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Joint Legislative Committee on Federal Mandates

Final Report

December 1999

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LEGISLATIVE STUDY COMMITTEE REPORTS

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FINAL REPORT

JOINT LEGISLATIVE COMMITTEE ON FEDERAL MANDATES

December 1999

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copy 2

Joint Legislative Committee on Federal Mandates

DATE: February 11, 2000

TO: The Honorable Jane Dee Hull, Governor
The Honorable Jeff Groscost, Speaker of the House of Representatives
The Honorable Brenda Burns, President of the Senate

RE: Final Report

Pursuant to Arizona Revised Statutes § 41-1293, the Joint Legislative Committee on Federal Mandates is required to report annually to the Governor, the Speaker of the House of Representatives and the President of the Senate. The Committee met once in 1999 on December 7.

Have not met
since 1999

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ARIZONA STATE LEGISLATURE

JOINT LEGISLATIVE STUDY COMMITTEE ON FEDERAL MANDATES

Minutes of the Meeting
Tuesday, December 7, 1999
10:00 a.m. Senate Hearing Room 1

Members Present:
President Brenda Burns, Chair
S nator Gus Arzberger
Senator Russell Bowers
Senator Jack Brown
Senator Scott Bundgaard
Senator Darden Hamilton
Senator Joe Eddie Lopez
Representative Marilyn Jarrett, Cochair
Representative Jake Flake
Representative Kathi Foster
Speaker Jeff Groscost
Representative Leah Landrum

Members Absent:
Representative Joe Hart
Representative John Loredo

Staff:
Mara Kelly, Senate FIR Analyst
Jodi Jerich, House Judiciary Analyst

C ngr ssional Members:
Senator John Kyl
Congressman J. D. Hayworth
Congressman John Shadegg

President Burns called the meeting to order at 10:12 a.m. and asked that everyone be brief in their statements as the Congressional members would have to leave by 11:00 a.m. for a ceremony at the U.S.S. Arizona anchor. She expressed her appreciation to the Congressional delegation for coming and announced that item 4 on the agenda would be discussed first. President Burns said the issue of federalism is something that is continually on the minds of the State, and said she appreciates Arizona's delegation being leaders in the federalism movement.

Representative Jarrett also expressed her appreciation to the Congressional delegation for coming to meet with the State legislative members. She remarked that she spoke to a legislator from another state who said their delegation did not come back after their first meeting. She said the Legislature also appreciates the fact that the Arizona delegation is unique and understands the differences between state and federal government and appreciates the opportunity to work with them.

President Burns thanked the delegation for promptness in their responses to State requests on a variety of issues. She said she works with a domestic violence organization and was speaking to some of the women seeking shelter there. It made her realize the huge amount of issues that people who work at the shelters and safe houses must deal with. Among the larger issues is immigration, which is very difficult to work through. President Burns stated sh had

contacted Senator Kyl's office, and someone had helped find temporary homes for these immigrant women, who are thrilled with their new quarters.

Senator Arzberger asked if the members could take a few moments to bow their heads in honor of the men and women who lost their lives at Pearl Harbor. President Burns asked everyone to stand for a moment of silence.

F deral Gas Tax

Senator Hamilton extended a welcome to the visiting Congressional delegation. He said the federal gas tax has been going up steadily, and that the current tax is 36.4¢ per gallon; of that 18.4¢ is federal tax and 18¢ is state tax. The money goes to the federal government and comes back in the form of grants, and the T-21 bill. Senator Hamilton stated that prior to the T-21 legislation, for every dollar of gas tax sent to the federal government, 85¢ was returned to the State for transportation needs. Since the T-21 bill passed, the State receives 90.5¢ for every dollar. Of the 50 states, there are 23 that send more money than they get back. Senator Hamilton said that Arizona loses approximately $45 million a year from our tax money going to other states to fund their transportation and infrastructure, while in Arizona, specifically Maricopa County, there is the fastest growing county in the United States. At the rate of $45 million a year, through the five-year period of T-21, Arizona will lose $225 million of its tax money that goes to other states that need it less than Arizona. When T-21 runs out, Arizona hopes that will be changed. Between T-21 and the former plan [of 85¢ on the dollar] Arizona will have been a donor state for 10 years. Arizona is considering raising the gas tax to make up for the loss of revenue, and may have to raise it 8¢ to offset the money Arizona has lost.

