CBO estimates that any increase in rental income to the agency would be small. Moreover, the spending of this income would offset the additional receipts over time, resulting in no net impact on the federal budget.

Spending subject to appropriation

Title III of S. 1693 would authorize appropriations of \$2 million annually for conducting studies of potential new park areas (in addition to the existing authorization of appropriations for that purpose of \$1 million a year). Other provisions of the act also could affect NPS programs that are carried out with discretionary funds. For the most part, however, CBO believes that the NPS already has the authority and the intention to carry out the act's mandates for these programs even in the absence of new legislation, assuming appropriation of the necessary amounts. As a result, we have not included any of the costs of performing the mandated duties in the estimate table. In most cases, the NPS has developed plans to carry out the activities required by this legislation but has yet to receive the necessary appropriations. For example, most of the planning and development necessary to implement the training mandates of Title I has already been completed, and the plans would probably require little revision to incorporate any new or revised procedures specified in the legislation. Full implementation of these training plans (under S. 1693 or under Administration initiatives) would cost the NPS about \$18 million annually, assuming appropriation of the necessary amounts. Similarly, Title II would require the NPS to implement a program for inventory and monitoring the agency's resources. Based on information provided by the NPS, we estimate that the agency will perform the require-

ments of this title under existing authority, assuming appropriation of the \$160 million needed for that purpose over the next 10 years.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	8	14	58	88	92	94	97	89	41	7
Changes in receipts											Not applicable

Estimated impact on State, local, and tribal governments: S. 1693 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The legislation would authorize the National Park Service to enter into agreements with state or local government agencies to provide for the cooperative management of adjacent federal and state park areas. Any state or local expenditures under such agreements would be voluntary on the part of those governments.

Estimated impact on the private sector: This legislation contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 23, 1998, CBO transmitted a cost estimate for S. 1693, as passed by the Senate on June 11, 1998. That previous estimate showed lower net direct spending than the estimate for the House version of S. 1693 because the Senate version would not allow the NPS to spend concession franchise fees that are collected under existing authority.

Estimate prepared by: Federal costs: Deborah Reis; impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

S. 1693 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

THE ACT OF AUGUST 18, 1970

(Commonly Known as the "National Park System General Authorities Act")

AN ACT To improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes

* * * * *

SEC. 3. In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) * * *

* * * * *

(k) *LEASES.*—

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

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

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

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

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

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

(4) *RENTAL AMOUNTS.*—

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

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

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

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

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

(5) *SPECIAL ACCOUNT.*—

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

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

- (i) facility refurbishment;
- (ii) repair and replacement;
- (iii) infrastructure projects associated with park resource protection; and
- (iv) direct maintenance of the leased buildings and associated properties.

(C) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this Act.

(I) COOPERATIVE MANAGEMENT AGREEMENTS.—

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

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

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

* * * * *

SEC. 8. (a) GENERAL AUTHORITY.—The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. [At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas here-

tofore submitted under terms of this section, and which at the time of listing are not included in the National Park System.】 Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Natural Resources of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

【For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed \$1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed \$1,500,000.】

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

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

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

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

(C) *public petition and Congressional resolutions.*

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

(4) *Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designa-*

tions, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

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

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

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

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

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

(3) Each study—

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

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

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

(iv) the public use potential;

(v) the interpretive and educational potential;

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

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support, and

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

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

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

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

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

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

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

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

(f) *AUTHORIZATION OF APPROPRIATIONS.*—For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed \$1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed \$1,500,000. For carrying out subsections (b) through (d) there are authorized to be appropriated \$2,000,000 for each fiscal year.

* * * * *

SEC. 12. (a) * * *

* * * * *

[(c) The Secretary of the Interior shall hereafter transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives all proposed awards of concession leases and contracts involving a gross annual business of \$100,000 or more, or of five years or more in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated. The Act of July 14, 1956 (70 Stat. 543) is hereby repealed.]

