

One Hundred Eighth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the seventh day of January, two thousand and three*

An Act

Making appropriations for the Department of the Interior and related agencies
for the fiscal year ending September 30, 2004, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,* That the
following sums are appropriated, out of any money in the Treasury
not otherwise appropriated, for the Department of the Interior
and related agencies for the fiscal year ending September 30, 2004,
and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), \$850,321,000, to remain available until expended, of which \$1,000,000 is for high priority projects, to be carried out by the Youth Conservation Corps; \$2,484,000 is for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487; (16 U.S.C. 3150); and of which not to exceed \$1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601–6a(i)); and of which \$3,000,000 shall be available in fiscal year 2004 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, \$32,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$850,321,000; and \$2,000,000, to remain available until expended, from communication site rental

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of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, \$192,969,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to \$10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be \$1,500,000 per State in fiscal year 2004: *Provided further*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available under title IV of Public Law 95-87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That the State of Maryland may set aside the greater of \$1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001-2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.),

as amended, \$1,916,317,000, to remain available until September 30, 2005 except as otherwise provided herein, of which not to exceed \$86,925,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$135,315,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2004, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and of which not to exceed \$458,524,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2004, and shall remain available until September 30, 2005; and of which not to exceed \$55,766,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$49,182,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2003 for the operation of Bureau-funded schools, and up to \$3,000,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2004 of Bureau-operated schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2005, may be transferred during fiscal year 2006 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2006.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$351,154,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for

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fiscal year 2004, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS
PAYMENTS TO INDIANS

(INCLUDING TRANSFER OF FUNDS)

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, \$60,551,000, to remain available until expended; of which \$31,766,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618, 107–331, and 102–575, and for implementation of other enacted water rights settlements; and of which \$18,817,000 shall be available pursuant to Public Laws 99–264, 100–580, 106–425, and 106–554; and of which \$9,968,000 shall be available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation: *Provided*, That of the payment to the Quinault Indian Nation, \$4,968,000 shall be derived from amounts provided under the heading “United States Fish and Wildlife Service, Land Acquisition” in Public Law 108–7.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, \$5,797,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$94,568,000.

In addition, for administrative expenses to carry out the guaranteed and insured loan programs, \$700,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal

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employees for purposes of chapter 171 of title 28, United States Code.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$76,343,000, of which: (1) \$70,022,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) \$6,321,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104-134: *Provided further*, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific Basin Development Council: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, \$6,434,000, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau as authorized by Public Law 99-658; section 103(f)(2) of title I of H.J. Res. 63 or S.J. Res. 16, (as introduced July 8, 2003, and July 14, 2003, respectively); and section 221(a)(2) of the Compacts of Free Association and

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INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, \$21,980,000, to remain available until expended: *Provided*, That funds provided under this heading may be expended pursuant to the authorities contained in the provisos under the heading “Office of Special Trustee for American Indians, Indian Land Consolidation” of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291).

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), \$5,633,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the “Departmental Management”, “Office of the Solicitor”, and “Office of Inspector General” may be augmented through the Working Capital Fund: *Provided further*, That the annual budget justification for Departmental Management shall describe estimated Working Capital Fund charges to bureaus and offices, including the methodology on which charges are based: *Provided further*, That departures from the Working Capital Fund estimates contained in the Departmental Management budget justification shall be presented to the Committees on Appropriations for approval: *Provided further*, That the Secretary shall provide a semi-annual report to the Committees on Appropriations on reimbursable support agreements between the Office of the Secretary and the National Business Center and the bureaus and offices of the Department, including the amounts billed pursuant to such agreements.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction,

replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be “emergency requirements” pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for “wildland fire operations” shall be exhausted within 30 days: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be “emergency requirements” pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided*, That reimbursements for costs and supplies, materials, equipment,

and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Annual appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 110. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United

States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, except that total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

SEC. 113. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 114. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2004. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 115. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2004 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 116. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery in Kansas City, Kansas (as described in section 123 of Public Law 106–291) are used only in accordance with this section.

(b) The lands of the Huron Cemetery shall be used only: (1) for religious and cultural uses that are compatible with the use of the lands as a cemetery; and (2) as a burial ground.

SEC. 117. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–

208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 118. Notwithstanding other provisions of law, the National Park Service hereafter may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.

SEC. 119. Notwithstanding 31 U.S.C. 3302(b), sums received by the Bureau of Land Management for the sale of seeds or seedlings including those collected in fiscal year 2003, may be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.

SEC. 120. Subject to the terms and conditions of section 126 of the Department of the Interior and Related Agencies Act, 2002, the Administrator of General Services shall sell all right, title, and interest of the United States in and to the improvements and equipment of the White River Oil Shale Mine.

SEC. 121. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 122. Of the funds made available under the heading “Bureau of Land Management, Land Acquisition” in title I of the Department of the Interior and Related Agencies Appropriation Act, 2002 (115 Stat. 420), the Secretary of the Interior shall grant \$500,000 to the City of St. George, Utah, for the purchase of the land as provided in the Virgin River Dinosaur Footprint Preserve Act (116 Stat. 2896), with any surplus funds available after the purchase to be available for the purpose of the preservation of the land and the paleontological resources on the land.

SEC. 123. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District, New Jersey Pinelands Preserve, and Ice Age National Scenic Trail may be used for a grant to a State, a local government, or any other governmental land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 124. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 125. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 126. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 127. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 128. The Secretary of the Interior may use discretionary funds to pay private attorneys fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 129. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries including but not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

SEC. 130. Such sums as may be necessary from “Departmental Management, Salaries and Expenses”, may be transferred to “United States Fish and Wildlife Service, Resource Management” for operational needs at the Midway Atoll National Wildlife Refuge airport.

SEC. 131. (a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SEC. 132. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 133. Notwithstanding the limitation in subparagraph (2)(B) of section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)), the total amount of all fees imposed by the National Indian Gaming Commission for fiscal year 2005 shall not exceed \$12,000,000.

SEC. 134. The State of Utah's contribution requirement pursuant to Public Law 105-363 shall be deemed to have been satisfied and within thirty days of enactment of this Act, the Secretary of the Interior shall transfer to the State of Utah all right, title, and interest of the United States in and to the Wilcox Ranch lands acquired under section 2(b) of Public Law 105-363, for management by the Utah Division of Wildlife Resources for wildlife habitat and public access to the Ranch as well as to adjacent lands managed by the Bureau of Land Management.

SEC. 135. Upon enactment of this Act, the Congaree Swamp National Monument shall be designated the Congaree National Park.

SEC. 136. (a) Section 122 of division F of Public Law 108-7 is amended as follows:

(1) Paragraph 122(a)(4) is amended to read—

“(4) TRIBALLY CONTROLLED SCHOOL.—The term ‘tribally controlled school’ means a school that currently receives a grant under the Tribally Controlled Schools Act of 1988, as amended (25 U.S.C. 2501 et seq.) or is determined by the Secretary to meet the eligibility criteria of section 5205 of the Tribally Controlled Schools Act of 1988, as amended (25 U.S.C. 2504).”.

(2) Paragraph 122(b)(1) is amended by striking the second sentence and inserting: “The Secretary shall ensure that applications for funding to replace schools currently receiving funding for facility operation and maintenance from the Bureau of Indian Affairs receive the highest priority for grants under this section. Among such applications, the Secretary shall give priority to applications of Indian tribes that agree to fund all future facility operation and maintenance costs of the tribally controlled school funded under the demonstration program from other than Federal funds.”.

(3) Subsection (c) is amended by inserting after “EFFECT OF GRANT.—” the following: “(1) Except as provided in paragraph (2) of this subsection,” and is further amended by adding the following new paragraph:

“(2) A tribe receiving a grant for construction of a tribally controlled school under this section shall not be eligible to receive funding from the Bureau of Indian Affairs for that school for education operations or facility operation and maintenance if the school that was not at the time of the grant: (i) a school receiving funding for education operations or facility operation and maintenance under the Tribally Controlled Schools Act or the Indian Self-Determination and Education Assistance Act or (ii) a school operated by the Bureau of Indian Affairs.”.

