

In the Senate of the United States,

November 20 (legislative day, November 19), 2002.

Resolved, That the bill from the House of Representatives (H.R. 980) entitled “An Act to establish the Moccasin Bend National Historic Site in the State of Tennessee as a unit of the National Park System.”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***TITLE I—MOCCASIN BEND NA-***
2 ***TIONAL ARCHEOLOGICAL DIS-***
3 ***TRICT.***

4 ***SEC 101. SHORT TITLE.***

5 *This title may be cited as the “Moccasin Bend Na-*
6 *tional Archeological District Act”.*

1 **SEC. 102. DEFINITIONS.**

2 *As used in this title:*

3 (1) *SECRETARY.*—The term “Secretary” means
4 *the Secretary of the Interior.*

5 (2) *ARCHEOLOGICAL DISTRICT.*—The term “ar-
6 *cheological district*” means the Moccasin Bend Na-
7 *tional Archeological District.*

8 (3) *STATE.*—The term “State” means the State
9 *of Tennessee.*

10 (4) *MAP.*—The term “Map” means the map enti-
11 *tled “Boundary Map, Moccasin Bend National Ar-*
12 *cheological District”, numbered 301/80098, and dated*
13 *September 2002.*

14 **SEC. 103. ESTABLISHMENT.**

15 (a) *IN GENERAL.*—In order to preserve, protect, and
16 *interpret for the benefit of the public the nationally signifi-*
17 *cant archeological and historic resources located on the pe-*
18 *ninsula known as Moccasin Bend, Tennessee, there is estab-*
19 *lished as a unit of Chickamauga and Chattanooga National*
20 *Military Park, the Moccasin Bend National Archeological*
21 *District.*

22 (b) *BOUNDARIES.*—The archeological district shall
23 *consist of approximately 780 acres generally depicted on*
24 *the Map. The Map shall be on file and available for public*
25 *inspection in the appropriate offices of the National Park*
26 *Service, Department of the Interior.*

1 (c) *ACQUISITION OF LAND AND INTERESTS IN LAND.*—

2 (1) *IN GENERAL.*—*The Secretary may acquire by*
 3 *donation, purchase from willing sellers using donated*
 4 *or appropriated funds, or exchange, lands and inter-*
 5 *ests in lands within the exterior boundary of the ar-*
 6 *cheological district. The Secretary may acquire the*
 7 *State, county and city-owned land and interests in*
 8 *land for inclusion in the archeological district only by*
 9 *donation.*

10 (2) *EASEMENT OUTSIDE BOUNDARY.*—*To allow*
 11 *access between areas of the archeological district that*
 12 *on the date of enactment of this title are noncontig-*
 13 *uous, the Secretary may acquire by donation or pur-*
 14 *chase from willing owners using donated or appro-*
 15 *priated funds, or exchange, easements connecting the*
 16 *areas generally depicted on the Map.*

17 **SEC. 104. ADMINISTRATION.**

18 (a) *IN GENERAL.*—*The archeological district shall be*
 19 *administered by the Secretary in accordance with this title,*
 20 *with laws applicable to Chickamauga and Chattanooga Na-*
 21 *tional Military Park, and with the laws generally applica-*
 22 *ble to units of the National Park System.*

23 (b) *COOPERATIVE AGREEMENT.*—*The Secretary may*
 24 *consult and enter into cooperative agreements with cul-*
 25 *turally affiliated federally recognized Indian tribes, govern-*

1 *mental entities, and interested persons to provide for the*
 2 *restoration, preservation, development, interpretation, and*
 3 *use of the archeological district.*

4 *(c) VISITOR INTERPRETIVE CENTER.—For purposes of*
 5 *interpreting the historical themes and cultural resources of*
 6 *the archeological district, the Secretary may establish and*
 7 *administer a visitor center in the archeological district.*

8 *(d) GENERAL MANAGEMENT PLAN.—Not later than 3*
 9 *years after funds are made available for this purpose, the*
 10 *Secretary shall develop a general management plan for the*
 11 *archeological district. The general management plan shall*
 12 *describe the appropriate protection and preservation of nat-*
 13 *ural, cultural, and scenic resources, visitor use, and facility*
 14 *development within the archeological district consistent*
 15 *with the purposes of this title, while ensuring continued ac-*
 16 *cess to private landowners to their property.*