Senator Hamilton said another transportation issue is the high occupancy vehicle (HOV) lane. He noted that if there are 10,000 cars on the road sitting still that will produce a lot more pollution. The standards for pollutants that an engine produces at idle are a lot higher than the standards at 30 m.p.h. If vehicles are just moving at 30 m.p.h., the pollution will be cut by 80%, the air will be cleaner and our compliance with the federal regulations for pollutants will be a lot better. Senator Hamilton stated one way to get people moving is to release the HOV lane to general use. He said they were not meant to get people to carpool, but were meant to help with pollution, through the tactic of carpooling. However, if people are not carpooling and the traffic is not moving, the necessity of the lane is lost. Once the vehicles are moving at 30 m.p.h., another HOV lane could be added, but until that happens having the HOV lane is a luxury.

President Burns concluded that: 1) the State needs return of all of its gas tax monies; and 2) the State would like to have a waiver on the HOV lane on I-17.

Representative Foster asked how the formula is determined for gas tax money being returned to the State.

S nat r John Kyl said it is a very complicated formula and it is unfair to Arizona. He noted that of the five negative votes on the T-21 bill, two were from Arizona because of that unfairness. He noted he spoke to the Maricopa Association of Governments (MAG) which was very angry with him for voting against the T-21 bill because it brought a lot of money to Arizona. Senator Kyl said his response was that one should not look at the money the State received, but at the money it lost because Arizona could not do better. Arizona can put in for the Federal NAFTA Corridor and Indian monies, which it does, but that does not make up for the difference. He agreed with Senator Hamilton's comments, and agreed to work on it.

Congressman Shad gg echoed Senator Kyl's remarks and said he voted against the T-21 bill as well. He commented on the HOV lanes, and noted that New Jersey removed some HOV lanes after releasing a study finding they did not help with pollution. He said he would pledge the assistance of the Arizona delegation to obtain a waiver on the HOV lane mandate.

Fed ral Redesignation of Land

Congr ssman Hayworth thanked President Burns for revising the agenda so that the d legation could attend the ceremony at the U.S.S. Arizona anchor. He stated that Arizona sits on the precipice of a dangerous "land-grab." He asserted the Legislature needs to know that the Clinton administration is planning to create wilderness areas by a roadless policy through the federally controlled lands. Congressman Hayworth stated he feels this is the most egregious policy this administration has set forth to date. He said that he does not believe this administration can be called environmentalists, but they should be call "prohibitionists," because they seek to prohibit any activity in the forests. Congressman Hayworth said this could result in th destruction of the land they wish to protect. It has been proven that sound use of land will protect it; they have to be forested to protect them from suffocation of overgrowth. He asked if the nation should sacrifice its national forests for something that sounds good, but only appeases a special interest group. He said it is false that we are running out of trees, and the government controlled forests yield 18 billion more board fee annually than they did 50 years ago. With sound forestry techniques it is known that forest growth has exceeded harvest continually since the 1940's.

Congressman Hayworth stated that the roadless promulgators say the roads are only used for loggers, but that is incorrect. The roads are used for a number of federal land management activities, and if eliminated, the forests will be shut down for fire suppression, recreation, access for local residents and environmental enhancement. 97% of the roads are open for all uses, not just timber harvest. He said he believes the public should be able to access the national forests that their federal tax dollars go to protect. He said the most important reason to keep the roads open is the effect on school children as money from timber sales goes to fund education. In the year 1995, $60 million was returned to timber dependent communities, chiefly in the West. Congressman Hayworth said eliminating the roads will also eliminate critical education funds, and Arizona has already suffered too much in this regard because the same prohibitionists have filed countless lawsuits which have eviscerated Arizona's timber industry.

Congressman Hayworth offered a solution, which was the Education Land-Grant Act, which passed the House of Representatives and awaits action in the Senate. It offers a uniform way for rural school districts to apply for parcels of non-environmentally sensitive land, which can be of sound benefit to the rural counties. He said input must be received from Arizonans against the land-grab by Secretary Babbitt. He offered a public entreaty to the Secretary of the Interior: "Don't foist your personal legacy on the backs of rural Arizonans."

Representative Jake Flake offered his support for Congressman Hayworth's legislation and said he grew up in these areas [under consideration] and he does not like what is happening. The timber industry built these roads and when they discontinue logging they only leave open the major road for people to access, use and enjoy the forests. All other logging roads are discontinued, barriers are put up and the forests are reseeded. Representative Flake said the federal government has shut out the logging industry, and is now making an effort to shut out the cattle industry which also uses these roads to service the cattle. In addition, it will shut out the public, and then the forest will be of no use. He said his major concern is what will happen to the forests. He is alarmed with the condition of the timbered forests, and became mor so

after hearing Dr. David Garrett, because if something is not done, the forests are going to burn. Representative Flake noted Arizona had good rains this spring, but is not receiving any snow pack so far this winter, and that is what keeps the forest healthy. Rain brings up the weeds and grass, which are additional fuel for a fire. He said the forests will definitely burn if this land-grab takes place.

