

[(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions sufficient for the construction and maintenance of the memorial.

[(c) MAIL.—The Commission shall be considered to qualify for the rates of postage currently in effect under former section 4452 of title 39, United States Code, for third-class mail matter mailed by a qualified nonprofit organization with respect to official mail sent in carrying out this section.

[(d) VOLUNTARY SERVICES.—

[(1) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept from any person voluntary services provided in furtherance of fundraising activities of the Commission relating to the memorial.

[(2) TREATMENT OF VOLUNTEERS.—

[(A) IN GENERAL.—Subject to subparagraph (B), a person that provides voluntary services under this subsection—

[(i) shall be considered to be a Federal employee for the purposes of chapter 81 of title 5 and chapter 171 of title 28, United States Code; but

[(ii) shall not be considered to be a Federal employee for any other purpose by reason of the provision of the voluntary service.

[(B) CERTAIN RESPONSIBILITIES.—A person described in subparagraph (A) that is assigned responsibility for the handling of funds or the carrying out of a Federal function shall be subject to—

[(i) section 208 of title 18, United States Code; and

[(ii) part 2635 of title 5, Code of Federal Regulations (or any successor regulation).

[(3) REIMBURSEMENT.—The Commission may—

[(A) identify types of incidental expenses incurred by a person providing voluntary services under this subsection for which the person may be reimbursed; and

[(B) provide for reimbursement of those expenses.

[(4) NO EFFECT ON FEDERAL EMPLOYEES.—Nothing in this subsection—

[(A) requires any Federal employee to work without compensation; or

[(B) permits the use of volunteer services to displace or replace any services provided by a Federal employee.

[(e) TREATMENT OF CERTAIN CONTRACTS.—A contract entered into by the Commission for the design or construction of the memorial shall not be considered to be a funding agreement for the purpose of chapter 18 of title 35, United States Code.

[(f) LEGAL REPRESENTATION.—

[(1) IN GENERAL.—The Attorney General shall provide the Commission such legal representation as the Commission requires to carry out subsection (e).

[(2) PATENT AND TRADEMARK REPRESENTATION.—The Secretary of Defense shall provide representation for the Commission in any administrative proceeding before the Patent and Trademark Office and Copyright Office.

[(g) IRREVOCABILITY OF TRANSFERS OF COPYRIGHTS TO COMMISSION.—Section 203 of title 17, United States Code, shall not apply to any copyright transferred to the Commission.

[(h) PARTICIPATION IN COMBINED FEDERAL CAMPAIGN.—The Director of the Office of Personnel Management shall include the Commission on the list of agencies eligible for participation in each Combined Federal Campaign carried out by the Executive Branch under Executive Order No. 10927 (March 18, 1961), until such time as the Commission certifies to the Director of the Office of Personnel Management that fundraising for the memorial is concluded.

[SEC. 5. MEMORIAL FUND.

[(a) ESTABLISHMENT.—There is established in the Treasury a fund to be used by the

Commission to pay the expenses incurred in establishing the memorial, to be known as the "Buffalo Soldier Memorial Fund".

[(b) DEPOSITS IN THE FUND.—The Commission shall deposit in the Fund—

[(1) amounts accepted by the Commission under section 4(b); and

[(2) interest and proceeds credited to the Fund under subsection (d).

[(c) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Fund that is not, in the judgment of the Chairman of the Commission, required to meet current withdrawals. Investments may be made only in—

[(1) an interest-bearing obligation of the United States; or

[(2) an obligation guaranteed as to principal and interest by the United States that the Chairman of the Commission determines has a maturity suitable for the Fund.

[(d) CREDITS TO FUND.—The interest on, and proceeds from sale or redemption of, obligations held in the Fund shall be credited to the Fund.

[(e) USE OF FUND.—Amounts in the Fund shall be available—

[(1) to the Commission—

[(A) to pay expenses incurred in establishing the memorial; and

[(B) to secure, obtain, register, enforce, protect, and license any mark, copyright, or patent that is owned by, assigned to, licensed to the Commission to aid or facilitate the construction of the memorial; and

[(2) to the Commission, or to another agency or entity to which the amounts are transferred under subsection (f)—

[(A) for the maintenance and upkeep of the memorial; and

[(B) after establishment of the memorial, for such other expenses relating to the memorial as the Commission, agency, or entity considers to be necessary.