(b) Notwithstanding the provisions of paragraph (b)(1) of section 122 of division F of Public Law 108-7, as amended by this Act, the Saginaw-Chippewa tribal school and the Redwater Elementary School shall receive priority for funding available in fiscal year 2004. The Saginaw-Chippewa tribal school shall receive \$3,000,000 from prior year funds, and the Redwater Elementary School shall receive \$6,000,000 available in fiscal year 2004.

SEC. 137. The Secretary shall have no more than 180 days from October 1, 2003, to prepare and submit to the Congress, in a manner otherwise consistent with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), plans

for the use and distribution of the Mescalero Apache Tribe's Judgment Funds from Docket 92-403L, the Pueblo of Isleta's Judgment Funds from Docket 98-166L, and the Assiniboine and Sioux Tribes of the Fort Peck Reservation's Judgment Funds in Docket No. 773-87-L of the United States Court of Federal Claims; each plan shall become effective upon the expiration of a 60-day period beginning on the day each plan is submitted to the Congress.

SEC. 138. (a) SHORT TITLE.—This section may be cited as the “Eastern Band of Cherokee Indians Land Exchange Act of 2003”.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds the following:

(A) Since time immemorial, the ancestors of the Eastern Band of Cherokee Indians have lived in the Great Smoky Mountains of North Carolina. The Eastern Band's ancestral homeland includes substantial parts of seven eastern States and the land that now constitutes the Great Smoky Mountains National Park.

(B) The Eastern Band has proposed a land exchange with the National Park Service and has spent over \$1,500,000 for studies to thoroughly inventory the environmental and cultural resources of the proposed land exchange parcels.

(C) Such land exchange would benefit the American public by enabling the National Park Service to acquire the Yellow Face tract, comprising 218 acres of land adjacent to the Blue Ridge Parkway.

(D) Acquisition of the Yellow Face tract for protection by the National Park Service would serve the public interest by preserving important views for Blue Ridge Parkway visitors, preserving habitat for endangered species and threatened species including the northern flying squirrel and the rock gnome lichen, preserving valuable high altitude wetland seeps, and preserving the property from rapidly advancing residential development.

(E) The proposed land exchange would also benefit the Eastern Band by allowing it to acquire the Ravensford tract, comprising 143 acres adjacent to the Tribe's trust territory in Cherokee, North Carolina, and currently within the Great Smoky Mountains National Park and Blue Ridge Parkway. The Ravensford tract is part of the Tribe's ancestral homeland as evidenced by archaeological finds dating back no less than 6,000 years.

(F) The Eastern Band has a critical need to replace the current Cherokee Elementary School, which was built by the Department of the Interior over 40 years ago with a capacity of 480 students. The school now hosts 794 students in dilapidated buildings and mobile classrooms at a dangerous highway intersection in downtown Cherokee, North Carolina.

(G) The Eastern Band ultimately intends to build a new three-school campus to serve as an environmental, cultural, and educational “village,” where Cherokee language and culture can be taught alongside the standard curriculum.

(H) The land exchange and construction of this educational village will benefit the American public by preserving Cherokee traditions and fostering a vibrant, modern, and well-educated Indian nation.

(I) The land exchange will also reunify tribal reservation lands now separated between the Big Cove Community and the balance of the Qualla Boundary, reestablishing the territorial integrity of the Eastern Band.

(J) The Ravensford tract contains no threatened species or endangered species listed pursuant to the Endangered Species Act of 1973. The 218-acre Yellow Face tract has a number of listed threatened species and endangered species and a higher appraised value than the 143-acre Ravensford tract.

(K) The American public will benefit from the Eastern Band's commitment to mitigate any impacts on natural and cultural resources on the Ravensford tract, by among other things reducing the requested acreage from 168 to 143 acres.

(L) The Congress and the Department of the Interior have approved land exchanges in the past when the benefits to the public and requesting party are clear, as they are in this case.

(2) PURPOSES.—The purposes of this section are the following:

(A) To acquire the Yellow Face tract for protection by the National Park Service, in order to preserve the Waterrock Knob area's spectacular views, endangered species and high altitude wetland seeps from encroachment by housing development, for the benefit and enjoyment of the American public.

(B) To transfer the Ravensford tract, to be held in trust by the United States for the benefit of the Eastern Band of Cherokee Indians, in order to provide for an education facility that promotes the cultural integrity of the Eastern Band and to reunify two Cherokee communities that were historically contiguous, while mitigating any impacts on natural and cultural resources on the tract.

(C) To promote cooperative activities and partnerships between the Eastern band and the National Park Service within the Eastern Band's ancestral homelands.

(c) LAND EXCHANGE.—

(1) IN GENERAL.—The Secretary of the Interior ("Secretary") shall exchange the Ravensford tract, currently in the Great Smoky Mountains National Park and the Blue Ridge Parkway, for the Yellow Face tract adjacent to the Waterrock Knob Visitor Center on the Blue Ridge Parkway.

(2) TREATMENT OF EXCHANGED LANDS.—Effective upon receipt by the Secretary of a deed or deeds satisfactory to the Secretary for the lands comprising the Yellow Face tract (as described in subsection (3)) to the United States, all right, title, and interest of the United States in and to the Ravensford tract (as described in subsection (4)), including all improvements and appurtenances, are declared to be held in trust by the United States for the benefit of the Eastern Band of Cherokee Indians as part of the Cherokee Indian Reservation.

(3) **YELLOW FACE TRACT.**—The Yellow Face tract shall contain Parcels 88 and 89 of the Hornbuckle Tract, Yellow Face Section, Qualla Township, Jackson County, North Carolina, which consist altogether of approximately 218 acres and are depicted as the “Yellow Face Tract” on the map entitled “Land Exchange Between the National Park Service and the Eastern Band of Cherokee Indians,” numbered 133/80020A, and dated November 2002. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Bureau of Indian Affairs. Upon completion of the land exchange, the Secretary shall adjust the boundary of the Blue Ridge Parkway to include such lands and shall manage the lands as part of the parkway.

(4) **RAVENSFORD TRACT.**—The lands declared by subsection (2) to be held in trust for the Eastern Band of Cherokee Indians shall consist of approximately 143 acres depicted as the “Ravensford Tract” on the map identified in subsection (3). Upon completion of the land exchange, the Secretary shall adjust the boundaries of Great Smoky Mountains National Park and the Blue Ridge Parkway to exclude such lands.

(5) **LEGAL DESCRIPTIONS.**—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior shall file a legal description of the areas described in subsections (3) and (4) with the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate. Such legal descriptions shall have the same force and effect as if the information contained in the description were included in those subsections except that the Secretary may correct clerical and typographical errors in such legal descriptions. The legal descriptions shall be on file and available for public inspection in the offices of the National Park Service and the Bureau of Indian Affairs.

(d) **IMPLEMENTATION PROCESS.**—

(1) **GOVERNMENT-TO-GOVERNMENT AGREEMENTS.**—In order to fulfill the purposes of this section and to establish cooperative partnerships for purposes of this section the Director of the National Park Service and the Eastern Band of Cherokee Indians shall enter into government-to-government consultations and shall develop protocols to review planned construction on the Ravensford tract. The Director of the National Park Service is authorized to enter into cooperative agreements with the Eastern Band for the purpose of providing training, management, protection, preservation, and interpretation of the natural and cultural resources on the Ravensford tract.

(2) **CONSTRUCTION STANDARDS.**—Recognizing the mutual interests and responsibilities of the Eastern Band of Cherokee Indians and the National Park Service for the conservation and protection of the resources on the Ravensford tract, the National Park Service and the Eastern Band shall develop mutually agreed upon standards for size, impact, and design of construction consistent with the purposes of this section on the Ravensford tract. The standards shall be consistent with the Eastern Band’s need to develop educational facilities and support infrastructure adequate for current and future generations and shall otherwise minimize or mitigate any adverse impacts on natural or cultural resources. The standards

shall be based on recognized best practices for environmental sustainability and shall be reviewed periodically and revised as necessary. Development of the tract shall be limited to a road and utility corridor, an educational campus, and the infrastructure necessary to support such development. No new structures shall be constructed on the part of the Ravensford tract depicted as the “No New Construction” area on the map referred to in subsection (c)(3), which is generally the area north of the point where Big Cove Road crosses the Raven Fork River. All development on the Ravensford tract shall be conducted in a manner consistent with this section and such development standards.