Congressman Shadegg stated he would like to discuss the roadless issue further. When the Clinton administration came forward with a new policy designating 60 million acres as roadless areas, the Western governors passed a resolution stating this process would preclude multiple use in all 60 million acres. He said it has been impossible to obtain a specific designation of acr age. The Council on Environmental Quality did release a statement to the press on October 13, which indicated 1.8 million acres would be in Arizona. He said this is an issue on which specific action should be taken. The Administration sites Article 4, section 3 as the authority for this roadless designation. In actuality, that Article gives the Congress the authority to regulate U.S. forest lands, and it is believed that this action is illegal. He said he agrees with Congressman Hayworth that this is a significant threat, and with Representative Flake that this is a serious problem. Congressman Shadegg said if there is a legitimate argument that the federal government is acting outside the law, he would like to see resolutions from the Arizona Legislature in support of a legal challenge to that action. He said it is one more attempt to lock up the land in Arizona. He also said he believes that Governor Hull supports multiple use.

Representative Flake said there are only 5 million acres of forested land in Arizona, and that land grab would take one-third of it.

Congressman Shadegg stated his second concern is that of designation of national monuments. He said the Clinton administration contemplates designating national monuments, and the Congress has been trying to find out what areas they are discussing. Secretary Babbitt appeared before the Resources Committee, at which Congressman Shadegg asked for a list of the national monuments so the American people could have input. The Administration would not provide a list of the areas under consideration, but on November 22nd, the Secretary released a list to the press that indicated a dozen sites in the West (Attachments A & B). He noted that Congressman Kolbe had argued against federal legislation on the Las Cienegas ar a, saying the parties involved were working out an agreement. Congressman Shadegg stated if any of the members are familiar with what happened in Utah, and the federal government refusal to talk to their Congressional delegation, they know of the blind-siding by the federal government which lied to the Utah delegation many times. He said Arizona needs to be very aggressive on this, should be actively involved and have input on designating areas in Arizona.

President Burns agreed this is a critical issue, and she wants Congressman Shadegg's remarks and maps in the record. She said the Legislature hopes there is a united front from the Congressional delegation, and she asked Congressman Shadegg to advise the members of what is being proposed to remedy the situation.

Senator Kyl suggested the Legislature request copies of the legislation by Congress, and suggested the creation of a task force in Arizona to develop a mechanism to deal with the federal designation of national monuments. He said Arizona needs to develop a plan because it has known for a year of the possibility that lands in Arizona may be designated, and Arizona will not be blind-sided as Utah was, but it needs to begin working on a solution.

Central Arizona Project Repayment and Water Distribution Update

Senator Kyl stated there are several different issues involved in the Central Arizona Project (CAP), the first of which is the San Carlos Water Settlement concluded in the early nineties, which has not yet been finalized. The Central Arizona Water Conservation District (CAWCD) must still sign off on that portion of the settlement. The CAP district will not do that as long as the federal government maintains its present position on repayment. That agreement will terminate on December 31, 1999, if there is no meeting of the minds, and may not be revisited.

Th second part is the Little Colorado River stream adjudication, which has been going on for a long time, and was nearing a point of settlement when the Navajo Tribe brought a lawsuit against many of the non-Indian participants dealing with royalty payments and power plants. That settlement has been "stopped dead in its tracks." He noted there are plans to have a briefing the week following this meeting by the Navajo Nation on the project they would like to build if the settlement is reached.

The third part involves the CAP repayment deal with the Gila River Tribe, which is within 80% of resolution since all parties want to get this resolved. The negotiations have been slowed because the Department of the Interior does not know if it wants to expend the energy to conclude the process. He said there are still some outstanding issues, which will require a lot of hard work. Senator Kyl said he believes there will be an effort to continue the negotiations to bring it to closure, but without the active involvement of the Department of Interior, he is not sure it will be done within the next year.

Senator Kyl stated the next item he would like to discuss is the CAWCD financial dispute with the federal government over how much Arizona's share of CAP is. The basic financial issues have been agreed to in a settlement that would accompany the Gila River settlement and one other, which he will discuss momentarily. Since the Gila River settlement is not finished, and they are tied together, the issue remains in court and the federal government is not willing to allow CAWCD to litigate a crucial element. The situation has already been resolved by the parties but since it has not been finalized, it remains in court, and in court they continue to fight it out.