[(f) TRANSFER OF AMOUNTS IN FUND.—Amounts in the Fund may be transferred by the Commission to an agency or entity to which title to the memorial is transferred under section 6.

[SEC. 6. TRANSFER OF POSSESSION AND AUTHORITY FOR MEMORIAL.

[On or after the date that is 1 year after the date of establishment of the memorial, the Commission may transfer any amounts remaining in the Fund, and title to and responsibility for future operation and maintenance of the memorial, to, at the option of the Commission—

[(1) the National Park Service; or

[(2) another appropriate governmental agency or other entity (such as a State or local government agency, or a nonprofit corporation that applies to the Commission to take title to the memorial) that is an organization described in section 170(c) of the Internal Revenue Code of 1986.

[SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

*This Act may be cited as the "Buffalo Soldiers commemoration Act of 2003".*

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—*The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.*

(b) CONTRIBUTIONS.—*The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.*

(c) COOPERATIVE AGREEMENTS.—*The Commission may enter into a cooperative agreement with a private or public entity for the purpose*

*of fundraising for the construction and maintenance of the memorial.*

(d) MAINTENANCE AGREEMENT.—*Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.*

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) ESTABLISHMENT.—*The Commission shall maintain an escrow account ("account") to pay expenses incurred in constructing the memorial.*

(b) DEPOSITS INTO THE ACCOUNT.—*The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.*

(c) USE OF ACCOUNT.—*Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.*

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

*There are authorized to be appropriated such sums as may be necessary to carry out this Act.*

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 499), as amended, was read the third time and passed.

#### PALEONTOLOGICAL RESOURCES PRESERVATION ACT

The Senate proceeded to consider the bill (S. 546) to provide for the protection of paleontological resources on Federal lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 546), as amended, was read the third time and passed.

S. 546

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Paleontological Resources Preservation Act".

SEC. 2. FINDINGS.

[The Congress finds the following:

(1) Paleontological resources are non-renewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands

should be provided for scientific, educational, and recreational purposes.

**SEC. 3. PURPOSE.**

【The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

**SEC. 4. DEFINITIONS.**

【As used in this Act:

【(1) CASUAL COLLECTING.—The term “casual collecting” means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for personal (scientific, educational, or recreational) use, either by surface collection or using non-powered hand tools resulting in only negligible disturbance to the Earth’s surface and other resources.

【(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

【(3) FEDERAL LANDS.—The term “Federal lands” means lands administered by the Secretary of the Interior, except Indian lands, or National Forest System Lands administered by the Secretary of Agriculture.

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

【(5) STATE.—The term “State” means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

【(6) PALEONTOLOGICAL RESOURCE.—The term “paleontological resource” means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth’s crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

【(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

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

**SEC. 5. MANAGEMENT.**

【(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

【(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

**SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

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

**SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.**

【(a) PERMIT REQUIREMENT.—

【(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

【(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands administered by the Bureau of Land Management, the Bureau of Reclamation, and the U.S. Forest Service, where such collection is not inconsistent with the laws governing the management of those Federal lands and this Act.

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

【(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

【(1) the applicant is qualified to carry out the permitted activity;

【(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

【(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

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

【(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

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

【(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

【(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

【(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

【(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

【(A) for resource, safety, or other management considerations; or

【(B) when there is a violation of term or condition of a permit issued pursuant to this section.

【(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

【(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary’s jurisdiction to the collection of paleontological resources.

**SEC. 8. CURATION OF RESOURCES.**

【Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

**SEC. 9. PROHIBITED ACTS; PENALTIES.**

【(a) IN GENERAL.—A person may not—

【(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

【(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have

been excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

【(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

【(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

【(c) PENALTIES.—

【(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

【(2) DAMAGE OVER \$1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$1,000, such person shall, upon conviction, be guilty of a class E felony.

【(3) MULTIPLE OFFENSES.—In the case of a second or subsequent such violation, such person shall, upon conviction, be guilty of a class D felony.

【(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

**SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.**

【(a) IN GENERAL.—

【(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

【(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

【(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

【(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

【(C) Any other factors considered relevant by the Secretary assessing the penalty.

