

105TH CONGRESS
2D SESSION

S. 1896

To transfer administrative jurisdiction over the Land Between the Lakes
National Recreation Area to the Secretary of Agriculture.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 1998

Mr. McCONNELL introduced the following bill; which was read twice and
referred to the Committee on Environment and Public Works

A BILL

To transfer administrative jurisdiction over the Land Between the Lakes National Recreation Area to the Secretary of Agriculture.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be referred to as
5 “The Land Between the Lakes Protection Act of 1998”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Purposes.

TITLE I—ESTABLISHMENT, ADMINISTRATION, AND JURISDICTION

- Sec. 101. Establishment.
- Sec. 102. Civil and criminal jurisdiction.
- Sec. 103. Payments to States and counties.
- Sec. 104. Forest highways.

TITLE II—MANAGEMENT PROVISIONS

- Sec. 201. Land and resource management plan.
- Sec. 202. Advisory Board.
- Sec. 203. Fees.
- Sec. 204. Disposition of receipts.
- Sec. 205. Special use authorizations.
- Sec. 206. Cooperative authorities and gifts.
- Sec. 207. Designation of national recreation trail.
- Sec. 208. Cemeteries.
- Sec. 209. Resource management.
- Sec. 210. Dams and impoundments.
- Sec. 211. Trust Fund.
- Sec. 212. Electricity.

TITLE III—TRANSFER PROVISIONS

- Sec. 301. Effective date of transfer.
- Sec. 302. Statement of policy.
- Sec. 303. Memorandum of agreement.
- Sec. 304. Records.
- Sec. 305. Transfer of personal property.
- Sec. 306. Compliance with environmental laws.
- Sec. 307. Personnel.

TITLE IV—FUNDING

- Sec. 401. Tennessee Valley Authority transitional funding.
- Sec. 402. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
 4 trator” means the Administrator of the Environ-
 5 mental Protection Agency.

6 (2) ADVISORY BOARD.—The term “Advisory
 7 Board” means the Land Between the Lakes Advi-
 8 sory Board established under section 202.

1 (3) CHAIRMAN.—The term “Chairman” means
2 the Chairman of the Board of Directors of the Ten-
3 nessee Valley Authority.

4 (4) ELIGIBLE EMPLOYEE.—The term “eligible
5 employee” means a person that was, on the date of
6 enactment of this Act, a full-time employee of the
7 Tennessee Valley Authority at the Recreation Area.

8 (5) ENVIRONMENTAL LAW.—

9 (A) IN GENERAL.—The term “environ-
10 mental law” means all applicable Federal,
11 State, and local laws (including regulations)
12 and requirements related to protection of
13 human health, natural and cultural resources,
14 or the environment.

15 (B) INCLUSIONS.—The term “environ-
16 mental law” includes—

17 (i) the Comprehensive Environmental
18 Response, Compensation, and Liability Act
19 of 1980 (42 U.S.C. 9601 et seq.);

20 (ii) the Solid Waste Disposal Act (42
21 U.S.C. 6901 et seq.);

22 (iii) the Federal Water Pollution Con-
23 trol Act (33 U.S.C. 1251 et seq.);

24 (iv) the Clean Air Act (42 U.S.C.
25 7401 et seq.);

1 (v) the Federal Insecticide, Fungicide,
2 and Rodenticide Act (7 U.S.C. 136 et
3 seq.);

4 (vi) the Toxic Substances Control Act
5 (15 U.S.C. 2601 et seq.); and

6 (vii) the Safe Drinking Water Act (42
7 U.S.C. 300f et seq.).

8 (6) FOREST HIGHWAY.—The term “forest high-
9 way” has the meaning given the term in section
10 101(a) of title 23, United States Code.

11 (7) GOVERNMENTAL UNIT.—The term “govern-
12 mental unit” means an agency of the Federal Gov-
13 ernment or a State or local government, local gov-
14 ernmental unit, public or municipal corporation, or
15 unit of a State university system.

16 (8) HAZARDOUS SUBSTANCE.—The term “haz-
17 ardous substance” has the meaning given the term
18 in section 101 of the Comprehensive Environmental
19 Response, Compensation, and Liability Act of 1980
20 (42 U.S.C. 9601).

21 (9) PERSON.—The term “person” has the
22 meaning given the term in section 101 of the Com-
23 prehensive Environmental Response, Compensation,
24 and Liability Act of 1980 (42 U.S.C. 9601).

1 (10) POLLUTANT OR CONTAMINANT.—The term
2 “pollutant or contaminant” has the meaning given
3 the term in section 101 of the Comprehensive Envi-
4 ronmental Response, Compensation, and Liability
5 Act of 1980 (42 U.S.C. 9601).

6 (11) RECREATION AREA.—The term “Recre-
7 ation Area” means the Land Between the Lakes Na-
8 tional Recreation Area.

9 (12) RELEASE.—The term “release” has the
10 meaning given the term in section 101 of the Com-
11 prehensive Environmental Response, Compensation,
12 and Liability Act of 1980 (42 U.S.C. 9601).

13 (13) RESPONSE ACTION.—The term “response
14 action” has the meaning given the term in section
15 101 of the Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980 (42 U.S.C.
17 9601).

18 (14) SECRETARY.—The term “Secretary”
19 means the Secretary of Agriculture.