Senator Kyl said there are some rough outlines of a settlement; where-in the non-Indian parties have expressed a willingness to make up to 200,000 acre feet of water available for Indian settlements. The federal government has theoretically agreed to no out-of-state transfers to the State of Arizona and has theoretically agreed to water banking by the State. That overall settlement structure languishes in the Department of Interior, and Secretary Babbitt is unsure it is worth his effort to bring the settlements to conclusion. Senator Kyl said this is "too bad" as many people are concerned about whether Arizona will be protected. Senator Kyl said he thinks a settlement can be reached that adequately protects Arizona's interests which would be far superior to litigating all of the settlements.

President Burns stated it is a very complex issue and difficult to resolve. Senator Kyl said the CAWCD and the Arizona Department of Water Resources (DWR) have performed magnificently in this area. He noted there is a sunset review of the DWR soon, and he feels the worst thing that could happen would be to sunset DWR. He also added he appreciates the members' of the Legislature interest and their patience, and he will be ready to communicate in any way the Legislature deems appropriate.

Representative Flake asked if the portion allotted to the Indians has no repayment. Senator Kyl said a large portion of the problem with CAWCD and the federal government has to do with how the accounting occurs with respect to water to the Indians. Representative Flake clarified that as Globe transfers to the San Carlos Tribe, the issue is whether that amount has to be repaid.

Congressman Shadegg commended Senator Kyl for his "yeoman's work" on this issue. He said he does not envy anyone who has to negotiate with the Clinton administration, and the Babbitt section of that Administration. He said no one knows Arizona water law better than Senator Kyl. Several of the issues are those where the Clinton administration has said they tentatively agree to things and then do not want it nailed down. He said the implications for Arizona's growth and its rights to the water, as well as clarity and finality on these issues, are too important to take just a settlement. He commended him for negotiating in good faith, and for standing strong.

Senator Arzberger stated he has followed this issue all the way through, and the concern is that the courts ruled that CAP owes $1.7 billion, and the government says they own $2.3 billion. The federal government wants to take the Indian water payment off of the $2.3 billion, and Arizona said no, because the courts have ruled that it should be taken off the $1.7 billion. He asked that Senator Kyl and the rest of the Arizona delegation "hang tight" and settle it all from one end of the State ~~to the~~ other.

S nator Bowers questioned the practicable benefit of the over-construction of the federal government, and stated it is $1.72 billion that Arizona legally owes, but because the State has a practicable benefit from construction he believes the federal government is suing the State.

Senator Kyl said that is correct, but he is not involved with the amount of repayment; that is between CAWCD and the federal government. The problem is that situation impacts other things and vice versa. Senator Kyl said he is not at all involved in the negotiations, but added CAWCD's position is that it has reached agreement on the $1.72 billion settlement, but in the litigation, the federal government takes the position it has to be otherwise. He said there does not seem to be a way to resolve this at present.

INTERNET TAXATION UPDATE

Senator Bundgaard stated the issue regarding taxation of the Internet revolves around four points: the tax nexus; the tax base; tax rates and tax administration. He said the Committee knows that Congress passed the Internet Tax Freedom Act which prohibits state and local governments from adding on new taxes for a period of three years. The bill prohibits states from levying taxes on e-commerce or on Internet access charges.

Senator Bundgaard noted that Senator McCain has proposed legislation to make the current ban permanent to specifically prohibit attempts to impose sales tax on Internet sales. It would also add a global moratorium on Internet taxes, and he said he believes this would undermine states' rights to a certain extent. He stated the Legislature's tax policy is to make sure that taxes are flat, fair, the administration is simple and the rates low. He asked for a discussion on the taxation of Internet sales, and said it has ramifications on all sales, including taxing the sale of goods across state and international boundaries.

Senator Bundgaard said he believes there will be an effect on revenues to the states if taxation is banned. He noted there are 101 taxing jurisdictions in Arizona which are an administrative nightmare. He said the National Governors Association (NGA) has a proposal they are

forwarding, but he opined it is more bureaucracy in a different form. He said he believes th re is middle ground between Senator McCain's proposal and the NGA's. He asked the Congressional delegation what the status of Senator McCain's proposal is and if there are other ideas developing in Congress.

President Burns asked for a breakdown of the issue of the federal government versus the state government and where the authority lies because Arizona has not yet made a decision on this type of taxation.