【(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

【(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

【(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain

the action if it is supported by substantial evidence on the record considered as a whole.

[(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

[(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

[(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

[(2) To provide educational materials to the public about paleontological resources and sites.

[(3) To provide for the payment of Rewards as provided in section 11.

#### SEC. 11. REWARDS FORFEITURE.

[(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or \$500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

[(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

[(1) the person's conviction of the violation under section 9;

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

[(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

#### SEC. 12. CONFIDENTIALITY.

[Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Secretary determines that disclosure would—

[(1) further the purposes of this Act;

[(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

[(3) be in accordance with other applicable laws.

#### SEC. 13. REGULATIONS.

[As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

#### SEC. 14. SAVINGS PROVISIONS.

[Nothing in this Act shall be construed to—

[(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws

providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701-1784), the Mining in the Parks Act, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

[(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time existing laws and authorities relating to reclamation and multiple uses of the public lands;

[(3) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

[(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

[(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

[(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

#### SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated such sums as may be necessary to carry out this Act.]

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Paleontological Resources Preservation Act".*

#### SEC. 2. DEFINITIONS.

*As used in this Act:*

(1) CASUAL COLLECTING.—The term "casual collecting" means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms "reasonable amount", "common invertebrate and plant paleontological resources" and "negligible disturbance" shall be determined by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term "Federal lands" means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term "Indian Land" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term "paleontological resource" means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide informa-

tion about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

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

#### SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

#### SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

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

#### SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

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

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

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

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

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

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

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

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

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

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

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

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

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

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

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

#### SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

#### SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed \$500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

#### SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

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

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

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty,

the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

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

#### SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or \$500,

to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be

divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

#### SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

#### SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

#### SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701-1784), the Mining in the Parks Act, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

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

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in

a court of the United States to enforce any provision or amendment made by this Act.

**SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

**HIBBEN CENTER ACT**

The Senate proceeded to consider the bill (S. 643) to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and inserting in lieu of thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 643

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.]**

[This Act may be cited as the "Hibben Center for Archaeological Research Act of 2003".

**[SEC. 2. FINDINGS.]**

[Congress finds that—

[(1) when the Chaco Culture National Historical Park was established in 1907 as the Chaco Canyon National Monument, the University of New Mexico owned a significant portion of the land located within the boundaries of the Park;

[(2) during the period from the 1920's to 1947, the University of New Mexico conducted archaeological research in the Chaco Culture National Historical Park;

[(3) in 1949, the University of New Mexico—

[(A) conveyed to the United States all right, title, and interest of the University in and to the land in the Park; and

[(B) entered into a memorandum of agreement with the National Park Service establishing a research partnership with the Park;

[(4) since 1971, the Chaco Culture National Historical Park, through memoranda of understanding and cooperative agreements with the University of New Mexico, has maintained a research museum collection and archive at the University;

[(5) both the Park and the University have large, significant archaeological research collections stored at the University in multiple, inadequate, inaccessible, and cramped repositories; and

[(6) insufficient storage at the University makes research on and management, preservation, and conservation of the archaeological research collections difficult.

**[SEC. 3. DEFINITIONS.]**

[In this Act:

[(1) **HIBBEN CENTER.**—The term "Hibben Center" means the Hibben Center for Archaeological Research to be constructed at the University under section 4(a).

[(2) **PARK.**—The term "Park" means the Chaco Culture National Historical Park in the State of New Mexico.

[(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

[(4) **TENANT IMPROVEMENT.**—The term "tenant improvement" includes—

[(A) finishing the interior portion of the Hibben Center leased by the National Park Service under section 4(c)(1); and

[(B) installing in that portion of the Hibben Center—

[(i) permanent fixtures; and

[(ii) portable storage units and other removable objects.

[(5) **UNIVERSITY.**—The term "University" means the University of New Mexico.

**[SEC. 4. HIBBEN CENTER FOR ARCHAEOLOGICAL RESEARCH.]**

[(a) **ESTABLISHMENT.**—The Secretary may, in cooperation with the University, construct and occupy a portion of the Hibben Center for Archaeological Research at the University.

[(b) **GRANTS.**—

[(1) **IN GENERAL.**—The Secretary may provide to the University a grant to pay the Federal share of the construction and related costs for the Hibben Center under paragraph (2).