(e) GAMING PROHIBITION.—Gaming as defined and regulated by the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall be prohibited on the Ravensford tract.

SEC. 139. Notwithstanding any implementation of the Department of the Interior’s trust reorganization plan within fiscal years 2003 or 2004, funds appropriated for fiscal year 2004 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima Maricopa Indian Community, the Confederated Salish-Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation on the same basis as funds were distributed in fiscal year 2003. This Demonstration Project shall operate separate and apart from the Department of the Interior’s trust reform reorganization, and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. Sections 458aa–458hh: *Provided*, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same fiduciary standards as those to which the Secretary of the Interior is held: *Provided further*, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so.

SEC. 140. (a) SHORT TITLE.—This section may be cited as the “Blue Ridge National Heritage Area Act of 2003”.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that:

(A) The Blue Ridge Mountains and the extensive cultural and natural resources of the Blue Ridge Mountains have played a significant role in the history of the United States and the State of North Carolina.

(B) Archaeological evidence indicates that the Blue Ridge Mountains have been inhabited by humans since the last retreat of the glaciers, with the Native Americans living in the area at the time of European discovery being primarily of Cherokee descent.

(C) The Blue Ridge Mountains of western North Carolina, including the Great Smoky Mountains, played a unique and significant role in the establishment and development of the culture of the United States through several distinct legacies, including—

(i) the craft heritage that—

(I) was first influenced by the Cherokee Indians;

(II) was the origin of the traditional craft movement starting in 1900 and the contemporary craft movement starting in the 1940's; and

(III) is carried out by over 4,000 craftspeople in the Blue Ridge Mountains of western North Carolina, the third largest concentration of such people in the United States;

(ii) a musical heritage comprised of distinctive instrumental and vocal traditions that—

(I) includes stringband music, bluegrass, ballad singing, blues, and sacred music;

(II) has received national recognition; and

(III) has made the region one of the richest repositories of traditional music and folklife in the United States;

(iii) the Cherokee heritage—

(I) dating back thousands of years; and

(II) offering—

(aa) nationally significant cultural traditions practiced by the Eastern Band of Cherokee Indians;

(bb) authentic tradition bearers;

(cc) historic sites; and

(dd) historically important collections of Cherokee artifacts; and

(iv) the agricultural heritage established by the Cherokee Indians, including medicinal and ceremonial food crops, combined with the historic European patterns of raising livestock, culminating in the largest number of specialty crop farms in North Carolina.

(D) The artifacts and structures associated with those legacies are unusually well-preserved.

(E) The Blue Ridge Mountains are recognized as having one of the richest collections of historical resources in North America.

(F) The history and cultural heritage of the Blue Ridge Mountains are shared with the States of Virginia, Tennessee, and Georgia.

(G) there are significant cultural, economic, and educational benefits in celebrating and promoting this mutual heritage.

(H) according to the 2002 reports entitled “The Blue Ridge Heritage and Cultural Partnership” and “Western North Carolina National Heritage Area Feasibility Study and Plan”, the Blue Ridge Mountains contain numerous resources that are of outstanding importance to the history of the United States.

(I) it is in the interest of the United States to preserve and interpret the cultural and historical resources of the Blue Ridge Mountains for the education and benefit of present and future generations.

(2) PURPOSE.—The purpose of this section is to foster a close working relationship with, and to assist, all levels of government, the private sector, and local communities in the State in managing, preserving, protecting, and interpreting the cultural, historical, and natural resources of the Heritage Area while continuing to develop economic opportunities.

(c) DEFINITIONS.—

(1) In this section:

(A) HERITAGE AREA.—The term “Heritage Area” means the Blue Ridge National Heritage Area established by subsection (d).

(B) MANAGEMENT ENTITY.—The term “management entity” means the management entity for the Heritage Area designated by subsection (d)(3).

(C) MANAGEMENT PLAN.—The term “management plan” means the management plan for the Heritage Area approved under subsection (e).

(D) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(E) STATE.—The term “State” means the State of North Carolina.

(d) BLUE RIDGE NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the Blue Ridge National Heritage Area in the State.

(2) BOUNDARIES.—The Heritage Area shall consist of the counties of Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(3) MANAGEMENT ENTITY.—

(A) IN GENERAL.—As a condition of the receipt of funds made available under subsection (i), the Blue Ridge National Heritage Area Partnership shall be the management entity for the Heritage Area.

(B) BOARD OF DIRECTORS.—

(i) COMPOSITION.—The management entity shall be governed by a board of directors composed of nine members, of whom—

(I) two members shall be appointed by AdvantageWest;

(II) two members shall be appointed by Hand-Made In America, Inc.;

(III) one member shall be appointed by the Education Research Consortium of Western North Carolina;

(IV) one member shall be appointed by the Eastern Band of the Cherokee Indians; and

(V) three members shall be appointed by the Governor of North Carolina and shall—

(aa) reside in geographically diverse regions of the Heritage Area;

(bb) be a representative of State or local governments or the private sector; and

(cc) have knowledge of tourism, economic and community development, regional planning, historic preservation, cultural or natural resources development, regional planning, conservation, recreational services, education, or museum services.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the management entity shall

submit to the Secretary for approval a management plan for the Heritage Area.

(2) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the management entity shall—

(A) for the purpose of presenting a unified preservation and interpretation plan, take into consideration Federal, State, and local plans; and

(B) provide for the participation of residents, public agencies, and private organizations in the Heritage Area.

(3) CONTENTS.—The management plan shall—

(A) present comprehensive recommendations and strategies for the conservation, funding, management, and development of the Heritage Area;

(B) identify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area; and

(C) include—

(i) an inventory of the cultural, historical, natural, and recreational resources of the Heritage Area, including a list of property that—

(I) relates to the purposes of the Heritage Area; and

(II) should be conserved, restored, managed, developed, or maintained because of the significance of the property;

(ii) a program of strategies and actions for the implementation of the management plan that identifies the roles of agencies and organizations that are involved in the implementation of the management plan;

(iii) an interpretive and educational plan for the Heritage Area;

(iv) a recommendation of policies for resource management and protection that develop intergovernmental cooperative agreements to manage and protect the cultural, historical, natural, and recreational resources of the Heritage Area; and

(v) an analysis of ways in which Federal, State, and local programs may best be coordinated to promote the purposes of this section.

(4) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date described in paragraph (1), the Secretary shall not provide any additional funding under this section until a management plan is submitted to the Secretary.

(5) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under paragraph (1), the Secretary shall approve or disapprove the management plan.

(B) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether the management plan—

(i) has strong local support from landowners, business interests, nonprofit organizations, and governments in the Heritage Area; and

(ii) has a high potential for effective partnership mechanisms.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a management plan under subparagraph (A), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the management entity to submit to the Secretary revisions to the management plan.

(D) DEADLINE FOR APPROVAL OF REVISION.—Not later than 60 days after the date on which a revision is submitted under subparagraph (C)(iii), the Secretary shall approve or disapprove the proposed revision.

(6) AMENDMENT OF APPROVED MANAGEMENT PLAN.—

(A) IN GENERAL.—After approval by the Secretary of a management plan, the management entity shall periodically—

(i) review the management plan; and

(ii) submit to the Secretary, for review and approval, the recommendation of the management entity for any amendments to the management plan.

(B) USE OF FUNDS.—No funds made available under subsection (i) shall be used to implement any amendment proposed by the management entity under subparagraph (A) until the Secretary approves the amendment.