17 **SEC. 105. REPEAL OF PREVIOUS ACQUISITION AUTHORITY.**

18 *The Act of August 3, 1950 (Chapter 532; 16 U.S.C.*
 19 *424a–4), is repealed.*

20 **TITLE II—FORT BAYARD NA-**
 21 **TIONAL HISTORIC LANDMARK**
 22 **ACT.**

23 **SEC. 201. SHORT TITLE.**

24 *This title may be cited as the “Fort Bayard National*
 25 *Historic Landmark Act”.*

1 **SEC. 202. CONGRESSIONAL FINDINGS.**

2 *The Congress finds that—*

3 *(1) Fort Bayard, located in southwest New Mex-*
4 *ico, was an Army post from 1866 until 1899, and*
5 *served an important role in the settlement of New*
6 *Mexico;*

7 *(2) among the troops stationed at the fort were*
8 *several “Buffalo Soldier” units who fought in the*
9 *Apache Wars;*

10 *(3) following its closure as a military post, Fort*
11 *Bayard was established by the War Department as a*
12 *general hospital for use as a military sanatorium;*

13 *(4) in 1965 the State of New Mexico assumed*
14 *management of the site and currently operates the*
15 *Fort Bayard State Hospital;*

16 *(5) the Fort Bayard historic site has been listed*
17 *on the National Register of Historic Places in rec-*
18 *ognition of the national significance of its history,*
19 *both as a military fort and as an historic medical fa-*
20 *cility.*

21 **SEC. 203. FORT BAYARD NATIONAL HISTORIC LANDMARK.**

22 *(a) DESIGNATION.—The Fort Bayard Historic Dis-*
23 *trict in Grant County, New Mexico, as listed on the Na-*
24 *tional Register of Historic Places, is hereby designated as*
25 *the Fort Bayard National Historic Landmark.*

26 *(b) ADMINISTRATION.*

1 (1) *Consistent with the Department of the Inte-*
 2 *rior's regulations concerning National Historic Land-*
 3 *marks (36 C.F.R. Part 65), designation of the Fort*
 4 *Bayard Historic District as a National Historic*
 5 *Landmark shall not prohibit under Federal law or*
 6 *regulations any actions which may otherwise be taken*
 7 *by the property owner with respect to the property.*

8 (2) *Nothing in this title shall affect the adminis-*
 9 *tration of the Fort Bayard Historic District by the*
 10 *State of New Mexico.*

11 **SEC. 204. COOPERATIVE AGREEMENTS.**

12 (a) *IN GENERAL.*—*The Secretary, in consultation with*
 13 *the State of New Mexico, may enter into cooperative agree-*
 14 *ments with appropriate public or private entities, for the*
 15 *purposes of protecting historic resources at Fort Bayard*
 16 *and providing educational and interpretive facilities and*
 17 *programs for the public. The Secretary shall not enter into*
 18 *any agreement or provide assistance to any activity affect-*
 19 *ing Fort Bayard State Hospital without the concurrence*
 20 *of the State of New Mexico.*

21 (b) *TECHNICAL AND FINANCIAL ASSISTANCE.*—*The*
 22 *Secretary may provide technical and financial assistance*
 23 *with any entity with which the Secretary has entered into*
 24 *a cooperative agreement under subsection (a) in furtherance*
 25 *of the agreement.*

1 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

2 *There is authorized to be appropriated such sums as*
 3 *may be necessary to carry out this title.*

4 **TITLE III—VIRGIN RIVER DINO-**
 5 **SAUR FOOTPRINT PRESERVE.**

6 **SEC. 301. SHORT TITLE.**

7 *This title may be cited as the “Virgin River Dinosaur*
 8 *Footprint Preserve Act”.*

9 **SEC. 302. VIRGIN RIVER DINOSAUR FOOTPRINT PRESERVE.**

10 *(a) AUTHORIZATION FOR GRANT TO PURCHASE PRE-*
 11 *SERVE.—Of the funds appropriated in the section entitled*
 12 *“Land Acquisition” of the Fiscal Year 2002 Interior and*
 13 *Related Agencies Appropriations Act, Public Law 107–63,*
 14 *the Secretary of the Interior shall grant \$500,000 to the*
 15 *City for—*