Congressman Shadegg responded he thinks this is going to be a "turf war" because he has had local officials approach him and indicate they cannot survive as the Internet expands because the sales may "eat into" local resources and the tax base. The officials do not feel it is fair for the Internet sales not to be taxed. He said he is not aware of other proposals besides Senator McCain's. He added there is no doubt there will be counter legislation advanced by various interests to address if it is fair to take sales tax from local government by continuing to ban tax s on the Internet. Congressman Shadegg said he believes there is no need for new taxes. He recognized that e-commerce is expanding, and believes it will expand the market so the local tax base will not disappear. He said it is the number one lobbying issue of the cities.

President Burns said there needs to be a discussion on where that authority lies.

FEDERALISM LEGISLATION

Congressman Shadegg said he introduced legislation called the "Enumerated Powers Act" which must cite in every law the specific authority giving the federal government the power to enact that law. He said the United States Constitution is a constitution of granting the federal government certain specific powers and granting all remaining powers to the states under th 10th Amendment. Congressman Shadegg stated the U.S. House has made it a rule that report language must contain citation to the authority of the legislation. That has not been enacted in statute. He said he is encouraged that the Constitution Subcommittee has asked to schedule a hearing on that legislation (H.R. 1018 – Attachment C). He said it goes to the area where the f deral government legislates when it has no authority.

Congressman Shadegg stated Senator Fred Thompson has legislation dealing with the question of federal pre-emption to state authority, as does Congressman MacIntosh. Senate Bill 1214 (Attachment C) and H.R. 2245 are parallel bills under which the Congress would be required to cite any state law that would be pre-empted by the passage of a federal law. As an example, h said if the Congress enacted a ban on Internet taxation that would pre-empt any state or city tax on e-commerce, the federal legislation would have to say "this legislation pre-empts county, local and state taxes on the Internet." He said the legislation is getting some attention in the Senate, but has not been heard in the House, and he cannot give the Committee an updated status. It does put people on notice as to when the federal government acts to steal authority from the states.

President Burns said she appreciates Congressman Shadegg's efforts with his bill, and questioned where the hearing of the bill will be. Congressman Shadegg replied it will be shortly after the first of the year, in the Constitution Subcommittee of the House Judiciary Committee. President Burns said she believes Senator Thompson's bill is being supported by NCSL, and the support of ALEC has been enlisted.

Representative Jarrett said she just left an NCSL meeting and those members are supporting Senator Thompson's bill because they are very concerned as well.

VOTER REGISTRATION ACT

Representative Jarrett said she would relinquish her time to Jessica Funkhouser.

J ssica Funkhouser, Office of the Secretary of State, stated Secretary Bayless would have been here today but she is visiting election officers in other counties. Ms. Funkhouser stated she appreciates the memo prepared by Representative Jarrett because it summarizes the discussion between them on simple things which could be addressed at the federal level r garding the Voter Registration Act. Ms. Funkhouser asserted it is a very expensive act for the states to implement, and the counties bear the cost of voter roll clean-up. A mailing was r cently done to all registered voters in Maricopa County, and the County was able to eliminate 240,000 from the rolls to help prevent voter fraud and also the cost of mailings for elections. The inflated numbers give an unrealistic figure for the voter low for the population. That cost the County $770,000. She suggested the cumbersome procedures could be revisited, and if there is a way to make less mailings, it would be very helpful.

Ms. Funkhouser also discussed the declination form (Attachment D) and said whenever someone applies for public assistance, they must be offered the opportunity to vote, even if they are already registered, and if they do not want to register, they must be offered this piece of paper. This happens every month, and the forms are saved in storage boxes. So far this year the Secretary of State's office has 123 boxes, which are in turn shipped to Archives, where they stay for two years. In response to Congressman Shadegg, she said there are 258 boxes in the office from the last two years. Congressman Shadegg said if she would bring them to him, he would take them to the floor of the U.S. House and discuss the issue.

Tape 1, Side B

Speaker Groscost said he would be feeling coerced to be sure he is registered. He asked if there is a statement of the qualifications necessary to be a registered voter, or if, during the process, is it pointed out that it may not be appropriate for them to register under certain circumstances. Ms. Funkhouser stated it is not on this form, but it is on the voter registration form, which asks if they are citizens, are 18 years of age and are competent to vote. She said the declination form is exactly what the federal law requires.

Congressman Shadegg asked if there are similar storage boxes of declination forms all around the country, i.e., California or New York, where there is a larger voter population. He said the reality of these meetings is that the West gets out-voted on issues very quickly, and it would be of value to him to know that one of the states with a large congressional delegation had 1,000 of these boxes, so he could invoke an environmental piece of legislation.

Ms. Funkhouser said, in discussions with her colleagues, there were two points of consensus: 1) funding should be updated to further voting standards and proper equipment; 2) repeal this portion of the law because all the states have many boxes in storage.