(f) AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.—

(1) AUTHORITIES.—For the purposes of developing and implementing the management plan, the management entity may use funds made available under subsection (i) to—

(A) make grants to, and enter into cooperative agreements with, the State (including a political subdivision), nonprofit organizations, or persons;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(2) DUTIES.—In addition to developing the management plan, the management entity shall—

(A) develop and implement the management plan while considering the interests of diverse units of government, businesses, private property owners, and nonprofit groups in the Heritage Area;

(B) conduct public meetings in the Heritage Area at least semiannually on the development and implementation of the management plan;

(C) give priority to the implementation of actions, goals, and strategies in the management plan, including providing assistance to units of government, nonprofit organizations, and persons in—

(i) carrying out the programs that protect resources in the Heritage Area;

(ii) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(iii) establishing and maintaining interpretive exhibits in the Heritage Area;

(iv) developing recreational and educational opportunities in the Heritage Area; and

(v) increasing public awareness of and appreciation for the cultural, historical, and natural resources of the Heritage Area; and

(D) for any fiscal year for which Federal funds are received under subsection (i)—

(i) submit to the Secretary a report that describes, for the fiscal year—

(I) the accomplishments of the management entity;

(II) the expenses and income of the management entity; and

(iii) each entity to which a grant was made; (ii) make available for audit by Congress, the Secretary, and appropriate units of government, all records relating to the expenditure of funds and any matching funds; and

(iii) require, for all agreements authorizing expenditure of Federal funds by any entity, that the receiving entity make available for audit all records relating to the expenditure of funds.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds received under subsection (i) to acquire real property or an interest in real property.

(g) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide to the management entity technical assistance and, subject to the availability of appropriations, financial assistance, for use in developing and implementing the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(A) the preservation of the significant cultural, historical, natural, and recreational resources of the Heritage Area; and

(B) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources of the Heritage Area.

(h) LAND USE REGULATION.—

(1) IN GENERAL.—Nothing in this section—

(A) grants any power of zoning or land use to the management entity; or

(B) modifies, enlarges, or diminishes any authority of the Federal Government or any State or local government to regulate any use of land under any law (including regulations).

(2) PRIVATE PROPERTY.—Nothing in this section—

(A) abridges the rights of any person with respect to private property;

(B) affects the authority of the State or local government with respect to private property; or

(C) imposes any additional burden on any property owner.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$10,000,000, of which not more than \$1,000,000 shall be made available for any fiscal year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activities carried out using Federal funds made available under subsection (a) shall be not less than 50 percent.

(j) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this section.

SEC. 141. (a) PAYMENT TO THE HARRIET TUBMAN HOME, AUBURN, NEW YORK, AUTHORIZED.—(1) The Secretary of the Interior may, using amounts appropriated or otherwise made available by this title, make a payment to the Harriet Tubman Home in Auburn, New York, in the amount of \$11,750.

(2) The amount specified in paragraph (1) is the amount of widow's pension that Harriet Tubman should have received from January 1899 to March 1913 under various laws authorizing pension for the death of her husband, Nelson Davis, a deceased veteran of the Civil War, but did not receive, adjusted for inflation since March 1913.

(b) USE OF AMOUNTS.—The Harriet Tubman Home shall use amounts paid under subsection (a) for the purposes of—

- (1) preserving and maintaining the Harriet Tubman Home; and
- (2) honoring the memory of Harriet Tubman.

SEC. 142. Nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past seven years shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) and under section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315b). The terms and conditions contained in the most recently expired nonrenewable grazing permit shall continue in effect under the renewed permit. Upon completion of any required analysis or documentation, the permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of applicable laws and regulations. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard 1-year term.

SEC. 143. INTERIM COMPENSATION PAYMENTS. Section 2303(b) of Public Law 106-246 (114 Stat. 549) is amended by inserting before the period at the end the following: “, unless the amount of the interim compensation exceeds the amount of the final compensation”.

SEC. 144. Pursuant to section 10101f(d)(3) of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f(d)(3), the following claims shall be given notice of defect and the opportunity to cure: AKFF054162–AKFF054163, AKFF054165–AKFF054166, and AKFF054170–AKFF054171.

SEC. 145. None of the funds appropriated or otherwise made available by this or any other Act, hereafter enacted, may be used to permit the use of the National Mall for a special event, unless the permit expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising. The Secretary may allow for recognition of sponsors of special events: *Provided*, That the size and form of the recognition shall be consistent with the special nature and sanctity of the Mall and any lettering or design identifying the sponsor shall be no larger than one-third

the size of the lettering or design identifying the special event. In approving special events, the Secretary shall ensure, to the maximum extent practicable, that public use of, and access to the Mall is not restricted. For purposes of this section, the term “special event” shall have the meaning given to it by section 7.96(g)(1)(ii) of title 36, Code of Federal Regulations.

SEC. 146. In addition to amounts provided to the Department of the Interior in this Act, \$5,000,000 is provided for a grant to Kendall County, Illinois.

SEC. 147. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA. Section 705(b) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2015) is amended by inserting after “map” the following: “and the approximately 10 acres of land in Clark County, Nevada, described as the NW¹/₄ SE¹/₄ SW¹/₄ of section 28, T. 20 S., R. 60 E., Mount Diablo Base and Meridian”.

SEC. 148. CONGAREE SWAMP NATIONAL MONUMENT BOUNDARY REVISION. The first section of Public Law 94–545 (90 Stat. 2517; 102 Stat. 2607) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

“(c) ACQUISITION OF ADDITIONAL LAND.—

“(1) IN GENERAL.—The Secretary may acquire by donation, by purchase from a willing seller with donated or appropriated funds, by transfer, or by exchange, land or an interest in land described in paragraph (2) for inclusion in the monument.

“(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is the approximately 4,576 acres of land adjacent to the Monument, as depicted on the map entitled “Congaree National Park Boundary Map”, numbered 178/80015, and dated August 2003.

“(3) AVAILABILITY OF MAP.—The map referred to in paragraph (2) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

“(4) BOUNDARY REVISION.—On acquisition of the land or an interest in land under paragraph (1), the Secretary shall revise the boundary of the monument to reflect the acquisition.

“(5) ADMINISTRATION.—Any land acquired by the Secretary under paragraph (1) shall be administered by the Secretary as part of the monument.

“(6) EFFECT.—Nothing in this section—

“(A) affects the use of private land adjacent to the monument;

“(B) preempts the authority of the State with respect to the regulation of hunting, fishing, boating, and wildlife management on private land or water outside the boundaries of the monument; or

“(C) negatively affects the economic development of the areas surrounding the monument.

“(d) ACREAGE LIMITATION.—The total acreage of the monument shall not exceed 26,776 acres.”.

SEC. 149. Section 104 (16 U.S.C. 1374) is amended in subsection (c)(5)(D) by striking “the date of the enactment of the Marine Mammal Protection Act Amendments of 1994” and inserting “February 18, 1997”.

SEC. 150. The National Park Service shall issue a special regulation concerning continued hunting at New River Gorge National

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River in compliance with the requirements of the Administrative Procedures Act, with opportunity for public comment, and shall also comply with the National Environmental Policy Act as appropriate. Notwithstanding any other provision of law, the September 25, 2003 interim final rule authorizing continued hunting at New River Gorge National River shall be in effect until the final special regulation supercedes it.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, \$269,710,000, to remain available until expended: *Provided*, That of the funds provided, \$52,359,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, \$308,140,000, to remain available until expended, as authorized by law of which \$64,934,000 is to be derived from the Land and Water Conservation Fund: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific contractual and grant details including the non-Federal cost share of each project, related to the acquisition of lands or interests in lands to be undertaken with such funds: *Provided further*, That each forest legacy grant shall be for a specific project or set of specific tasks: *Provided further*, That grants for acquisition of lands or conservation easements shall require that the State demonstrates that 25 percent of the total value of the project is comprised of a non-Federal cost share: *Provided further*, That notwithstanding any other provision of law, of the funds provided under this heading, \$500,000 shall be made available to Kake Tribal Corporation as an advance direct lump sum payment to implement the Kake Tribal Corporation Land Transfer Act (Public Law 106–283).