16 *(1) the purchase of up to 10 acres of land within*
 17 *the area generally depicted as the “Preserve Acquisi-*
 18 *tion Area” on the map entitled “Map B” and dated*
 19 *May 9, 2002; and*

20 *(2) the preservation of such land and paleon-*
 21 *to logical resources.*

22 *(b) CONDITIONS OF GRANT.—The grant under sub-*
 23 *section (a) shall be made only after the City agrees to the*
 24 *following conditions:*

1 (1) *USE OF LAND.*—*The City shall use the Vir-*
2 *gin River Dinosaur Footprint Preserve in a manner*
3 *that accomplishes the following:*

4 (A) *Preserves and protects the paleontolog-*
5 *ical resources located within the exterior bound-*
6 *aries of the Virgin River Dinosaur Footprint*
7 *Preserve.*

8 (B) *Provides opportunities for scientific re-*
9 *search in a manner compatible with subpara-*
10 *graph (A).*

11 (C) *Provides the public with opportunities*
12 *for educational activities in a manner compat-*
13 *ible with subparagraph (A).*

14 (2) *REVERTER.*—*If at any time after the City*
15 *acquires the Virgin River Dinosaur Footprint Pre-*
16 *serve, the Secretary determines that the City is not*
17 *substantially in compliance with the conditions de-*
18 *scribed in paragraph (1), all right, title, and interest*
19 *in and to the Virgin River Dinosaur Footprint Pre-*
20 *serve shall immediately revert to the United States,*
21 *with no further consideration on the part of the*
22 *United States, and such property shall then be under*
23 *the administrative jurisdiction of the Secretary of the*
24 *Interior.*

1 (3) *CONDITIONS TO BE CONTAINED IN DEED.*—

2 *If the City attempts to transfer title to the Virgin*
 3 *River Dinosaur Footprint Preserve (in whole or in*
 4 *part), the conditions set forth in this subsection shall*
 5 *transfer with such title and shall be enforceable*
 6 *against any subsequent owner of the Virgin River Di-*
 7 *nosaur Footprint Preserve (in whole or in part).*

8 (c) *COOPERATIVE AGREEMENT AND ASSISTANCE.*—

9 (1) *ASSISTANCE.*—*The Secretary may provide to*
 10 *the City—*

11 (A) *financial assistance, if the Secretary de-*
 12 *termines that such assistance is necessary for*
 13 *protection of the paleontological resources located*
 14 *within the exterior boundaries of the Virgin*
 15 *River Dinosaur Footprint Preserve; and*

16 (B) *technical assistance to assist the City in*
 17 *complying with subparagraphs (A) through (C)*
 18 *of subsection (b)(1).*

19 (2) *ADDITIONAL GRANTS.*—

20 (A) *IN GENERAL.*—*In addition to funds*
 21 *made available under subsection (a) and para-*
 22 *graph (2) of this subsection, the Secretary may*
 23 *provide grants to the City to carry out its duties*
 24 *under the cooperative agreement entered into*
 25 *under paragraph (1).*

1 (B) *LIMITATION ON AMOUNT; REQUIRED*
 2 *NON-FEDERAL MATCH.*—Grants under subpara-
 3 graph (A) shall not exceed \$500,000 and shall be
 4 provided only to the extent that the City matches
 5 the amount of such grants with non-Federal con-
 6 tributions (including in-kind contributions).

7 (d) *MAP ON FILE.*—The map shall be on file and avail-
 8 able for public inspection in the appropriate offices of the
 9 Department of the Interior.

10 (e) *DEFINITIONS.*—For the purposes of this section, the
 11 following definitions apply:

12 (1) *CITY.*—The term “City” means the city of
 13 St. George, Utah.

14 (2) *SECRETARY.*—The term “Secretary” means
 15 the Secretary of the Interior.

16 (3) *VIRGIN RIVER DINOSAUR FOOTPRINT PRE-*
 17 *SERVE.*—The term “Virgin River Dinosaur Footprint
 18 Preserve” means the property (and all facilities and
 19 other appurtenances thereon) described in subsection
 20 (a).