20 (15) STATE.—The term “State” means the
21 State of Kentucky and the State of Tennessee.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are—

24 (1) to transfer without consideration adminis-
25 trative jurisdiction over the Recreation Area from

1 the Tennessee Valley Authority to the Secretary so
2 that the Recreation Area may be managed as a unit
3 of the National Forest System;

4 (2) to protect and manage the resources of the
5 Recreation Area for optimum yield of outdoor recre-
6 ation and environmental education through multiple
7 use management by the Forest Service;

8 (3) to authorize, research, test, and dem-
9 onstrate innovative programs and cost-effective man-
10 agement of the Recreation Area;

11 (4) to authorize the Secretary to cooperate be-
12 tween and among the States, Federal agencies, pri-
13 vate organizations, and corporations, and individ-
14 uals, as appropriate, in the management of the
15 Recreation Area and to help stimulate the develop-
16 ment of the surrounding region and extend the bene-
17 ficial results as widely as practicable; and

18 (5) to provide for the smooth and equitable
19 transfer of jurisdiction from the Tennessee Valley
20 Authority to the Secretary.

1 **TITLE I—ESTABLISHMENT, AD-**
2 **MINISTRATION, AND JURIS-**
3 **DICTION**

4 **SEC. 101. ESTABLISHMENT.**

5 (a) IN GENERAL.—On the transfer of administrative
6 jurisdiction under section 301, the Land Between the
7 Lakes National Recreation Area in the States of Kentucky
8 and Tennessee is established as a unit of the National
9 Forest System.

10 (b) MANAGEMENT.—

11 (1) IN GENERAL.—The Secretary shall manage
12 the Recreation Area for multiple use as a unit of the
13 National Forest System.

14 (2) EMPHASES.—The emphases in the manage-
15 ment of the Recreation Area shall be—

16 (A) to provide public recreational opportu-
17 nities;

18 (B) to conserve fish and wildlife and their
19 habitat; and

20 (C) to provide for diversity of native and
21 desirable non-native plants, animals, opportuni-
22 ties for hunting and fishing, and environmental
23 education.

24 (3) STATUS OF UNIT.—The Secretary may ad-
25 minister the Recreation Area as a separate unit of

1 the National Forest System or in conjunction with
2 an existing national forest.

3 (c) AREA INCLUDED.—

4 (1) IN GENERAL.—The Recreation Area shall
5 comprise the federally owned land, water, and inter-
6 ests in the land and water lying between Kentucky
7 Lake and Lake Barkley in the States of Kentucky
8 and Tennessee, as generally depicted on the map en-
9 titled “Land Between the Lakes National Recreation
10 Area—January, 1998”.

11 (2) MAP.—The map described in paragraph (1)
12 shall be available for public inspection in the Office
13 of the Chief of the Forest Service, Washington, D.C.

14 (d) WATERS.—

15 (1) WATER LEVELS AND NAVIGATION.—Noth-
16 ing in this Act affects the jurisdiction of the Ten-
17 nessee Valley Authority or the Army Corps of Engi-
18 neers to manage and regulate water levels and navi-
19 gation of Kentucky Lake and Lake Barkley and
20 areas subject to flood easements.

21 (2) OCCUPANCY AND USE.—Subject to the ju-
22 risdiction of the Tennessee Valley Authority and the
23 Army Corps of Engineers, the Secretary shall have
24 jurisdiction to regulate the occupancy and use of the
25 surface waters of the lakes for recreational purposes.

1 **SEC. 102. CIVIL AND CRIMINAL JURISDICTION.**

2 (a) ADMINISTRATION.—The Secretary, acting
3 through the Chief of the Forest Service, shall administer
4 the Recreation Area in accordance with this Act and the
5 laws, rules, and regulations pertaining to the National
6 Forest System.

7 (b) STATUS.—Land within the Recreation Area shall
8 have the status of land acquired under the Act of March
9 1, 1911 (commonly known as the “Weeks Act”) (16
10 U.S.C. 515 et seq.).

11 **SEC. 103. PAYMENTS TO STATES AND COUNTIES.**

12 (a) PAYMENTS IN LIEU OF TAXES.—Land within the
13 Recreation Area shall be subject to the provisions for pay-
14 ments in lieu of taxes under chapter 69 of title 31, United
15 States Code.

16 (b) DISTRIBUTION.—All amounts received from
17 charges, use fees, and natural resource utilization, includ-
18 ing timber and agricultural receipts, shall not be subject
19 to distribution to States under the Act of May 23, 1908
20 (16 U.S.C. 500).

21 (c) PAYMENTS BY THE TENNESSEE VALLEY AU-
22 THORITY.—After the transfer of administrative jurisdic-
23 tion is made under section 301—

24 (1) the Tennessee Valley Authority shall con-
25 tinue to calculate the amount of payments to be
26 made to States and counties under section 13 of the

1 Tennessee Valley Authority Act of 1933 (16 U.S.C.
2 831l); and

3 (2) each State (including, for the purposes of
4 this subsection, the State of Kentucky, the State of
5 Tennessee, and any other State) that receives a pay-
6 ment under that section shall continue to calculate
7 the amounts to be distributed to the State and local
8 governments, as though the transfer had not been
9 made.

10 **SEC. 104. FOREST HIGHWAYS.**

11 (a) IN GENERAL.—For purposes of section 204 of
12 title 23, United States Code, the road known as “The
13 Trace” and every other paved road within the Recreation
14 Area (including any road constructed to secondary stand-
15 ards) shall be considered to be a forest highway.

16 (b) STATE RESPONSIBILITY.—

17 (1) IN GENERAL.—The States shall be respon-
18 sible for the maintenance of forest highways within
19 the Recreation Area.

20 (2) REIMBURSEMENT.—To the maximum ex-
21 tent provided by law, from funds appropriated to the
22 Department of Transportation and available for pur-
23 poses of highway construction and maintenance, the
24 Secretary of Transportation shall reimburse the

1 States for all or a portion of the costs of mainte-
2 nance of forest highways in the Recreation Area.

3 **TITLE II—MANAGEMENT**
4 **PROVISIONS**

5 **SEC. 201. LAND AND RESOURCE MANAGEMENT PLAN.**

6 (a) IN GENERAL.—As soon as practicable after the
7 effective date of the transfer of jurisdiction under section
8 301, the Secretary shall prepare a land and resource man-
9 agement plan for the Recreation Area in conformity with
10 the National Forest Management Act of 1976 (16 U.S.C.
11 472a et seq.) and other applicable law.