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, \$1,382,916,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, \$2,561,932,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That up to \$18,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That \$467,046,000 for contract medical care shall remain available for obligation until September 30, 2005: *Provided further*, That of the funds provided, up to \$27,000,000 to remain available until expended, shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed \$270,734,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2004, of which not to exceed \$2,500,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account: *Provided further*, That of

the amounts provided to the Indian Health Service, \$15,000,000 is provided for alcohol control, enforcement, prevention, treatment, sobriety and wellness, and education in Alaska to be distributed as direct lump sum payments as follows: (a) \$2,000,000 to the State of Alaska for regional distribution to hire and equip additional Village Public Safety Officers to engage primarily in bootlegging prevention and enforcement activities; (b) \$5,000,000 to the Alaska Native Tribal Health Consortium, which shall be allocated for: (1) substance abuse and behavioral health counselors through the Counselor in Every Village program; and (2) comprehensive substance abuse training programs for counselors and others delivering substance abuse services; (c) \$6,000,000 to be divided as follows among the following Alaska Native regional organizations to provide substance abuse treatment and prevention programs: (1) \$2,500,000 for Southcentral Foundation's Pathway Home; (2) \$1,500,000 for Cook Inlet Tribal Council's substance abuse prevention and treatment programs; (3) \$1,500,000 for Yukon-Kuskokwim Health Corporation's Tundra Swan Inhalant Abuse Center; and (4) \$500,000 for the Southeast Alaska Regional Health Consortium for its Deilee Hitt program; and (d) \$2,000,000 for the Alaska Federation of Natives sobriety and wellness program for competitive merit-based grants: *Provided further*, That none of the funds may be used for tribal courts or tribal ordinance programs or any program that is not directly related to alcohol control, enforcement, prevention, treatment, or sobriety: *Provided further*, That no more than 10 percent may be used by any entity receiving funding for administrative overhead including indirect costs: *Provided further*, That the State of Alaska must maintain its existing level of effort and must use these funds to enhance or expand existing efforts or initiate new projects or programs and may not use such funds to supplant existing programs.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, \$396,232,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That from the funds appropriated herein, \$5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to complete a priority project for the acquisition of land, planning, design and construction of 79 staff quarters in the Bethel service area, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: *Provided*

further, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: *Provided further*, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: *Provided further*, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: *Provided further*, That not to exceed \$500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: *Provided further*, That not to exceed \$1,000,000 from this account and the "Indian Health Services" account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That not to exceed \$500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process. Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full time equivalent level of the Indian Health Service below the level in fiscal year 2002 adjusted upward for the staffing of new and expanded facilities, funding provided for staffing at the Lawton, Oklahoma hospital in fiscal years 2003 and 2004, critical positions not filled in fiscal year 2002, and staffing necessary to carry out the intent of Congress with regard to program increases.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, \$13,532,000, to remain available until expended: *Provided*, That funds provided

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which \$1,900,000 for the museum's repair and rehabilitation program and \$1,264,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, \$20,700,000 shall be available to the Presidio Trust, to remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 303. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 304. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 305. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 306. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*Sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2003.

SEC. 307. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes

(30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2004, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 308. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, 106–291, 107–63, and 108–7 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2003 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 309. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 310. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities.

Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 311. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term “underserved population” means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) (applicable to a family of the size involved).

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 312. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 313. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 314. Notwithstanding any other provision of law, none of the funds in this Act may be used for GSA Telecommunication Centers.

SEC. 315. Notwithstanding any other provision of law, for fiscal year 2004 the Secretaries of Agriculture and the Interior are authorized to limit competition for watershed restoration project contracts as part of the “Jobs in the Woods” Program established in Region 10 of the Forest Service to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, northern California, Idaho, Montana, and Alaska that have been affected by reduced timber harvesting on Federal lands. The Secretaries shall consider the benefits to the local economy in evaluating bids and designing procurements which create economic opportunities for local contractors.

SEC. 316. Amounts deposited during fiscal year 2003 in the roads and trails fund provided for in the 14th paragraph under the heading “FOREST SERVICE” of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 317. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 318. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2004, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2003, less than the annual average portion of the decadal allowable sale quantity called for in the Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs

of domestic processors in Alaska; and (ii) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a “rolling basis” shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed “surplus to the needs of domestic processors in Alaska” when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 319. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency; and

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for non-compliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 320. Prior to October 1, 2004, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 321. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 322. EXTENSION OF FOREST SERVICE CONVEYANCES PILOT PROGRAM.—Section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107–63) is amended—

- (1) in subsection (b), by striking “20” and inserting “30”;
- (2) in subsection (c) by striking “3” and inserting “8”; and
- (3) in subsection (d), by striking “2006” and inserting “2007”.

SEC. 323. Employees of the foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall, in fiscal year 2005, qualify for General Service Administration contract airfares.

SEC. 324. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: *Provided*, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: *Provided further*, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: *Provided further*, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter’s role in fire suppression.

SEC. 325. A grazing permit or lease issued by the Secretary of the Interior or a grazing permit issued by the Secretary of Agriculture where National Forest System lands are involved that expires, is transferred, or waived during fiscal years 2004–2008 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752), section 19 of the Granger-Thye Act, as amended (16 U.S.C. 5801), title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.), or, if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expired, transferred, or waived permit or lease shall continue in effect under the renewed permit or lease until such time as the Secretary of the Interior or Secretary of Agriculture as appropriate completes processing of such permit or lease in compliance

with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the statutory authority of the Secretary of the Interior or the Secretary of Agriculture: *Provided*, That where National Forest System lands are involved and the Secretary of Agriculture has renewed an expired or waived grazing permit prior to fiscal year 2004, the terms and conditions of the renewed grazing permit shall remain in effect until such time as the Secretary of Agriculture completes processing of the renewed permit in compliance with all applicable laws and regulations or until the expiration of the renewed permit, whichever comes first. Upon completion of the processing, the permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of applicable laws and regulations: *Provided further*, That beginning in November 2004, and every year thereafter, the Secretaries of the Interior and Agriculture shall report to Congress the extent to which they are completing analysis required under applicable laws prior to the expiration of grazing permits, and beginning in May 2004, and every two years thereafter, the Secretaries shall provide Congress recommendations for legislative provisions necessary to ensure all permit renewals are completed in a timely manner. The legislative recommendations provided shall be consistent with the funding levels requested in the Secretaries' budget proposals: *Provided further*, That notwithstanding section 504 of the Rescissions Act (109 Stat. 212), the Secretaries in their sole discretion determine the priority and timing for completing required environmental analysis of grazing allotments based on the environmental significance of the allotments and funding available to the Secretaries for this purpose: *Provided further*, That any Federal lands included within the boundary of Lake Roosevelt National Recreation Area, as designated by the Secretary of the Interior on April 5, 1990 (Lake Roosevelt Cooperative Management Agreement), that were utilized as of March 31, 1997, for grazing purposes pursuant to a permit issued by the National Park Service, the person or persons so utilizing such lands as of March 31, 1997, shall be entitled to renew said permit under such terms and conditions as the Secretary may prescribe, for the lifetime of the permittee or 20 years, whichever is less.

SEC. 326. Notwithstanding any other provision of law or regulation, to promote the more efficient use of the health care funding allocation for fiscal year 2004, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may pay base salary rates to health professionals up to the highest grade and step available to a physician, pharmacist, or other health professional and may pay a recruitment or retention bonus of up to 25 percent above the base pay rate.

SEC. 327. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 328. None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2004.

SEC. 329. None of the funds made available in this Act may be used for the planning, design, or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the Committees on Appropriations.

SEC. 330. In awarding a Federal Contract with funds made available by this Act, the Secretary of Agriculture and the Secretary of the Interior (the “Secretaries”) may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: *Provided*, That the Secretaries may award grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged business: *Provided further*, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: *Provided further*, That the terms “rural community” and “economically disadvantaged” shall have the same meanings as in section 2374 of Public Law 101–624: *Provided further*, That the Secretaries shall develop guidance to implement this section: *Provided further*, That nothing in this section shall be construed as relieving the Secretaries of any duty under applicable procurement laws, except as provided in this section.

SEC. 331. No funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: *Provided*, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

SEC. 332. Section 315(f) of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in section 101(c) of Public Law 104–134; 110 Stat. 1321–200; 16 U.S.C. 4601–6a note), is amended—

(1) by striking “September 30, 2004” and inserting “December 31, 2005”; and

(2) by striking “2007” and inserting “2008”.

SEC. 333. IMPLEMENTATION OF GALLATIN LAND CONSOLIDATION ACT OF 1998. (a) DEFINITIONS.—For purposes of this section:

(1) “Gallatin Land Consolidation Act of 1998” means Public Law 105–267 (112 Stat. 2371).