1 **TITLE IV—ARCHEOLOGICAL AND**
 2 **CULTURAL HERITAGE PRO-**
 3 **TECTION.**

4 **SEC. 401. SHORT TITLE.**

5 *This title may be cited as the “Enhanced Protection*
 6 *of Our Cultural Heritage Act of 2002”.*

7 **SEC. 402. ENHANCED PENALTIES FOR CULTURAL HERITAGE**
 8 **CRIMES.**

9 (a) *ENHANCED PENALTY FOR ARCHAEOLOGICAL RE-*
 10 *SOURCES.—Section 6(d) of the Archaeological Resources*
 11 *Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by*
 12 *striking “not more than 10,000” and all that follows*
 13 *through the end of the subsection and inserting “in accord-*
 14 *ance with title 18, United States Code, or imprisoned not*
 15 *more than 10 years or both; but if the sum of the commer-*
 16 *cial and archaeological value of the archaeological resources*
 17 *involved and the cost of restoration and repair of such re-*
 18 *sources does not exceed \$500, such person shall be fined in*
 19 *accordance with title 18, United States Code, or imprisoned*
 20 *not more than one year, or both.”.*

21 (b) *ENHANCED PENALTY FOR EMBEZZLEMENT AND*
 22 *THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section*
 23 *1163 of title 18, United States Code, is amended by striking*
 24 *“five years” and inserting “10 years”.*

1 (c) *ENHANCED PENALTY FOR ILLEGAL TRAFFICKING*
 2 *IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL*
 3 *ITEMS.*—Section 1170 of title 18, United States Code, is
 4 *amended—*

5 (1) *in subsection (a), by striking “or imprisoned*
 6 *not more than 12 months, or both, and in the case of*
 7 *second or subsequent violation, be fined in accordance*
 8 *with this title, or imprisoned not more than 5 years”*
 9 *and inserting “imprisoned not more than 10 years”;*
 10 *and*

11 (2) *in subsection (b), by striking “imprisoned*
 12 *not more than one year” and all that follows through*
 13 *the end of the subsection and inserting “imprisoned*
 14 *not more than 10 years, or both; but if the sum of the*
 15 *commercial and archaeological value of the cultural*
 16 *items involved and the cost of restoration and repair*
 17 *of such items does not exceed \$500, such person shall*
 18 *be fined in accordance with this title, imprisoned not*
 19 *more than one year, or both.”.*

20 ***TITLE V—PALEONTOLOGICAL***
 21 ***RESOURCES PRESERVATION***
 22 ***ACT.***

23 ***SEC. 501. SHORT TITLE.***

24 *This title may be cited as the “Paleontological Re-*
 25 *sources Preservation Act”.*

1 **SEC. 502. FINDINGS.**

2 *The Congress finds the following:*

3 *(1) Paleontological resources are nonrenewable.*

4 *Such resources on Federal lands are an accessible and*
5 *irreplaceable part of the heritage of the United States*
6 *and offer significant educational opportunities to all*
7 *citizens.*

8 *(2) Existing Federal laws, statutes, and other*
9 *provisions that manage paleontological resources are*
10 *not articulated in a unified national policy for Fed-*
11 *eral land management agencies and the public. Such*
12 *a policy is needed to improve scientific under-*
13 *standing, to promote responsible stewardship, and to*
14 *facilitate the enhancement of responsible paleontolog-*
15 *ical collecting activities on Federal lands.*

16 *(3) Consistent with the statutory provisions ap-*
17 *plicable to each Federal land management system,*
18 *reasonable access to paleontological resources on Fed-*
19 *eral lands should be provided for scientific, edu-*
20 *cational, and recreational purposes.*

21 **SEC. 503. PURPOSE.**

22 *The purpose of this title is to establish a comprehensive*
23 *national policy for preserving and managing paleontolog-*
24 *ical resources on Federal lands.*

25 **SEC. 504. DEFINITIONS.**

26 *As used in this title:*

1 (1) *CASUAL COLLECTING*.—The term “casual col-
 2 lecting” means the collecting of a reasonable amount
 3 of common invertebrate and plant paleontological re-
 4 sources for personal, scientific, educational or rec-
 5 reational use, either by surface collection or using
 6 nonpowered hand tools resulting in only negligible
 7 disturbance to the Earth’s surface and other resources.