12 (b) INTERIM PROVISION.—Until adoption of the land
13 and resource management plan, the Secretary may use,
14 as appropriate, the existing Tennessee Valley Authority
15 management plan to provide interim management direc-
16 tion. Use of all or a portion of the management plan by
17 the Secretary shall not be considered to be a major Fed-
18 eral action significantly affecting the quality of the human
19 environment.

20 **SEC. 202. ADVISORY BOARD.**

21 (a) ESTABLISHMENT.—Not later than 90 days after
22 the date of enactment of this Act, the Secretary shall es-
23 tablish the Land Between the Lakes Advisory Board.

24 (b) MEMBERSHIP.—The Advisory Board shall be
25 composed of 17 members appointed as follows:

1 (1) 4 individuals appointed by the Secretary, in-
2 cluding—

3 (A) 2 residents of the State of Kentucky;
4 and

5 (B) 2 residents of the State of Tennessee.

6 (2) 2 individuals, including—

7 (A) 1 individual appointed by the Ken-
8 tucky Fish and Wildlife Commissioner or des-
9 ignee; and

10 (B) 1 individual appointed by the Ten-
11 nessee Fish and Wildlife Commission or des-
12 ignee.

13 (3) 1 individual appointed by the Land Between
14 the Lakes Association.

15 (4) 4 individuals, including—

16 (A) 2 individuals appointed by the Gov-
17 ernor of the State of Tennessee; and

18 (B) 2 individuals appointed by the Gov-
19 ernor of the State of Kentucky.

20 (5) 6 individuals, including 2 individuals ap-
21 pointed by each of the counties containing the
22 Recreation Area.

23 (c) TERM.—

24 (1) IN GENERAL.—The term of a member of
25 the Advisory Board shall be 5 years.

1 (2) SUCCESSION.—Members of the Advisory
2 Board may not succeed themselves.

3 (d) CHAIRPERSON.—The Regional Forester shall
4 serve as chairperson of the Advisory Board.

5 (e) RULES OF PROCEDURE.—The Secretary shall
6 prescribe the rules of procedure for the Advisory Board.

7 (f) FUNCTIONS.—The Advisory Board may advise the
8 Secretary on—

9 (1) means of promoting public participation for
10 the land and resource management plan for the
11 Recreation Area; and

12 (2) environmental education.

13 (g) MEETINGS.—

14 (1) FREQUENCY.—The Advisory Board shall
15 meet at least biannually.

16 (2) PUBLIC MEETING.—A meeting of the Advi-
17 sory Board shall be open to the general public.

18 (3) NOTICE OF MEETINGS.—The chairperson,
19 through the placement of notices in local news media
20 and by other appropriate means shall give 2 weeks'
21 public notice of each meeting of the Advisory Board.

22 (h) TERMINATION.—The Secretary may terminate
23 the Advisory Board on or after the date as of which the
24 Secretary determines that implementation of the initial

1 land and resource management plan for the Recreation
2 Area under section 201 has begun.

3 **SEC. 203. FEES.**

4 (a) **AUTHORITY.**—The Secretary may charge reason-
5 able fees for admission to and the use of the designated
6 sites, or for activities, within the Recreation Area.

7 (b) **FACTORS.**—In determining whether to charge
8 fees, the Secretary may consider the costs of collection
9 weighed against potential income.

10 (c) **LIMITATION.**—No general entrance fees shall be
11 charged within the Recreation Area.

12 **SEC. 204. DISPOSITION OF RECEIPTS.**

13 (a) **IN GENERAL.**—All amounts received from
14 charges, use fees, and natural resource utilization, includ-
15 ing timber and agricultural receipts, shall be deposited in
16 a special fund in the Treasury of the United States to
17 be known as the “Land Between the Lakes Management
18 Fund”.

19 (b) **USE.**—Amounts in the Fund shall be available
20 to the Secretary until expended, without further Act of
21 appropriation, for the management of the Recreation
22 Area, including payment of salaries and expenses.

23 **SEC. 205. SPECIAL USE AUTHORIZATIONS.**

24 (a) **IN GENERAL.**—In addition to other authorities
25 for the authorization of special uses within the National

1 Forest System, within the Recreation Area, the Secretary
2 may, on such terms and conditions as the Secretary may
3 prescribe—

4 (1) convey for no consideration perpetual ease-
5 ments to governmental units for public roads over
6 U.S. Route 68 and the Trace, and such other rights-
7 of-way as the Secretary and a governmental unit
8 may agree;

9 (2) transfer or lease to governmental units de-
10 veloped recreation sites or other facilities to be man-
11 aged for public purposes; and

12 (3) lease or authorize developed recreational
13 sites or other facilities, consistent with sections 3(2)
14 and 101(b)(2), to for-profit and not-for-profit cor-
15 porations and organizations for renewable periods
16 not to exceed 30 years.

17 (b) CONSIDERATION.—

18 (1) IN GENERAL.—Consideration for a lease or
19 other special use authorization within the Recreation
20 Area shall be based on fair market value.

21 (2) REDUCTION OR WAIVER.—The Secretary
22 may reduce or waive a fee to a governmental unit or
23 nonprofit organization commensurate with other
24 consideration provided to the United States, as de-
25 termined by the Secretary.

1 (c) PROCEDURE.—The Secretary may use any fair
 2 and equitable method for authorizing special uses within
 3 the Recreation Area, including public solicitation of pro-
 4 posals.