Speaker Groscost said he believes the Congressman is asking one of the members of the Secretary of State's office to make 49 phone calls and give him a compilation of numbers of boxes. Ms. Funkhouser said she is already "composing the e-mail."

Senator Bowers glibly commented if a scaffolding were built around the Washington Monument, and these boxes piled on it, they could cover the entire Monument. He added they could also be used to build public housing.

Congressman Shadegg stated he would pledge to put forth legislation to repeal this requirement. He asked if the requirement requiring two first-class mailings is in the same act. Ms. Funkhouser explained it is actually an FCC interpretation of the rules. A person cannot be removed from the rolls if the letter comes back with the sticker noting the person has moved but the mail is no longer forwardable. She said they must mail another form to the new address, and if confirmation is received that they have moved to another state, they may be taken off the rolls; however, if no confirmation is received, that person remains on the inactive rolls. Ms. Funkhouser noted that if the label indicates the forwarding order is expired, it must be mailed again to that address, and if two expired notices are received the person is put on the inactive list.

Congressman Shadegg clarified people are put on the inactive roll unless they confirm they are residents of another state. He pledged his support for legislation on this and said he will work with Secretary Bayless on having people not placed on the inactive roll, but removed completely. He noted this is a subject which is sensitive and people are suspicious of the Congress' motives. He said if there is support from both parties of the State, it would provide a great deal of emphasis.

Representative Jarrett said she talked to Karen Osborne of Maricopa County, who said it cost the County $775,000 to do this. She pointed out that just because a person is removed from the rolls does not mean they cannot vote. If they have previously registered, the vote will be counted as valid.

Speaker Groscost expressed his thanks to the members of the federal delegation who came. He said most states are incredulous that Arizona's Congressional delegation will come to talk to them, and they are interested in having similar discussion with their delegations.

Representative Jarrett said, having just left NCSL where states rights and federalism were discussed, that she hopes Congressman Shadegg will go back with the thought that the federal government is trying to take some of the states very good criminal laws and make them into federal laws. She said that creates a dual court system. For the best interest of the citizens of the state, the feeling is they will be better served if the case is heard by the local judge, and also that the federal government should tread very lightly on criminal laws. It is felt the states should be more in charge of those laws, rather than the federal government taking away jurisdiction and the ability to tweak those laws.

Congressman Shadegg replied he agreed and stated he had declined serving on the Judiciary Committee because he believes primary jurisdiction for criminal laws should be at the state level. He said most practicing attorneys will tell you that the federal courts are overloaded and you cannot get a case heard. He said the federal judiciary and statutes were not meant to be the place of enforcement for the average street crime, or one that does not affect interstate commerce, or the unique jurisdiction of the federal government, i.e., Indian reservations or military bases. He said Representative Jarrett is correct and he has voted against proposed criminal statutes many times. He said this is an issue on which the American people have lost their "civic lessons" and that federal law should only deal with unique situations which state law cannot address.

Congressman Shadegg concluded that he believes these meetings are extremely important and the dialogue valuable in keeping the Congressional delegation in touch with the Arizona delegation. He expressed frustration that some of the Congressional delegation do not attend and participate. He said perhaps a time could be found in January when there is not much action in the U.S. Congress to bring them to Arizona. He said perhaps the pressure to have them come when Arizona is in session would be greater.

Representative Jarrett said most of the states have passed a juvenile justice reform bill, and feel they have taken care of the problem, and see no reason for the federal government to step in. She said the states can tweak their own laws from time to time. She asked Congressman Shadegg to pass along those thoughts.

President Burns thanked everyone for coming, and said the meeting had been worthwhile.

There being no further business, the meeting adjourned at 11:29 a.m.

Respectfully submitted,

Karen Neuberg

Karen Neuberg
Committee Secretary

(Tape and attachments on file in the Secretary of the Senate's Office.)

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE
OPEN TO THE PUBLIC

JOINT LEGISLATIVE STUDY COMMITTEE ON FEDERAL MANDATES

Date: **December 7, 1999**

Time: **10:00 to 11:30 a.m.**

Place: **Senate Hearing Room 1**

AGENDA

1. Call to Order
2. Opening Remarks (5 minutes)
   President Burns, Cochair
   Representative Jarrett, Cochair
3. Federalism Legislation (10 minutes)
4. Federal Gas Tax (15 minutes)
   Senator Hamilton
5. Federal Redesignation of Land (15 minutes)
   Congressman Hayworth
6. Central Arizona Project Repayment and Water Distribution Update (15 minutes)
   Senator Kyl
7. Internet Taxation Update (10 minutes)
   Senator Bundgaard
8. Voter Registration Act (10 minutes)
   Representative Jarrett
9. Closing Remarks (10 minutes)