8 (2) *SECRETARY*.—The term “Secretary” means
 9 the Secretary of the Interior with respect to lands ad-
 10 ministered by the Secretary of the Interior or the Sec-
 11 retary of Agriculture with respect to National Forest
 12 System Lands administered by the Secretary of Agri-
 13 culture.

14 (3) *FEDERAL LANDS*.—The term “Federal lands”
 15 means lands administered by the Secretary of the In-
 16 terior, except Indian lands, or National Forest Sys-
 17 tem Lands administered by the Secretary of Agri-
 18 culture.

19 (4) *INDIAN LANDS*.—The term “Indian Lands”
 20 means lands of Indian tribes, or Indian individuals,
 21 which are either held in trust by the United States or
 22 subject to a restriction against alienation imposed by
 23 the United States.

24 (5) *STATE*.—The term “State” means the 50
 25 States, the District of Columbia, the Commonwealth

1 *of Puerto Rico, and any other territory or possession*
 2 *of the United States.*

3 (6) *PALEONTOLOGICAL RESOURCE.*—*The term*
 4 *“paleontological resource” means any fossilized re-*
 5 *mains, traces, or imprints of organisms, preserved in*
 6 *or on the earth’s crust, that are of paleontological in-*
 7 *terest and that provide information about the history*
 8 *of life on earth, except that the term does not*
 9 *include—*

10 (A) *any materials associated with an ar-*
 11 *chaeological resource (as defined in section 3(1)*
 12 *of the Archaeological Resources Protection Act of*
 13 *1979 (16 U.S.C. 470bb(1)); or*

14 (B) *any cultural item (as defined in section*
 15 *2 of the Native American Graves Protection and*
 16 *Rehabilitation Act (25 U.S.C. 3001)).*

17 **SEC. 505. MANAGEMENT.**

18 (a) *IN GENERAL.*—*The Secretary shall manage and*
 19 *protect paleontological resources on Federal lands using sci-*
 20 *entific principles and expertise. The Secretary shall develop*
 21 *appropriate plans for inventory, monitoring, and the sci-*
 22 *entific and educational use of paleontological resources, in*
 23 *accordance with applicable agency laws, regulations, and*
 24 *policies. These plans shall emphasize interagency coordina-*
 25 *tion and collaborative efforts where possible with non-Fed-*

1 eral partners, the scientific community, and the general
2 public.

3 (b) *COORDINATION OF IMPLEMENTATION.*—To the ex-
4 tent possible, the Secretary of the Interior and the Secretary
5 of Agriculture shall coordinate in the implementation of
6 this title.

7 **SEC. 506. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

8 The Secretary shall establish a program to increase
9 public awareness about the significance of paleontological
10 resources.

11 **SEC. 507. COLLECTION OF PALEONTOLOGICAL RESOURCES.**

12 (a) *PERMIT REQUIREMENT.*—

13 (1) *IN GENERAL.*—Except as provided in this
14 title, a paleontological resource may not be collected
15 from Federal lands without a permit issued under
16 this title by the Secretary.

17 (2) *CASUAL COLLECTING EXCEPTION.*—The Sec-
18 retary may allow casual collecting without a permit
19 on Federal lands administered by the Bureau of Land
20 Management, the Bureau of Reclamation, and the
21 United States Forest Service, where such collection is
22 not inconsistent with the laws governing the manage-
23 ment of those Federal lands and this title.

1 (3) *PREVIOUS PERMIT EXCEPTION.*—*Nothing in*
 2 *this section shall affect a valid permit issued prior to*
 3 *the date of enactment of this title.*

4 (b) *CRITERIA FOR ISSUANCE OF A PERMIT.*—*The Sec-*
 5 *retary may issue a permit for the collection of a paleon-*
 6 *tological resource pursuant to an application if the Sec-*
 7 *retary determines that—*

8 (1) *the applicant is qualified to carry out the*
 9 *permitted activity;*

10 (2) *the permitted activity is undertaken for the*
 11 *purpose of furthering paleontological knowledge or for*
 12 *public education;*