(2) “Option Agreement” has the same meaning as defined in section 3(6) of the Gallatin Land Consolidation Act of 1998.

(3) “Secretary” means the Secretary of Agriculture.

(4) “Excess receipts” means National Forest Fund receipts from the National Forests in Montana, which are identified and adjusted by the Forest Service within the fiscal year, and which are in excess of funds retained for: the Salvage Sale Fund; the Knutson-Vandenberg Fund; the Purchaser Road/Specified Road Credits; the Twenty-Five Percent Fund, as

amended; the Ten Percent Road and Trail Fund; the Timber Sale Pipeline Restoration Fund; the Fifty Percent Grazing Class A Receipts Fund; and the Land and Water Conservation Fund Recreation User Fees Receipts—Class A Fund.

(5) “Special Account” means the special account referenced in section 4(c)(2) of the Gallatin Land Consolidation Act of 1998.

(6) “Eastside National Forests” has the same meaning as in section 3(4) of the Gallatin Land Consolidation Act of 1998.

(b) SPECIAL ACCOUNT.—

(1) The Secretary is authorized and directed, without further appropriation or reprogramming of funds, to transfer to the Special Account these enumerated funds and receipts in the following order:

(A) timber sale receipts from the Gallatin National Forest and other Eastside National Forests, as such receipts are referenced in section 4(a)(2)(C) of the Gallatin Land Consolidation Act of 1998;

(B) any available funds heretofore appropriated for the acquisition of lands for National Forest purposes in the State of Montana through fiscal year 2003;

(C) net receipts from the conveyance of lands on the Gallatin National Forest as authorized by subsection (c); and

(D) excess receipts for fiscal years 2003 through 2008.

(2) All funds in the Special Account shall be available to the Secretary until expended, without further appropriation, and will be expended prior to the end of fiscal year 2008 for the following purposes:

(A) the completion of the land acquisitions authorized by the Gallatin Land Consolidation Act of 1998 and fulfillment of the Option Agreement, as may be amended from time to time; and

(B) the acquisition of lands for which acquisition funds were transferred to the Special Account pursuant to subsection (b)(1)(B).

(3) The Special Account shall be closed at the end of fiscal year 2008 and any monies remaining in the Special Account shall be transferred to the fund established under Public Law 90–171 (commonly known as the “Sisk Act”, 16 U.S.C. 484a) to remain available, until expended, for the acquisition of lands for National Forest purposes in the State of Montana.

(4) Funds deposited in the Special Account or eligible for deposit shall not be subject to transfer or reprogramming for wildland fire management or any other emergency purposes.

(c) LAND CONVEYANCES WITHIN THE GALLATIN NATIONAL FOREST.—

(1) CONVEYANCE AUTHORITY.—The Secretary is authorized, under such terms and conditions as the Secretary may prescribe and without requirements for further administrative or environmental analyses or examination, to sell or exchange any or all rights, title, and interests of the United States in the following lands within the Gallatin National Forest in the State of Montana:

(A) SMC East Boulder Mine Portal Tract: Principal Meridian, T.3S., R.11E., Section 4, lots 3 to 4 inclusive, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, containing 76.27 acres more or less.

(B) Forest Service West Yellowstone Administrative Site: United States Forest Service Administrative Site located within the NE¹/₄ of Block 17 of the Townsite of West Yellowstone which is situated in the N¹/₂ of Section 34, T.13S., R.5E., Principal Meridian, Gallatin County, Montana, containing 1.04 acres more or less.

(C) Mill Fork Mission Creek Tract: Principal Meridian, T.13S., R.5E., Section 34, NW¹/₄SW¹/₄, containing 40 acres more or less.

(D) West Yellowstone Town Expansion Tract #1: Principal Meridian, T.13S., R.5E., Section 33, E¹/₂E¹/₂NE¹/₄, containing 40 acres more or less.

(E) West Yellowstone Town Expansion Tract #2: Principal Meridian, T.13S., R.5E., Section 33, NE¹/₄SE¹/₄, containing 40 acres more or less.

(2) DESCRIPTIONS.—The Secretary may modify the descriptions in subsection (c)(1) to correct errors or to reconfigure the properties in order to facilitate a conveyance.

(3) CONSIDERATION.—Consideration for a sale or exchange of land under this subsection may include cash, land, or a combination of both.

(4) VALUATION.—Any appraisals of land deemed necessary or desirable by the Secretary to carry out the purposes of this section shall conform to the Uniform Appraisal Standards for Federal Land Acquisitions.

(5) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any land exchanged under this subsection.

(6) SOLICITATIONS OF OFFERS.—The Secretary may—

(A) solicit offers for sale or exchange of land under this subsection on such terms and conditions as the Secretary may prescribe; or

(B) reject any offer made under this subsection if the Secretary determines that the offer is not adequate or not in the public interest.

(7) METHODS OF SALE.—The Secretary may sell land at public or private sale, including competitive sale by auction, bid, or otherwise, in accordance with such terms, conditions, and procedures as the Secretary determines will be in the best interests of the United States.

(8) BROKERS.—The Secretary may utilize brokers or other third parties in the disposition of the land authorized by this subsection and, from the proceeds of the sale, may pay reasonable commissions or fees on the sale or sales.

(9) RECEIPTS FROM SALE OR EXCHANGE.—The Secretary shall deposit the net receipts of a sale or exchange under this subsection in the Special Account.

(d) MISCELLANEOUS PROVISIONS.—

(1) Receipts from any sale or exchange pursuant to subsection (c) of this section:

(A) Shall not be deemed excess receipts for purposes of this section.

(B) Shall not be paid or distributed to the State or counties under any provision of law, or otherwise deemed as moneys received from the National Forest for purposes of the Act of May 23, 1908 or the Act of March 1, 1911

(16 U.S.C. 500, as amended), or the Act of March 4, 1913 (16 U.S.C. 501, as amended).

(2) As of the date of enactment of this section, any public land order withdrawing land described in subsection (c)(1) from all forms of appropriation under the public land laws is revoked with respect to any portion of the land conveyed by the Secretary under this section.

(3) Subject to valid existing rights, all lands described in section (c)(1) are withdrawn from location, entry, and patent under the mining laws of the United States.

(4) The Agriculture Property Management Regulations shall not apply to any action taken pursuant to this section.

(e) OPTION AGREEMENT AMENDMENT.—The Amendment No. 1 to the Option Agreement is hereby ratified as a matter of Federal law and the parties to it are authorized to effect the terms and conditions thereof.

SEC. 334. Subsection (c) of section 551 of the Land Between the Lakes Protection Act of 1998 (16 U.S.C. 460lll–61) is amended to read as follows:

“(c) USE OF FUNDS.—The Secretary of Agriculture may expend amounts appropriated or otherwise made available to carry out this title in a manner consistent with the authorities exercised by the Tennessee Valley Authority before the transfer of the Recreation Area to the administrative jurisdiction of the Secretary, including campground management and visitor services, paid advertisement, and procurement of food and supplies for resale purposes.”