5 (d) EXISTING AUTHORIZATIONS.—

6 (1) IN GENERAL.—A permit or other authoriza-
 7 tion granted by the Tennessee Valley Authority that
 8 is in effect on the date of enactment of this Act may
 9 continue on transfer of administration of the Recre-
 10 ation Area to the Secretary.

11 (2) REISSUANCE.—A permit or authorization
 12 described in paragraph (1) may be reissued on ter-
 13 mination under terms and conditions prescribed by
 14 the Secretary.

15 (3) EXERCISE OF RIGHTS.—The Secretary may
 16 exercise any of the rights of the Tennessee Valley
 17 Authority contained in any permit or other author-
 18 ization, including any right to amend, modify, and
 19 revoke the permit or authorization.

20 **SEC. 206. COOPERATIVE AUTHORITIES AND GIFTS.**

21 (a) FISH AND WILDLIFE SERVICE.—

22 (1) MANAGEMENT.—

23 (A) IN GENERAL.—Subject to such terms
 24 and conditions as the Secretary may prescribe,
 25 the Secretary may issue a special use authoriza-

tion to the United States Fish and Wildlife Service for the management by the Service of facilities and land agreed on by the Secretary and the Secretary of the Interior.

(B) FEES.—

(i) IN GENERAL.—Reasonable admission and use fees may be charged for all areas administered by the United States Fish and Wildlife Service.

(ii) DEPOSIT.—The fees shall be deposited in accordance with section 204.

(2) COOPERATION.—The Secretary and the Secretary of the Interior may cooperate or act jointly on activities such as population monitoring and inventory of fish and wildlife with emphasis on migratory birds and endangered and threatened species, environmental education, visitor services, conservation demonstration projects and scientific research.

(3) SUBORDINATION OF FISH AND WILDLIFE ACTIVITIES TO OVERALL MANAGEMENT.—The management and use of areas and facilities under permit to the United States Fish and Wildlife Service as authorized pursuant to this section shall be subordi-

1 nate to the overall management of the Recreation
2 Area as directed by the Secretary.

3 (b) AUTHORITIES.—For the management, mainte-
4 nance, operation, and interpretation of the Recreation
5 Area and its facilities, the Secretary may—

6 (1) make grants and enter into contracts and
7 cooperative agreements with Federal agencies, gov-
8 ernmental units, nonprofit organizations, corpora-
9 tions, and individuals; and

10 (2) accept gifts under Public Law 95–442 (7
11 U.S.C. 2269) notwithstanding that the donor con-
12 ducts business with any agency of the Department
13 of Agriculture or is regulated by the Secretary of
14 Agriculture.

15 **SEC. 207. DESIGNATION OF NATIONAL RECREATION TRAIL.**

16 Effective on the date of enactment of this Act, the
17 North-South Trail is designated as a national recreation
18 trail under section 4 of the National Trails System Act
19 (16 U.S.C. 1243).

20 **SEC. 208. CEMETERIES.**

21 The Secretary shall conduct an inventory of and en-
22 sure access to all cemeteries within the Recreation Area
23 for purposes of visitation and maintenance.

24 **SEC. 209. RESOURCE MANAGEMENT.**

25 (a) MINERALS.—

1 (1) WITHDRAWAL.—The land within the Recre-
2 ation Area is withdrawn from the operation of the
3 mining and mineral leasing laws of the United
4 States.

5 (2) USE OF MINERAL MATERIALS.—The Sec-
6 retary may permit the use of common varieties of
7 mineral materials for the development and mainte-
8 nance of the Recreation Area.

9 (b) HUNTING AND FISHING.—

10 (1) IN GENERAL.—The Secretary shall permit
11 hunting and fishing on land and water under the ju-
12 risdiction of the Secretary within the boundaries of
13 the Recreation Area in accordance with applicable
14 laws of the United States and of each State, respec-
15 tively.

16 (2) PROHIBITION.—

17 (A) IN GENERAL.—The Secretary may des-
18 ignate areas where, and establish periods when,
19 hunting or fishing is prohibited for reasons of
20 public safety, administration, or public use and
21 enjoyment.

22 (B) CONSULTATION.—Except in emer-
23 gencies, a prohibition under subparagraph (A)
24 shall become effective only after consultation

1 with the appropriate fish and game depart-
2 ments of the States.

3 (3) FISH AND WILDLIFE.—Nothing in this Act
4 affects the jurisdiction or responsibilities of the
5 States with respect to wildlife and fish on national
6 forests.

7 **SEC. 210. DAMS AND IMPOUNDMENTS.**

8 (a) IN GENERAL.—The Tennessee Valley Authority
9 and the Army Corps of Engineers, as appropriate, shall
10 be responsible for the maintenance of all dams, dikes,
11 causeways, impoundments, subimpoundments, and other
12 water resources facilities, including appurtenant roads and
13 boat ramps, existing within the Recreation Area on the
14 date of enactment of this Act.

15 (b) REMOVAL.—A facility described in subsection (a)
16 may be removed and the associated land and water area
17 restored to a natural condition only with the approval of
18 the Secretary.

19 **SEC. 211. TRUST FUND.**

20 (a) ESTABLISHMENT.—There is established in the
21 Treasury of the United States a special interest-bearing
22 fund known as the “Land Between the Lakes Trust
23 Fund”.

24 (b) AVAILABILITY.—Amounts in the Fund shall be
25 available to the Secretary, until expended, for—

1 (1) public education, grants, and internships re-
 2 lated to recreation, conservation, and multiple use
 3 land management in the Recreation Area; and

4 (2) regional promotion in the Recreation Area,
 5 in cooperation with development districts, chambers
 6 of commerce, and State and local governments.