13 (3) *the permitted activity is consistent with any*
 14 *management plan applicable to the Federal lands*
 15 *concerned; and*

16 (4) *the proposed methods of collecting will not*
 17 *threaten significant natural or cultural resources.*

18 (c) *PERMIT SPECIFICATIONS.*—*A permit for the collec-*
 19 *tion of a paleontological resource issued under this section*
 20 *shall contain such terms and conditions as the Secretary*
 21 *deems necessary to carry out the purposes of this title.*
 22 *Every permit shall include requirements that—*

23 (1) *the paleontological resource that is collected*
 24 *from Federal lands under the permit will remain the*
 25 *property of the United States;*

1 (2) *the paleontological resource and copies of as-*
 2 *sociated records will be preserved for the public in an*
 3 *approved repository, to be made available for sci-*
 4 *entific research and public education; and*

5 (3) *specific locality data will not be released by*
 6 *the permittee or repository without the written per-*
 7 *mission of the Secretary.*

8 (d) *MODIFICATION, SUSPENSION, AND REVOCATION OF*
 9 *PERMITS.—*

10 (1) *The Secretary may modify, suspend, or re-*
 11 *voke a permit issued under this section—*

12 (A) *for resource, safety, or other manage-*
 13 *ment considerations; or*

14 (B) *when there is a violation of term or*
 15 *condition of a permit issued pursuant to this*
 16 *section.*

17 (2) *The permit shall be revoked if any person*
 18 *working under the authority of the permit is con-*
 19 *victed under section 509 or is assessed a civil penalty*
 20 *under section 510 of this title.*

21 (e) *AREA CLOSURES.—In order to protect paleontolog-*
 22 *ical or other resources and to provide for public safety, the*
 23 *Secretary may restrict access to or close areas under the*
 24 *Secretary's jurisdiction to the collection of paleontological*
 25 *resources.*

1 **SEC. 508. CURATION OF RESOURCES.**

2 *Any paleontological resource, and any data and*
 3 *records associated with the resource, collected under a per-*
 4 *mit, shall be deposited in an approved repository. The Sec-*
 5 *retary may enter into agreements with non-Federal reposi-*
 6 *tories regarding the curation of these resources, data, and*
 7 *records.*

8 **SEC. 509. PROHIBITED ACTS; PENALTIES.**

9 (a) *IN GENERAL.*—A person may not—

10 (1) *excavate, remove, damage, or otherwise alter*
 11 *or deface or attempt to excavate, remove, damage, or*
 12 *otherwise alter or deface any paleontological resources*
 13 *located on Federal lands unless such activity is con-*
 14 *ducted in accordance with this title;*

15 (2) *exchange, transport, export, receive, or offer*
 16 *to exchange, transport, export, or receive any paleon-*
 17 *to logical resource if, in the exercise of due care, the*
 18 *person knew or should have known such resource to*
 19 *have been excavated, removed, exchanged, transported,*
 20 *or received from Federal lands in violation of any*
 21 *provisions, rule, regulation, law, ordinance, or permit*
 22 *in effect under Federal law, including this title; or*

23 (3) *sell or purchase or offer to sell or purchase*
 24 *any paleontological resource if, in the exercise of due*
 25 *care, the person knew or should have known such re-*
 26 *source to have been excavated, removed, sold, pur-*

1 *chased, exchanged, transported, or received from Fed-*
 2 *eral lands.*

3 *(b) FALSE LABELING OFFENSES.—A person may not*
 4 *make or submit any false record, account, or label for, or*
 5 *any false identification of, any paleontological resource ex-*
 6 *cavated or removed from Federal lands.*

7 *(c) PENALTIES.—*

8 *(1) IN GENERAL.—Except as provided in para-*
 9 *graphs (2) and (3), a person who knowingly violates*
 10 *or counsels, procures, solicits, or employs another per-*
 11 *son to violate subsection (a) or (b) shall, upon convic-*
 12 *tion, be guilty of a class A misdemeanor.*

13 *(2) DAMAGE OVER \$1,000.—If the sum of the sci-*
 14 *entific or fair market value of the paleontological re-*
 15 *sources involved and the cost of restoration and repair*
 16 *of such resources exceeds the sum of \$1,000, such per-*
 17 *son shall, upon conviction, be guilty of a class E fel-*
 18 *ony.*