SEC. 335. Section 339 of the Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted into law by section 1000(a)(3) of Public Law 106–113 (113 Stat. 1501A–204; 16 U.S.C. 528 note), is amended—

(1) in subsection (b)—

(A) in the first sentence, by striking “not less than the fair market value” and inserting “fees under subsection (c)”; and

(B) by striking the second sentence and inserting the following: “The Secretary shall establish appraisal methods and bidding procedures to determine the fair market value of forest botanical products harvested under the pilot program.”;

(2) in subsection (c), by striking paragraph (1) and inserting the following new paragraph (1):

“(1) IMPOSITION AND COLLECTION.—Under the pilot program, the Secretary of Agriculture shall charge and collect from a person who harvests forest botanical products on National Forest System lands a fee in an amount established by the Secretary to recover at least a portion of the fair market value of the harvested forest botanical products and a portion of the costs incurred by the Department of Agriculture associated with granting, modifying, or monitoring the authorization for harvest of the forest botanical products, including the costs of any environmental or other analysis.”;

(3) in subsection (d)(1), by striking “charges and fees under subsections (b) and” and inserting “a fee under subsection”;

(4) in subsection (f)—

(A) in paragraph (1), by striking “subsections (b) and” and inserting “subsection”;

(B) in paragraph (2), by striking “in excess of the amounts collected for forest botanical products during fiscal year 1999”;

(C) in paragraph (3), by striking “charges and fees collected at that unit under the pilot program to pay for” and all that follows through the period at the end and inserting “fees collected at that unit under subsection (c) to pay for the costs of conducting inventories of forest botanical products, determining sustainable levels of harvest, monitoring and assessing the impacts of harvest levels and methods, conducting restoration activities, including any necessary vegetation, and covering costs of the Department of Agriculture described in subsection (c)(1).”; and

(D) in paragraph (4), by striking “subsections (b) and” and inserting “subsection”;

(5) in subsection (g)—

(A) by striking “charges and fees under subsections (b) and” and inserting “fees under subsection”; and

(B) by striking “subsections (b) and” the second place it appears and inserting “subsection”; and

(6) in subsection (h), by striking paragraph (1) and inserting the following new paragraph (1):

“(1) COLLECTION OF FEES.—The Secretary of Agriculture may collect fees under the authority of subsection (c) until September 30, 2009.”.

SEC. 336. TRANSFER OF FOREST LEGACY PROGRAM LAND. Section 7(l) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c(1)) is amended by inserting after paragraph (2) the following:

“(3) TRANSFER OF FOREST LEGACY PROGRAM LAND—

“(A) IN GENERAL.—Subject to any terms and conditions that the Secretary may require (including the requirements described in subparagraph (B)), the Secretary may, at the request of the State of Vermont, convey to the State, by quitclaim deed, without consideration, any land or interest in land acquired in the State under the Forest Legacy Program.

“(B) REQUIREMENTS.—In conveying land or an interest in land under subparagraph (A), the Secretary may require that—

“(i) the deed conveying the land or interest in land include requirements for the management of the land in a manner that—

“(I) conserves the land or interest in land; and

“(II) is consistent with any other Forest Legacy Program purposes for which the land or interest in land was acquired;

“(ii) if the land or interest in land is subsequently sold, exchanged, or otherwise disposed of by the State of Vermont, the State shall—

“(I) reimburse the Secretary in an amount that is based on the current market value of the land or interest in land in proportion to the amount of consideration paid by the United States for the land or interest in land; or

“(II) convey to the Secretary land or an interest in land that is equal in value to the land or interest in land conveyed.

“(C) DISPOSITION OF FUNDS.—Amounts received by the Secretary under subparagraph (B)(ii) shall be credited to the Wildland Fire Management account, to remain available until expended.”

SEC. 337. Notwithstanding section 9(b) of Public Law 106–506, funds hereinafter appropriated under Public Law 106–506 shall require matching funds from non-Federal sources on the basis of aggregate contribution to the Environmental Improvement Program, as defined in Public Law 106–506, rather than on a project-by-project basis, except for those activities provided under section 9(c) of that Act, to which this amendment shall not apply.

SEC. 338. Any application for judicial review of a Record of Decision for any timber sale in Region 10 of the Forest Service that had a Notice of Intent prepared on or before January 1, 2003 shall—

(1) be filed in the Alaska District of the Federal District Court within 30 days after exhaustion of the Forest Service administrative appeals process (36 CFR 215) or within 30 days of enactment of this Act if the administrative appeals process has been exhausted prior to enactment of this Act, and the Forest Service shall strictly comply with the schedule for completion of administrative action; and

(2) be completed and a decision rendered by the court not later than 180 days from the date such request for review is filed; if a decision is not rendered by the court within 180 days as required by this subsection, the Secretary of Agriculture shall petition the court to proceed with the action.

SEC. 339. (a) IN GENERAL.—The Secretary of Agriculture may cancel, with the consent of the timber purchaser, a maximum of 70 contracts for the sale of timber awarded between October 1, 1995 and January 1, 2002 on the Tongass National Forest in Alaska if—

(1) the Secretary determines, in the Secretary’s sole discretion, that the sale would result in a financial loss to the purchaser and the costs to the government of seeking a legal remedy against the purchaser would likely exceed the cost of terminating the contract; and

(2) the timber purchaser agrees to—

(A) terminate its rights under the contract; and

(B) release the United States from all liability, including further consideration or compensation resulting from such cancellation.

(b) EFFECT OF CANCELLATION.—

(1) IN GENERAL.—The United States shall not surrender any claim against a timber purchaser that arose under a contract before cancellation under this section not in connection with the cancellation.

(2) LIMITATION.—Cancellation of a contract under this section shall release the timber purchaser from liability for any damages resulting from cancellation of such contract.

(c) TIMBER AVAILABLE FOR RESALE.—Timber included in a contract cancelled under this section shall be available for resale by the Secretary of Agriculture.

SEC. 340. (a) JUSTIFICATION OF COMPETITIVE SOURCING ACTIVITIES.—(1) In each budget submitted by the President to Congress under section 1105 of title 31, United States Code, for a fiscal year, beginning with fiscal year 2005, amounts requested to perform competitive sourcing studies for programs, projects, and activities listed in paragraph (2) shall be set forth separately from other amounts requested.

(2) Paragraph (1) applies to programs, projects, and activities—

(A) of the Department of the Interior for which funds are appropriated by this Act;

(B) of the Forest Service; and

(C) of the Department of Energy for which funds are appropriated by this Act.

(b) ANNUAL REPORTING REQUIREMENTS ON COMPETITIVE SOURCING ACTIVITIES.—(1) Not later than December 31 of each year, beginning with December 31, 2003, the Secretary concerned shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report, covering the preceding fiscal year, on the competitive sourcing studies conducted by the Department of the Interior, the Forest Service, or the Department of Energy, as appropriate, and the costs and cost savings to the citizens of the United States of such studies.

(2) In this subsection, the term “Secretary concerned” means—

(A) the Secretary of the Interior, with respect to the Department of the Interior programs, projects, and activities for which funds are appropriated by this Act;

(B) the Secretary of Agriculture, with respect to the Forest Service; and

(C) the Secretary of Energy, with respect to the Department of Energy programs, projects, and activities for which funds are appropriated by this Act.

(3) The report under this subsection shall include, for the fiscal year covered—

(A) the total number of competitions completed;

(B) the total number of competitions announced, together with a list of the activities covered by such competitions;

(C) the total number of full-time equivalent Federal employees studied under completed competitions;

(D) the total number of full-time equivalent Federal employees being studied under competitions announced, but not completed;

(E) the incremental cost directly attributable to conducting the competitions identified under subparagraphs (A) and (B), including costs attributable to paying outside consultants and contractors;

(F) an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions;

(G) actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions;

(H) the total projected number of full-time equivalent Federal employees covered by competitions scheduled to be announced in the fiscal year; and

(I) a description of how the competitive sourcing decision making processes are aligned with strategic workforce plans.

(c) DECLARATION OF COMPETITIVE SOURCING STUDIES.—For fiscal year 2004, each of the Secretaries of executive departments referred to in subsection (b)(2) shall submit a detailed competitive sourcing proposal to the Committees on Appropriations of the Senate and the House of Representatives not later than 60 days after the date of the enactment of this Act. The proposal shall include, for each competitive sourcing study proposed to be carried out by or for the Secretary concerned, the number of positions to be studied, the amount of funds needed for the study, and the program, project, and activity from which the funds will be expended.

(d) LIMITATION ON COMPETITIVE SOURCING STUDIES.—(1) Of the funds made available by this or any other Act to the Department of Energy or the Department of the Interior for fiscal year 2004, not more than the maximum amount specified in paragraph (2)(A) may be used by the Secretary of Energy or the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2004 for programs, projects, and activities for which funds are appropriated by this Act until such time as the Secretary concerned submits a reprogramming proposal to the Committees on Appropriations of the Senate and the House of Representatives, and such proposal has been processed consistent with the fiscal year 2004 reprogramming guidelines.