Members:

President Brenda Burns, Chair
Senator Gus Arzberger
Senator Russell Bowers
Senator Jack Brown
Senator Scott Bundgaard
Senator Darden Hamilton
Senator Joe Lopez

Representative Marilyn Jarrett, Cochair
Representative Jake Flake
Representative Foster
Speaker Jeff Groscost
Representative Joe Hart
Representative Leah Landrum
Representative John Loredo

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602)542-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

MK/cd 12/01/99

Agenda Item #3

I

106TH CONGRESS
1ST SESSION

H. R. 1018

To require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1999

Mr. SHADEGG (for himself, Mr. BLILEY, Mr. SALMON, Mr. SANFORD, Mr. ROYCE, Mr. BERECTER, Mr. ENGLISH, Mr. TIAHRT, Mr. HAYWORTH, Mr. KOLBE, Mr. COBURN, Mr. STUMP, Mr. PAUL, Mr. NETHERCUTT, Mr. DUNCAN, Mr. SCARBOROUGH, Mrs. MYRICK, Mrs. CUBIN, Mr. OXLEY, Mr. HOEKSTRA, Mr. SKEEN, Mr. METCALF, Mr. HOSTETTLER, Mr. BARTON of Texas, Mr. GOODLING, Mr. BURTON of Indiana, Mr. WELDON of Florida, Mr. RADANOVICH, Mr. STEARNS, Mr. TANCREDO, Mr. HEFLEY, Mr. CALVERT, Mr. DOOLITTLE, and Mr. FOLEY) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

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 "Enumerated Powers Act".

1 **SEC. 2. SPECIFICATION OF CONSTITUTIONAL AUTHORITY**
2 **FOR ENACTMENT OF LAW.**

3 (a) CONSTITUTIONAL AUTHORITY FOR THIS ACT.—
4 This Act is enacted pursuant to the power granted Con-
5 gress under article I, section 8, clause 18, of the United
6 States Constitution and the power granted to each House
7 of Congress under article I, section 5, clause 2, of the
8 United States Constitution.

9 (b) CONSTITUTIONAL AUTHORITY STATEMENT RE-
10 QUIRED.—Chapter 2 of title 1, United States Code, is
11 amended by inserting after section 102 the following new
12 section:

13 **"§ 102a. Constitutional authority clause**

14 "Each Act of Congress shall contain a concise and
15 definite statement of the constitutional authority relied
16 upon for the enactment of each portion of that Act. The
17 failure to comply with this section shall give rise to a point
18 of order in either House of Congress. The availability of
19 this point of order does not affect any other available re-
20 lief."

21 (c) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 2 of title 1, United States
23 Code, is amended by inserting after the item relating to
24 section 102 the following new item:

"102a. Constitutional authority clause.".

S 1214 RIS

106th CONGRESS

1st Session

S. 1214

To ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 10, 1999

Mr. THOMPSON (for himself, Mr. LEVIN, Mr. VOINOVICH, Mr. ROBB, Mr. COCHRAN, Mrs. LINCOLN, Mr. ENZI, Mr. BREAUX, Mr. ROTH, and Mr. BAYH) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

A BILL

To ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes.

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 'Federalism Accountability Act of 1999'.

SEC. 2. FINDINGS.

Congress finds that--

(1) the Constitution created a strong Federal system, reserving to the States all powers not delegated to the Federal Government;

(2) preemptive statutes and regulations have at times been an appropriate exercise of Federal powers, and at other times have been an inappropriate infringement on State and local government authority;

(3) on numerous occasions, Congress has enacted statutes and the agencies have promulgated rules that explicitly preempt State and local government authority and describe the scope of the preemption;

(4) in addition to statutes and rules that explicitly preempt State and local government authority, many other statutes and rules that lack an explicit statement by Congress or the agencies of their intent to preempt and a clear description of the scope of the preemption have been construed to preempt State and local government authority;

(5) in the past, the lack of clear congressional intent regarding preemption has resulted in too much discretion for Federal agencies and uncertainty for State and local governments, leaving the presence or scope of preemption to be litigated and determined by the judiciary and sometimes producing results contrary to or beyond the intent of Congress; and

(6) State and local governments are full partners in all Federal programs administered by those governments.

SEC. 3. PURPOSES.

The purposes of this Act are to--

(1) promote and preserve the integrity and effectiveness of our Federal system of government;

(2) set forth principles governing the interpretation of congressional and agency intent regarding preemption of State and local government authority by Federal laws and rules;

(3) establish an information collection system designed to monitor the incidence of Federal statutory, regulatory, and judicial preemption; and

(4) recognize the partnership between the Federal Government and State and local governments in the implementation of certain Federal programs.