19 *(3) MULTIPLE OFFENSES.—In the case of a sec-*
 20 *ond or subsequent such violation, such person shall,*
 21 *upon conviction, be guilty of a class D felony.*

22 *(d) GENERAL EXCEPTION.—Nothing in subsection (a)*
 23 *shall apply to any person with respect to any paleontolog-*
 24 *ical resource which was in the lawful possession of such per-*
 25 *son prior to the date of the enactment of this title.*

1 **SEC. 510. CIVIL PENALTIES FOR VIOLATIONS OF REGULA-**
2 **TIONS OR PERMIT CONDITIONS.**

3 (a) *IN GENERAL.*—

4 (1) *HEARING.*—A person who violates any prohi-
5 bition contained in an applicable regulation or per-
6 mit issued under this title may be assessed a penalty
7 by the Secretary after the person is given notice and
8 opportunity for a hearing with respect to the viola-
9 tion. Each violation shall be considered a separate of-
10 fense for purposes of this section.

11 (2) *AMOUNT OF PENALTY.*—The amount of such
12 penalty assessed under paragraph (1) shall be deter-
13 mined under regulations promulgated pursuant to
14 this title, taking into account the following factors:

15 (A) *The scientific or fair market value,*
16 *whichever is greater, of the paleontological re-*
17 *source involved.*

18 (B) *The cost of response, restoration, and*
19 *repair of the resource and the paleontological site*
20 *involved.*

21 (C) *Any other factors considered relevant by*
22 *the Secretary assessing the penalty.*

23 (3) *MULTIPLE OFFENSES.*—In the case of a sec-
24 ond or subsequent violation by the same person, the
25 amount of a penalty assessed under paragraph (2)
26 may be doubled.

1 (4) *LIMITATION.*—*The amount of any penalty*
 2 *assessed under this subsection for any one violation*
 3 *shall not exceed an amount equal to double the cost*
 4 *of response, restoration, and repair of resources and*
 5 *paleontological site damage plus double the scientific*
 6 *or fair market value of resources destroyed or not re-*
 7 *covered.*

8 (b) *PETITION FOR JUDICIAL REVIEW; COLLECTION OF*
 9 *UNPAID ASSESSMENTS.*—*Any person against whom an*
 10 *order is issued assessing a penalty under subsection (a) may*
 11 *file a petition for judicial review of the order with an ap-*
 12 *propriate Federal district court within the 30-day period*
 13 *beginning on the date the order making the assessment was*
 14 *issued. The court shall hear the action on the record made*
 15 *before the Secretary and shall sustain his action if it is*
 16 *supported by substantial evidence on the record considered*
 17 *as a whole.*

18 (c) *HEARINGS.*—*Hearings held during proceedings in-*
 19 *stituted under subsection (a) shall be conducted in accord-*
 20 *ance with section 554 of title 5, United States Code.*

21 (d) *USE OF RECOVERED AMOUNTS.*—*No penalties col-*
 22 *lected under this section shall be available to the Secretary*
 23 *and without further appropriation may be used only as fol-*
 24 *lows:*

1 (1) *To protect, restore, or repair the paleontolog-*
 2 *ical resources and sites which were the subject of the*
 3 *action, or to acquire sites with equivalent resources,*
 4 *and to protect, monitor, and study the resources and*
 5 *sites. Any acquisition shall be subject to any limita-*
 6 *tions contained in the organic legislation for such*
 7 *Federal lands.*

8 (2) *To provide educational materials to the pub-*
 9 *lic about paleontological resources and sites.*

10 (3) *To provide for the payment of rewards as*
 11 *provided in section 511.*

12 **SEC. 511. REWARDS FORFEITURE.**

13 (a) *REWARDS.*—*The Secretary may pay from pen-*
 14 *alties collected under section 509 or 510 of this title an*
 15 *amount equal to the lesser of one-half of the penalty or \$500,*
 16 *to any person who furnishes information which leads to the*
 17 *finding of a civil violation, or the conviction of criminal*
 18 *violation, with respect to which the penalty was paid. If*
 19 *several persons provided the information, the amount shall*
 20 *be divided among the persons. No officer or employee of the*
 21 *United States or of any State or local government who fur-*
 22 *nishes information or renders service in the performance*
 23 *of his official duties shall be eligible for payment under this*
 24 *subsection.*