(2) For the purposes of paragraph (1)—

(A) the maximum amount—

(i) with respect to the Department of Energy is \$500,000; and

(ii) with respect to the Department of the Interior is \$2,500,000; and

(B) the fiscal year 2004 reprogramming guidelines referred to in such paragraph are the reprogramming guidelines set forth in the joint explanatory statement accompanying the Act (H.R. 2691, 108th Congress, 1st session), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

(3) Of the funds appropriated by this Act, not more than \$5,000,000 may be used in fiscal year 2004 for competitive sourcing studies and related activities by the Forest Service.

(e) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—(1) None of the funds made available in this or any other Act may be used to convert to contractor performance an activity or function of the Forest Service, an activity or function of the Department of the Interior performed under programs, projects, and activities for which funds are appropriated by this Act, or an activity or function of the Department of Energy performed under programs, projects, and activities for which funds are appropriated by this Act, if such activity or function is performed on or after the date of the enactment of this Act by more than 10 Federal employees unless—

(A) the conversion is based on the result of a public-private competition that includes a more efficient and cost effective organization plan developed by such activity or function; and

(B) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly

to the Federal Government by an amount that equals or exceeds the lesser of—

- (i) 10 percent of the more efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or
- (ii) \$10,000,000.

(2) This subsection shall not apply to a commercial or industrial type function that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(3) The conversion of any activity or function under the authority provided by this subsection shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy.

(f) COMPETITIVE SOURCING STUDY DEFINED.—In this subsection, the term “competitive sourcing study” means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

SEC. 341. Section 4(e)(3)(A)(vi) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346; 116 Stat. 2007) is amended by striking “under this Act” and inserting “under this Act, including costs incurred under paragraph (2)(A)”.

SEC. 342. LAKE TAHOE RESTORATION PROJECTS. Section 4(e)(3)(A) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346; 116 Stat. 2007) is further amended—

- (1) in clause (v), by striking “and” at the end;
- (2) by redesignating clause (vi) as clause (vii); and
- (3) by inserting after clause (v) the following:

“(vi) transfer to the Secretary of Agriculture, or, if the Secretary of Agriculture enters into a cooperative agreement with the head of another Federal agency, the head of the Federal agency, for Federal environmental restoration projects under sections 6 and 7 of the Lake Tahoe Restoration Act (114 Stat. 2354), environmental improvement payments under section 2(g) of Public Law 96-586 (94 Stat. 3382), and any Federal environmental restoration project included in the environmental improvement program adopted by the Tahoe Regional Planning Agency in February 1998 (as amended), in an amount equal to the cumulative amounts authorized to be appropriated for such projects under those Acts, in accordance with a revision to the Southern Nevada Public Land Management Act

of 1998 Implementation Agreement to implement this section, which shall include a mechanism to ensure appropriate stakeholders from the States of California and Nevada participate in the process to recommend projects for funding; and”.

SEC. 343. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects and activities to support governmentwide, departmental, agency or bureau administrative functions or headquarters, regional or central office operations shall be presented in annual budget justifications. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

SEC. 344. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 0.646 percent of—

(1) the budget authority provided for fiscal year 2004 for any discretionary account in this Act; and

(2) the budget authority provided in any advance appropriation for fiscal year 2004 for any discretionary account in the Department of the Interior and Related Agencies Appropriations Act, 2003.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

TITLE IV—THE FLATHEAD AND KOOTENAI NATIONAL FOREST REHABILITATION ACT

SEC. 401. SHORT TITLE. This title may be cited as the “Flathead and Kootenai National Forest Rehabilitation Act of 2003”.

SEC. 402. FINDINGS AND PURPOSE. (a) FINDINGS.—Congress finds that—

(1) the Robert Fire and Wedge Fire of 2003 caused extensive resource damage in the Flathead National Forest;

(2) the fires of 2000 caused extensive resource damage on the Kootenai National Forest and implementation of rehabilitation and recovery projects developed by the agency for the Forest is critical;

(3) the environmental planning and analysis to restore areas affected by the Robert Fire and Wedge Fire will be completed through a collaborative community process;

(4) the rehabilitation of burned areas needs to be completed in a timely manner in order to reduce the long-term environmental impacts; and

(5) wildlife and watershed resource values will be maintained in areas affected by the Robert Fire and Wedge Fire while exempting the rehabilitation effort from certain applications of the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA).

(b) The purpose of this title is to accomplish in a collaborative environment, the planning and rehabilitation of the Robert Fire and Wedge Fire and to ensure timely implementation of recovery and rehabilitation projects on the Kootenai National Forest.

SEC. 403. REHABILITATION PROJECTS. (a) IN GENERAL.—The Secretary of Agriculture (in this title referred to as the “Secretary”) may conduct projects that the Secretary determines are necessary to rehabilitate and restore, and may conduct salvage harvests on, National Forest System lands in the North Fork drainage on the Flathead National Forest, as generally depicted on a map entitled “North Fork Drainage” which shall be on file and available for public inspection in the Office of Chief, Forest Service, Washington, D.C.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as otherwise provided by this title, the Secretary shall conduct projects under this title in accordance with—

(A) the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and

(B) other applicable laws.

(2) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT.—If an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act (42 U.S.C. 4332(2))) is required for a project under this title, the Secretary shall not be required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or the environmental impact statement.

(3) PUBLIC COLLABORATION.—To encourage meaningful participation during preparation of a project under this title, the Secretary shall facilitate collaboration among the State of Montana, local governments, and Indian tribes, and participation of interested persons, during the preparation of each project in a manner consistent with the Implementation Plan for the 10-year Comprehensive Strategy of a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report for the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–646).

(4) COMPLIANCE WITH CLEAN WATER ACT.—Consistent with the Clean Water Act (33 U.S.C. 1251 et seq.) and Montana Code 75–5–703(10)(b), the Secretary is not prohibited from implementing projects under this title due to the lack of a Total Maximum Daily Load as provided for under section 303(d) of the Clean Water Act (33 U.S.C. 1313(d)), except that the Secretary shall comply with any best management practices required by the State of Montana.

(5) ENDANGERED SPECIES ACT CONSULTATION.—If a consultation is required under section 7 of the Endangered Species Act (16 U.S.C. 1536) for a project under this title, the Secretary of the Interior shall expedite and give precedence to such consultation over any similar requests for consultation by the Secretary.

(6) ADMINISTRATIVE APPEALS.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note) and section

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215 of title 36, Code of Federal Regulations shall apply to projects under this title.

SEC. 404. CONTRACTING AND COOPERATIVE AGREEMENTS. (a) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into contract or cooperative agreements to carry out a project under this title.

(b) EXEMPTION.—Notwithstanding any other provisions of law, the Secretary may limit competition for a contract or a cooperative agreement under subsection (a).

SEC. 405. MONITORING REQUIREMENTS. (a) IN GENERAL.—The Secretary shall establish a multiparty monitoring group consisting of a representative number of interested parties, as determined by the Secretary, to monitor the performance and effectiveness of projects conducted under this title.

(b) REPORTING REQUIREMENTS.—The multiparty monitoring group shall prepare annually a report to the Secretary on the progress of the projects conducted under this title in rehabilitating and restoring the North Fork drainage. The Secretary shall submit the report to the Senate Subcommittee on Interior Appropriations of the Senate Committee on Appropriations.

SEC. 406. SUNSET. The authority for the Secretary to issue a decision to carry out a project under this title shall expire 5 years from the date of enactment.

SEC. 407. IMPLEMENTATION OF RECORDS OF DECISION. The Secretary of Agriculture shall publish new information regarding forest wide estimates of old growth from volume 103 of the administrative record in the case captioned Ecology Center v. Castaneda, CV-02-200-M-DWM (D. Mont.) for public comment for a 30-day period. The Secretary shall review any comments received during the comment period and decide whether to modify the Records of Decision (hereinafter referred to as the “ROD’s”) for the Pinkham, White Pine, Kelsey-Beaver, Gold/Boulder/Sullivan, and Pink Stone projects on the Kootenai National Forest. The ROD’s, whether modified or not, shall not be deemed arbitrary and capricious under the NFMA, NEPA or other applicable law as long as each project area retains 10 percent designated old growth below 5,500 feet elevation in third order watersheds in which the project is located as specified in the forest plan.

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This Act may be cited as the “Department of the Interior
and Related Agencies Appropriations Act, 2004”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*