* * * * *

ACT OF OCTOBER 9, 1965

(Popularly Known as the “National Park Service Concessions Policy Act”)

AN ACT Relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate

use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

【SEC. 2. Subject to the findings and policy stated in section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as “concessioners”) to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

【SEC. 3. (a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner’s authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

【(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

【(c) The reasonableness of a concessioner’s rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

【(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

【SEC. 4. The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

【SEC. 5. The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 4 of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

【SEC. 6. A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory

interest, unless in a particular case the Secretary determines that equitable considerations warrant recognition of such interest.

【SEC. 7. The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

【SEC. 8. Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: “*Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.”

【SEC. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

【The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved.】

SECTION 3 OF THE ACT OF AUGUST 25, 1916

(Commonly known as the “National Park Service Organic Act”)

CHAP. 408.—AN ACT To establish a National Park Service, and for other purposes

SEC. 3. That the Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this Act shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be det-

rimental to the use of any of said parks, monuments, or reservations. [He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no natural] *No natural* curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided, however,* That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze live stock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park: *And provided further,* That the Secretary of the Interior may grant said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: *And provided further,* That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees, without the approval of the Secretary of the Interior first obtained in writing[: *And provided further,* That the Secretary may, in his discretion, authorize such grantees, permittees, or licensees to execute mortgages and issue bonds, shares of stock, and other evidences of interest in or indebtedness upon their rights, properties, and franchises, for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public within such national parks and monuments].

ACT OF DECEMBER 18, 1967

AN ACT To establish the National Park Foundation

* * * * *

SEC. 11. PROMOTION OF LOCAL FUNDRAISING SUPPORT.

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

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

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

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

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

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

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

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

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

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

(f) *AFFILIATIONS.—*

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

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

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

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

DISSENTING VIEWS

I am strongly opposed to the National Park concession provisions of S. 1693 that provide unwarranted benefits to concession operators for the investments made in facilities within National Parks. By the narrowest of margins (21–22) the Committee rejected an amendment I offered to delete these provisions and instead amortize these investments in a manner similar to that used by the rest of the concessions industry.

Current law provides park concessioners with what is known as a “possessory interest” in any capital improvements they make in parks. Possessory interest provides an inflated value to these investments. It is a formula unique to the National Park System. No other Federal agency provides it and it is not used in state facilities or private industry. Numerous GAO reports and other studies have found possessory interest to be a serious barrier to competition for concession contracts because any challenger bidding for a concession contract would be faced with the added cost of buying out the inflated value of incumbent concessioners’ improvements.

Rather than fix this serious barrier to competition, S. 1693 replaces possessory interest with what the bill refers to as “leasehold surrender interest.” The bill defines the value of a leasehold surrender interest as an amount equal to the cost of a capital improvement, plus an annual Consumer Price Index (CPI) adjustment, less observable wear and tear. Real estate investments in the business world are not tied to the CPI. Furthermore, the bill uses a CPI based on “All-Urban Consumers” to value capital improvements that are to a great extent constructed in a rural setting.

Leasehold surrender interest is a new creation that is not used by any other Federal agency, and it is not used in state facilities or private industry. S. 1693 repeals a provision (possessory interest) that is not used in the concessions industry and replaces it with a new provision (leasehold surrender interest) that is likewise not used in the concessions industry. Under S. 1693, we are trading one problem for another.

Concession operators outside of national parks neither need nor receive appreciating interests in their structures or improvements from their landlords, yet they still do business at a profit. The standard concession industry practice is to amortize investments over the term of the contract. Concessioners in the real world recoup their investments in the money generated during the contract. National park concessioners are attempting to have their cake and eat it too. At the same time park concessioners are depreciating their investments for tax purposes, they are asking taxpayers to be liable for the appreciating value that leasehold surrender interest provides.

There is a better way. The amendment I offered in Committee would have provided park concessioners with an interest in a cap-

ital improvement equal to its original cost, less straight line depreciation that is tied to the depreciation period used for such assets for Federal tax purposes. This is the same language that the House adopted in 1994, as part of a concessions bill that passed 386–30. The Miller amendment was supported in Committee by taxpayer watchdog groups and environmental organizations and is consistent with Administration testimony on this matter.

Leasehold surrender interest does not provide concessions reform. Instead, it just perpetuates a well-documented liability for taxpayers and a barrier to competition. Unless this language is corrected, I will urge my colleagues to oppose S. 1693.

GEORGE MILLER.