1 (b) *FORFEITURE.*—All paleontological resources with
 2 respect to which a violation under section 509 or 510 oc-
 3 curred and which are in the possession of any person, and
 4 all vehicles and equipment of any person that were used
 5 in connection with the violation, may be subject to forfeiture
 6 to the United States upon—

7 (1) the person’s conviction of the violation under
 8 section 509;

9 (2) assessment of a civil penalty against any
 10 person under section 510 with respect to the violation;
 11 or

12 (3) a determination by any court that the pale-
 13 ontological resources, vehicles, or equipment were in-
 14 volved in the violation.

15 **SEC. 512. CONFIDENTIALITY.**

16 Information concerning the nature and specific loca-
 17 tion of a paleontological resource the collection of which re-
 18 quires a permit under this title or under any other provi-
 19 sion of Federal law shall be withheld from the public under
 20 subchapter II of chapter 5 of title 5, United States Code,
 21 or under any other provision of law unless the responsible
 22 Secretary determines that disclosure would—

23 (1) further the purposes of this title;

1 (2) *not create risk of harm to or theft or destruc-*
 2 *tion of the resource or the site containing the resource;*
 3 *and*

4 (3) *be in accordance with other applicable laws.*

5 **SEC. 513. REGULATIONS.**

6 *As soon as practical after the date of the enactment*
 7 *of this title, the Secretary shall issue such regulations as*
 8 *are appropriate to carry out this title, providing opportuni-*
 9 *ties for public notice and comment.*

10 **SEC. 514. SAVINGS PROVISIONS.**

11 *Nothing in this title shall be construed to—*

12 (1) *invalidate, modify, or impose any additional*
 13 *restrictions or permitting requirements on any activi-*
 14 *ties permitted at any time under the general mining*
 15 *laws, the mineral or geothermal leasing laws, laws*
 16 *providing for minerals materials disposal, or laws*
 17 *providing for the management or regulation of the ac-*
 18 *tivities authorized by the aforementioned laws includ-*
 19 *ing but not limited to the Federal Land Policy Man-*
 20 *agement Act (43 U.S.C. 1701–1784), the Mining in*
 21 *the Parks Act, the Surface Mining Control and Rec-*
 22 *lamation Act of 1977 (30 U.S.C. 1201–1358), and the*
 23 *Organic Administration Act (16 U.S.C. 478, 482,*
 24 *551);*

1 (2) *invalidate, modify, or impose any additional*
2 *restrictions or permitting requirements on any activi-*
3 *ties permitted at any time existing laws and authori-*
4 *ties relating to reclamation and multiple uses of the*
5 *public lands;*

6 (3) *apply to, or require a permit for, amateur*
7 *collecting of a rock, mineral, or invertebrate or plant*
8 *fossil that is not protected under this title;*

9 (4) *affect any lands other than Federal lands or*
10 *affect the lawful recovery, collection, or sale of paleon-*
11 *tological resources from lands other than Federal*
12 *lands;*

13 (5) *alter or diminish the authority of a Federal*
14 *agency under any other law to provide protection for*
15 *paleontological resources on Federal lands in addition*
16 *to the protection provided under this title; or*

17 (6) *create any right, privilege, benefit, or entitle-*
18 *ment for any person who is not an officer or employee*
19 *of the United States acting in that capacity. No per-*
20 *son who is not an officer or employee of the United*
21 *States acting in that capacity shall have standing to*
22 *file any civil action in a court of the United States*
23 *to enforce any provision or amendment made by this*
24 *title.*

1 **SEC. 515. AUTHORIZATION OF APPROPRIATIONS.**

2 *There is authorized to be appropriated such sums as*
3 *may be necessary to carry out this title.*

Amend the title so as to read: “An Act to establish the Moccasin Bend National Archeological District in the State of Tennessee as a unit of Chickamauga and Chattanooga National Military Park.”.

Attest:

Secretary.

107TH CONGRESS
2D SESSION

H. R. 980

AMENDMENTS