7 (c) DEPOSITS.—From revenues available to the Ten-
 8 nessee Valley Authority from any source, the Tennessee
 9 Valley Authority shall deposit into the Fund \$1,000,000
 10 annually for each of 5 fiscal years that begin after the
 11 date of enactment of this Act.

12 **SEC. 212. ELECTRICITY.**

13 The Tennessee Valley Authority shall compensate
 14 distributors in providing the Secretary, at no charge, con-
 15 tinued electrical service, including maintenance of all lines,
 16 poles, and other facilities necessary for the distribution
 17 and use of electric power.

18 **TITLE III—TRANSFER**
 19 **PROVISIONS**

20 **SEC. 301. EFFECTIVE DATE OF TRANSFER.**

21 Effective on October 1 of the first fiscal year for
 22 which Congress does not appropriate to the Tennessee
 23 Valley Authority at least \$6,000,000 for the Recreation
 24 Area, administrative jurisdiction over the Recreation Area

1 is transferred from the Tennessee Valley Authority to the
2 Secretary.

3 **SEC. 302. STATEMENT OF POLICY.**

4 It is the policy of the United States that, to the maxi-
5 mum extent practicable—

6 (1) the transfer of jurisdiction over the Recre-
7 ation Area from the Tennessee Valley Authority to
8 the Secretary should be effected in an efficient and
9 cost-effective manner; and

10 (2) due consideration should be given to mini-
11 mizing—

12 (A) disruption of the personal lives of the
13 Tennessee Valley Authority and Forest Service
14 employees; and

15 (B) adverse impacts on permittees,
16 contractees, and others owning or operating
17 businesses affected by the transfer.

18 **SEC. 303. MEMORANDUM OF AGREEMENT.**

19 (a) IN GENERAL.—Not later than 30 days after the
20 date of enactment of this Act, the Secretary and the Ten-
21 nessee Valley Authority shall enter into a memorandum
22 of agreement concerning implementation of this Act.

23 (b) PROVISIONS.—The memorandum of understand-
24 ing shall provide procedures for—

1 (1) the orderly withdrawal of officers and em-
 2 ployees of the Tennessee Valley Authority;

3 (2) the transfer of property, fixtures, and facili-
 4 ties;

5 (3) the interagency transfer of officers and em-
 6 ployees;

7 (4) the transfer of records; and

8 (5) other transfer issues.

9 (c) TRANSITION TEAM.—

10 (1) IN GENERAL.—The memorandum of under-
 11 standing may provide for a transition team consist-
 12 ing of the Tennessee Valley Authority and Forest
 13 Service employees.

14 (2) DURATION.—The team may continue in ex-
 15 istence after the date of transfer.

16 (3) PERSONNEL COSTS.—The Tennessee Valley
 17 Authority and the Forest Service shall pay personnel
 18 costs of their respective team members.

19 **SEC. 304. RECORDS.**

20 (a) RECREATION AREA RECORDS.—The Secretary
 21 shall have access to all records of the Tennessee Valley
 22 Authority pertaining to the management of the Recreation
 23 Area.

24 (b) PERSONNEL RECORDS.—The Tennessee Valley
 25 Authority personnel records shall be made available to the

1 Secretary, on request, to the extent the records are rel-
 2 evant to Forest Service administration.

3 (c) CONFIDENTIALITY.—The Tennessee Valley Au-
 4 thority may prescribe terms and conditions on the avail-
 5 ability of records to protect the confidentiality of private
 6 or proprietary information.

7 (d) LAND TITLE RECORDS.—The Tennessee Valley
 8 Authority shall provide to the Secretary original records
 9 pertaining to land titles, surveys, and other records per-
 10 taining to transferred personal property and facilities.

11 **SEC. 305. TRANSFER OF PERSONAL PROPERTY.**

12 (a) SUBJECT PROPERTY.—

13 (1) INVENTORY.—Not later than 60 days after
 14 the date of enactment of this Act, the Tennessee
 15 Valley Authority shall provide the Secretary with an
 16 inventory of all property and facilities at the Recre-
 17 ation Area.

18 (2) AVAILABILITY FOR TRANSFER.—

19 (A) IN GENERAL.—All Tennessee Valley
 20 Authority property associated with the adminis-
 21 tration of the Recreation Area as of January 1,
 22 1998, including any property purchased with
 23 Federal funds appropriated for the management
 24 of the Tennessee Valley Authority land, shall be
 25 available for transfer to the Secretary.

1 (B) PROPERTY INCLUDED.—Property
2 under subparagraph (A) includes buildings, of-
3 fice furniture and supplies, computers, office
4 equipment, buildings, vehicles, tools, equipment,
5 maintenance supplies, boats, engines, and publi-
6 cations.

7 (3) EXCLUSION OF PROPERTY.—At the request
8 of the authorized representative of the Tennessee
9 Valley Authority, the Secretary may exclude movable
10 property from transfer based on a showing by the
11 Tennessee Valley Authority that the property is vital
12 to the mission of the Tennessee Valley Authority
13 and cannot be replaced in a cost-effective manner, if
14 the Secretary determines that the property is not
15 needed for management of the Recreation Area.

16 (b) DESIGNATION.—Pursuant to such procedures as
17 may be prescribed in the memorandum of agreement en-
18 tered into under section 303, the Secretary shall identify
19 and designate, in writing, all Tennessee Valley Authority
20 property to be transferred to the Secretary.

21 (c) FACILITATION OF TRANSFER.—The Tennessee
22 Valley Authority shall, to the maximum extent practicable,
23 use existing appropriated and unappropriated funds and
24 current personnel to facilitate the transfer of necessary
25 property and facilities to the Secretary, including replace-

1 ment of signs and insignia, repainting of vehicles, printing
 2 of public information, and training of new personnel.