[(2) **FEDERAL SHARE.**—The Federal share of the construction and related costs for the Hibben Center shall be 37 percent.

[(3) **LIMITATION.**—Amounts provided under paragraph (1) shall not be used to pay any costs to design, construct, and furnish the tenant improvements under subsection (c)(2).

[(c) **LEASE.**—

[(1) **IN GENERAL.**—Before funds made available under section 5 may be expended for construction costs under subsection (b)(1) or for the costs for tenant improvements under paragraph (2), the University shall offer to enter into a long-term lease with the United States that—

[(A) provides to the National Park Service space in the Hibben Center for storage, research, and offices; and

[(B) is acceptable to the Secretary.

[(2) **TENANT IMPROVEMENTS.**—The Secretary may design, construct, and furnish tenant improvements for, and pay any moving costs relating to, the portion of the Hibben Center leased to the National Park Service under paragraph (1).

[(d) **COOPERATIVE AGREEMENTS.**—To encourage collaborative management of the Chacoan archaeological objects associated with northwestern New Mexico, the Secretary may enter into cooperative agreements with the University, other units of the National Park System, other Federal agencies, and Indian tribes for—

[(1) the curation of and conduct of research on artifacts in the museum collection described in section 2(4); and

[(2) the development, use, management, and operation of the portion of the Hibben Center leased to the National Park Service under subsection (c)(1).

**[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.]**

[(a) **IN GENERAL.**—There are authorized to be appropriated—

[(1) to pay the Federal share of the construction costs under section 4(b), \$1,574,000; and

[(2) to pay the costs of carrying out section 4(c)(2), \$2,198,000.

[(b) **AVAILABILITY.**—Amounts made available under subsection (a) shall remain available until expended.

[(c) **REVERSION.**—If the lease described in section 4(c)(1) is not executed by the date that is 2 years after the date of enactment of this Act, any amounts made available under subsection (a) shall revert to the Treasury of the United States.

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Hibben Center Act".*

**SEC. 2. LEASE AGREEMENT.**

(a) **AUTHORIZATION.**—*The Secretary of the Interior may enter into an agreement with the University of New Mexico to lease space in the Hibben Center for Archaeological Research at the University of New Mexico for research on, and curation of, the archaeological research collections of the National Park Service relating to the Chaco Culture National Historical Park and Aztec Ruins National Monument.*

(b) **TERM; RENT.**—*The lease shall provide for a term not exceeding 40 years and a nominal annual lease payment.*

(c) **OPERATING EXPENSES.**—*The lease may require the Secretary to contribute a pro rata share of the Hibben Center's annual operating expenses, in addition to any nominal annual rent.*

(d) **IMPROVEMENTS.**—*The lease shall permit the Secretary to make improvements and install furnishings and fixtures related to the use and curation of the collections.*

**SEC. 3. GRANT.**

*Upon execution of the lease, the Secretary may contribute to the University of New Mexico up to 37 percent of the cost of construction of the Hibben Center, not to exceed \$1,750,000.*

**SEC. 4. COOPERATIVE AGREEMENT.**

*The Secretary may enter into cooperative agreements with the University of New Mexico, Federal agencies, and Indian tribes for the curation of and conduct of research on artifacts, and to encourage collaborative management of the Chacoan archaeological artifacts associated with northwestern New Mexico.*

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of this Act.*

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 643), as amended, was read the third time and passed.

**NATIONAL TRAILS SYSTEM  
WILLING SELLER ACT**

The Senate proceeded to consider the bill (S. 651) to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 651), as amended, was read the third time and passed.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 651

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.]**

[This Act may be cited as the "National Trails System Willing Seller Act".

**[SEC. 2. FINDINGS.]**

[The Congress finds the following:

[(1) In spite of commendable efforts by State and local governments and private volunteer trail groups to develop, operate, and maintain the national scenic and national historic trails designated by Act of Congress in section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)), the rate of progress towards developing and completing the trails is slower than anticipated.

[(2) Nine of the twelve national scenic and historic trails designated between 1978 and 1986 are subject to restrictions totally excluding Federal authority for land acquisition outside the exterior boundaries of any federally administered area.