3 (d) SURPLUS PROPERTY.—

4 (1) DISPOSITION.—Any personal property, in-
 5 cluding structures and facilities, that the Secretary
 6 determines cannot be efficiently managed and main-
 7 tained either by the Forest Service or by lease or
 8 permit to other persons may be declared excess by
 9 the Secretary and—

10 (A) sold by the Secretary on such terms
 11 and conditions as the Secretary may prescribe
 12 to achieve the maximum benefit to the Federal
 13 Government; or

14 (B) disposed of under the Federal Prop-
 15 erty and Administrative Services Act of 1949
 16 (40 U.S.C. 471 et seq.).

17 (2) DEPOSIT OF PROCEEDS.—All net proceeds
 18 from the disposal of any property shall be deposited
 19 into the Fund established by section 211.

20 **SEC. 306. COMPLIANCE WITH ENVIRONMENTAL LAWS.**

21 (a) DOCUMENTATION OF EXISTING CONDITIONS.—

22 (1) IN GENERAL.—Not later than 60 days after
 23 the date of enactment of this Act, the Chairman and
 24 the Administrator shall provide the Secretary all
 25 documentation and information that exists on the

1 environmental condition of the land and waters com-
2 prising the Recreation Area property.

3 (2) ADDITIONAL DOCUMENTATION.—The
4 Chairman and the Administrator shall provide the
5 Secretary with any additional documentation and in-
6 formation regarding the environmental condition of
7 the Recreation Area property as such documentation
8 and information becomes available.

9 (b) ACTION REQUIRED.—

10 (1) ASSESSMENT.—Not later than 120 days
11 from the date of enactment of this Act, the Chair-
12 man shall provide to the Secretary an assessment in-
13 dicating what action, if any, is required under any
14 environmental law on Recreation Area property.

15 (2) MEMORANDUM OF UNDERSTANDING.—If
16 the assessment concludes action is required under
17 any environmental law with respect to any portion of
18 the Recreation Area property, the Secretary and the
19 Chairman shall enter into a memorandum of under-
20 standing that—

21 (A) provides for the performance by the
22 Chairman of the required actions identified in
23 the assessment; and

1 (B) includes a schedule providing for the
2 prompt completion of the required actions to
3 the satisfaction of the Secretary.

4 (c) DOCUMENTATION DEMONSTRATING ACTION.—
5 On the transfer of jurisdiction over the Recreation Area
6 from the Tennessee Valley Authority to the Secretary, the
7 Chairman shall provide the Secretary with documentation
8 demonstrating that all actions required under any environ-
9 mental law have been taken, including all response actions
10 under the Comprehensive Environmental Response, Com-
11 pensation, and Liability Act of 1980 (42 U.S.C. 9601 et
12 seq.) that are necessary to protect human health and the
13 environment with respect to any hazardous substance, pol-
14 lutant, contaminant, hazardous waste, hazardous mate-
15 rial, or petroleum product or derivative of a petroleum
16 product on Recreation Area property.

17 (d) CONTINUATION OF RESPONSIBILITIES AND LI-
18 ABILITIES.—

19 (1) IN GENERAL.—The transfer of the Recre-
20 ation Area property under this Act, and the require-
21 ments of this section, shall not in any way affect the
22 responsibilities and liabilities of the Tennessee Valley
23 Authority at the Recreation Area under the Com-
24 prehensive Environmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C. 9601 et seq.)
2 or any other environmental law.

3 (2) ACCESS.—After transfer of the Recreation
4 Area property, the Chairman shall be accorded any
5 access to the property that may be reasonably re-
6 quired to carry out the responsibility or satisfy the
7 liability referred to in paragraph (1).

8 (3) NO LIABILITY.—The Secretary shall not be
9 liable under any environmental law for matters that
10 are related directly or indirectly to present or past
11 activities of the Tennessee Valley Authority on the
12 Recreation Area property, including liability for—

13 (A) costs or performance of response ac-
14 tions required under the Comprehensive Envi-
15 ronmental Response, Compensation, and Liabil-
16 ity Act of 1980 (42 U.S.C. 9601 et seq.) at or
17 related to the Recreation Area; or

18 (B) costs, penalties, fines, or performance
19 of actions related to noncompliance with any
20 environmental law at or related to the Recre-
21 ation Area or related to the presence, release,
22 or threat of release of any hazardous substance,
23 pollutant, or contaminant, hazardous waste,
24 hazardous material, or petroleum product or de-
25 rivative of a petroleum product of any kind at

1 or related to the Recreation Area, including
2 contamination resulting from migration.

3 (4) NO EFFECT ON RESPONSIBILITIES OR LI-
4 ABILITIES.—Except as provided in paragraph (3),
5 nothing in this Act affects, modifies, amends, re-
6 peals, alters, limits or otherwise changes, directly or
7 indirectly, the responsibilities or liabilities under any
8 environmental law of any person with respect to the
9 Secretary.

10 (e) OTHER FEDERAL AGENCIES.—Subject to the
11 other provisions of this section, a Federal agency that car-
12 ried or carries out operations at the Recreation Area re-
13 sulting in the release or threatened release of a hazardous
14 substance, pollutant, or contaminant, hazardous waste,
15 hazardous material, or petroleum product or derivative of
16 a petroleum product for which that agency would be liable
17 under any environmental law shall pay the costs of related
18 response actions and shall pay the costs of related actions
19 to remediate petroleum products or their derivatives.

20 **SEC. 307. PERSONNEL.**

21 (a) IN GENERAL.—

22 (1) HIRING.—Notwithstanding section 3503 of
23 title 5, United States Code, and subject to para-
24 graph (2), the Secretary may—

1 (A) appoint, hire, and discharge officers
 2 and employees to administer the Recreation
 3 Area; and

4 (B) pay the officers and employees at lev-
 5 els that are commensurate with levels at other
 6 units of the National Forest System.

7 (2) INTERIM RETENTION OF ELIGIBLE EMPLOY-
 8 EES.—

9 (A) IN GENERAL.—For a period of not less
 10 than 5 months after the effective date of trans-
 11 fer to the Forest Service—

12 (i) all eligible employees shall be re-
 13 tained in the employment of the Tennessee
 14 Valley Authority;

15 (ii) those eligible employees shall be
 16 considered to be placed on detail to the
 17 Secretary and shall be subject to the direc-
 18 tion of the Secretary; and

19 (iii) the Secretary shall reimburse the
 20 Tennessee Valley Authority for the amount
 21 of the basic pay of those eligible employees,
 22 and the Tennessee Valley Authority shall
 23 remain responsible for all other compensa-
 24 tion of those employees.

1 (B) NOTICE TO EMPLOYEES.—The Sec-
2 retary shall provide eligible employees a written
3 notice of not less than 30 days before termi-
4 nation.

5 (C) TERMINATION FOR CAUSE.—Subpara-
6 graph (A) does not preclude a termination for
7 cause during the 5-month period.

8 (b) APPLICATIONS FOR TRANSFER AND APPOINT-
9 MENT.—An eligible employee shall have the right to apply
10 for employment by the Secretary under procedures for
11 transfer and appointment of Federal employees outside
12 the Department of Agriculture.

13 (c) HIRING BY THE SECRETARY.—

14 (1) IN GENERAL.—Subject to subsection (b), in
15 filling personnel positions within the Recreation
16 Area, the Secretary shall follow all laws (including
17 regulations) and policies applicable to the Depart-
18 ment of Agriculture.

19 (2) NOTIFICATION AND HIRING.—Notwith-
20 standing paragraph (1), the Secretary—

21 (A) shall notify all eligible employees of all
22 openings for positions with the Forest Service
23 at the Recreation Area before notifying other
24 individuals or considering applications by other
25 individuals for the positions; and

1 (B) after applications by eligible employees
2 have received consideration, if any positions re-
3 main unfilled, shall notify other individuals of
4 the openings.

5 (3) NONCOMPETITIVE APPOINTMENTS.—Not-
6 withstanding any other placement of career transi-
7 tion programs authorized by the Office of Personnel
8 Management of the United States Department of
9 Agriculture, the Secretary may noncompetitively ap-
10 point eligible employees to positions in the Recre-
11 ation Area.

12 (4) PERIOD OF SERVICE.—Except to the extent
13 that an eligible employee that is appointed by the
14 Secretary may be otherwise compensated for the pe-
15 riod of service as an employee of the Tennessee Val-
16 ley Authority, that period of service shall be treated
17 as a period of service as an employee of the Sec-
18 retary for the purposes of probation, career tenure,
19 time-in-grade, and leave.

20 (d) TRANSFER TO POSITIONS IN OTHER UNITS OF
21 THE TENNESSEE VALLEY AUTHORITY.—The Tennessee
22 Valley Authority—

23 (1) shall notify all eligible employees of all
24 openings for positions in other units of the Ten-
25 nessee Valley Authority before notifying other indi-

1 viduals or considering applications by other individ-
 2 uals for the positions; and

3 (2) after applications by eligible employees have
 4 received consideration, if any positions remain un-
 5 filled, shall notify other individuals of the openings.

6 (e) EMPLOYEE BENEFIT TRANSITION.—

7 (1) MEMORANDUM OF UNDERSTANDING.—

8 (A) IN GENERAL.—The Secretary and the
 9 heads of the Office of Personnel Management
 10 and the Tennessee Valley Authority Retirement
 11 System shall enter into a memorandum of un-
 12 derstanding providing for the transition for all
 13 eligible employees of compensation made avail-
 14 able through the Tennessee Valley Authority
 15 Retirement System.

16 (B) EMPLOYEE PARTICIPATION.—In decid-
 17 ing on the terms of the memorandum of under-
 18 standing, the Secretary and the heads of the
 19 Office of Personnel Management and the Ten-
 20 nessee Valley Authority Retirement System
 21 shall meet and consult with and give full con-
 22 sideration to the views of employees and rep-
 23 resentatives of the employees of the Tennessee
 24 Valley Authority.

1 (2) ELIGIBLE EMPLOYEES THAT ARE TRANS-
 2 FERRED TO OTHER UNITS OF TVA.—An eligible em-
 3 ployee that is transferred to another unit of the Ten-
 4 nessee Valley Authority shall experience no interrup-
 5 tion in coverage for or reduction of any retirement,
 6 health, leave, or other employee benefit.

7 (3) ELIGIBLE EMPLOYEES THAT ARE HIRED BY
 8 THE SECRETARY.—

9 (A) LEVEL OF BENEFITS.—The Secretary
 10 shall provide to an eligible employee that is
 11 hired by the Forest Service a level of retirement
 12 and health benefits that is equivalent to the
 13 level to which the eligible employee would have
 14 been entitled if the eligible employee had re-
 15 mained an employee of the Tennessee Valley
 16 Authority.

17 (B) TRANSFER OF RETIREMENT BENE-
 18 FITS.—

19 (i) IN GENERAL.—All retirement ben-
 20 efits accrued by an eligible employee that
 21 is hired by the Forest Service shall be
 22 transferred into the Federal Retirement
 23 System of the Forest Service.

24 (ii) FUNDING SHORTFALL.—

1 (I) IN GENERAL.—For all eligible
2 employees that are not part of the
3 Civil Service Retirement System, the
4 Tennessee Valley Authority shall meet
5 any funding shortfall resulting from
6 the transfer of retirement benefits.

7 (II) NOTIFICATION.—The Sec-
8 retary shall notify the Tennessee Val-
9 ley Authority Board of the cost associ-
10 ated with the transfer of retirement
11 benefits.

12 (III) PAYMENT.—Not later than
13 60 days after notification under sub-
14 clause (II), the Tennessee Valley Au-
15 thority, using nonappropriated funds,
16 shall fully compensate the Secretary
17 for the costs associated with the
18 transfer of retirement benefits.

19 (IV) NO INTERRUPTION.—An eli-
20 gible employee that is hired by the
21 Forest Service and is eligible for Civil
22 Service Retirement shall not experi-
23 ence any interruption in retirement
24 benefits.

1 (B) NO INTERRUPTION.—An eligible em-
 2 ployee that is hired by the Secretary—

3 (i) shall experience no interruption in
 4 coverage for any health, leave, or other em-
 5 ployee benefit; and

6 (ii) shall be entitled to carry over any
 7 leave time accumulated during employment
 8 by the Tennessee Valley Authority.

9 (C) PERIOD OF SERVICE.—Notwithstand-
 10 ing section 8411(b)(3) of title 5, United States
 11 Code, except to the extent that an eligible em-
 12 ployee may be otherwise compensated (including
 13 the provision of retirement benefits in accord-
 14 ance with the memorandum of understanding)
 15 for the period of service as an employee of the
 16 Tennessee Valley Authority, that period of serv-
 17 ice shall be treated as a period of service as an
 18 employee of the Secretary for all purposes relat-
 19 ing to the Federal employment of the eligible
 20 employee.

21 (4) ELIGIBLE EMPLOYEES THAT ARE DIS-
 22 CHARGED NOT FOR CAUSE.—

23 (A) LEVEL OF BENEFITS.—The parties to
 24 the memorandum of understanding shall have
 25 authority to deem any applicable requirement to

1 be met, to make payments to an employee, or
 2 take any other action necessary to provide to an
 3 eligible employee that is discharged as being ex-
 4 cess to the needs of the Tennessee Valley Au-
 5 thority or the Secretary and not for cause and
 6 that does not accept an offer of employment
 7 from the Secretary, an optimum level of retire-
 8 ment and health benefits that is equivalent to
 9 the level that has been afforded employees dis-
 10 charged in previous reductions in force by the
 11 Tennessee Valley Authority.

12 (B) MINIMUM BENEFITS.—An eligible em-
 13 ployee that is discharged as being excess to the
 14 needs of the Tennessee Valley Authority or the
 15 Secretary and not for cause shall, at a mini-
 16 mum, be entitled to—

17 (i) at the option of the eligible em-
 18 ployee—

19 (I) a lump-sum equal to \$1,000,
 20 multiplied by the number of years of
 21 service of the eligible employee (but
 22 not less than \$15,000 nor more than
 23 \$25,000);

24 (II) a lump-sum payment equal
 25 to the amount of pay earned by the el-

1 eligible employee for the last 26 weeks
2 of the eligible employee's service; or

3 (III) the deemed addition of 5
4 years to the age and years of service
5 of an eligible employee;

6 (ii) 15 months of health benefits for
7 employees and dependents at the same
8 level provided as of September 30, 1998;

9 (iii) 1 week of pay per year of service
10 as provided by the Tennessee Valley Au-
11 thority Retirement System;

12 (iv) a lump-sum payment of all accu-
13 mulated annual leave;

14 (v) unemployment compensation in ac-
15 cordance with State law;

16 (vi) eligible pension benefits as pro-
17 vided by the Tennessee Valley Authority
18 Retirement System; and

19 (vii) retraining assistance provided by
20 the Tennessee Valley Authority.

21 (C) SHORTFALL.—If the board of directors
22 of the Tennessee Valley Authority Retirement
23 System determines that the cost of providing
24 the benefits described in subparagraph (B)
25 would have a negative impact on the overall re-

1 tirement system, the Tennessee Valley Author-
 2 ity shall be required to meet any funding short-
 3 falls using nonappropriated funds.

4 **TITLE IV—FUNDING**

5 **SEC. 401. TENNESSEE VALLEY AUTHORITY TRANSITIONAL** 6 **FUNDING.**

7 (a) AVAILABILITY TO THE SECRETARY.—

8 (1) IN GENERAL.—After the effective date of
 9 transfer of jurisdiction of the Recreation Area from
 10 the Tennessee Valley Authority to the Secretary, all
 11 of the funds authorized to be appropriated to the
 12 Tennessee Valley Authority for the administration of
 13 the Recreation Area shall be available to the Sec-
 14 retary to carry out this Act.

15 (2) INTERAGENCY AGREEMENT.—Funds made
 16 available to the Tennessee Valley Authority for the
 17 transition shall be made available to the Secretary
 18 pursuant to an interagency agreement.

19 (b) AVAILABILITY TO THE UNITED STATES FISH
 20 AND WILDLIFE SERVICE.—Funds appropriated to the
 21 Secretary of the Interior for purposes of the United States
 22 Fish and Wildlife Service shall be available to administer
 23 any portions of the Recreation Area that are authorized
 24 for administration by the Service under section 206(a).

1 **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AGRICULTURE.—There are authorized to be ap-
3 propriated to the Secretary of Agriculture such sums as
4 are necessary to—

5 (1) permit the Secretary to exercise administra-
6 tive jurisdiction over the Recreation Area under this
7 Act; and

8 (2) administer the Recreation Area as a unit of
9 the National Forest System.

10 (b) INTERIOR.—There are authorized to be appro-
11 priated to the Secretary of the Interior such sums as are
12 necessary to carry out activities within the Recreation
13 Area.

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