SEC. 4. DEFINITIONS.

In this Act the definitions under section 551 of title 5, United States Code, shall apply and the term--

(1) 'local government' means a county, city, town, borough, township, village, school district, special district, or other political subdivision of a State;

(2) 'public officials' means elected State and local government officials and their representative organizations;

(3) 'State'--

(A) means a State of the United States and an agency or instrumentality of a State;

(B) includes the District of Columbia and any territory of the United States, and an agency or instrumentality of the District of Columbia or such territory;

(C) includes any tribal government and an agency or instrumentality of such government; and

(D) does not include a local government of a State; and

(4) 'tribal government' means an Indian tribe as that term is defined under section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

SEC. 5. COMMITTEE OR CONFERENCE REPORTS.

(a) IN GENERAL- The report accompanying any bill or joint resolution of a public character reported from a

committee of the Senate or House of Representatives or from a conference between the Senate and the House of Representatives shall contain an explicit statement on the extent to which the bill or joint resolution preempts State or local government law, ordinance, or regulation and, if so, an explanation of the reasons for such preemption. In the absence of a committee or conference report, the committee or conference shall report to the Senate and the House of Representatives a statement containing the information described in this section before consideration of the bill, joint resolution, or conference report.

(b) CONTENT- The statement under subsection (a) shall include an analysis of--

(1) the extent to which the bill or joint resolution legislates in an area of traditional State authority; and

(2) the extent to which State or local government authority will be maintained if the bill or joint resolution is enacted by Congress.

SEC. 6. RULE OF CONSTRUCTION RELATING TO PREEMPTION.

(a) STATUTES- No statute enacted after the effective date of this Act shall be construed to preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless--

(1) the statute explicitly states that such preemption is intended; or

(2) there is a direct conflict between such statute and a State or local law, ordinance, or regulation so that the two cannot be reconciled or consistently stand together.

(b) RULES- No rule promulgated after the effective date of this Act shall be construed to preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless--

(1)(A) such preemption is authorized by the statute under which the rule is promulgated; and

(B) the rule, in compliance with section 7, explicitly states that such preemption is intended; or

(2) there is a direct conflict between such rule and a State or local law, ordinance, or regulation so that the two cannot be reconciled or consistently stand together.

(c) FAVORABLE CONSTRUCTION- Any ambiguities in this Act, or in any other law of the United States, shall be construed in favor of preserving the authority of the States and the people.

SEC. 7. AGENCY FEDERALISM ASSESSMENTS.

(a) IN GENERAL- The head of each agency shall--

(1) be responsible for implementing this Act; and

(2) designate an officer (to be known as the federalism officer) to--

(A) manage the implementation of this Act; and

(B) serve as a liaison to State and local officials and their designated representatives.

(b) NOTICE AND CONSULTATION WITH POTENTIALLY AFFECTED STATE AND LOCAL GOVERNMENT- Early in the process of developing a rule and before the publication of a notice of proposed rulemaking, the agency shall notify, consult with, and provide an opportunity for meaningful participation by public officials of governments that may potentially be affected by the rule for the purpose of identifying any preemption of State or local government authority or other significant federalism impacts that may result from issuance of the rule. If no notice of proposed rulemaking is published, consultation shall occur sufficiently in advance of publication of an interim final rule or final rule to provide an opportunity for meaningful participation.

(c) FEDERALISM ASSESSMENTS-

(1) IN GENERAL- In addition to whatever other actions the federalism officer may take to manage the implementation of this Act, such officer shall identify each proposed, interim final, and final rule having a federalism impact, including each rule with a federalism impact identified under subsection (b), that warrants the preparation of a federalism assessment.

(2) PREPARATION- With respect to each such rule identified by the federalism officer, a federalism assessment, as described in subsection (d), shall be prepared and published in the Federal Register at the time the proposed, interim final, and final rule is published.

(3) CONSIDERATION OF ASSESSMENT- The agency head shall consider any such assessment in all decisions involved in promulgating, implementing, and interpreting the rule.

(4) SUBMISSION TO THE OFFICE OF MANAGEMENT AND BUDGET- Each federalism assessment shall be included in any submission made to the Office of Management and Budget by an agency for review of a rule.

(d) CONTENTS- Each federalism assessment shall include--

(1) a statement on the extent to which the rule preempts State or local government law, ordinance, or regulation and, if so, an explanation of the reasons for such preemption;

(2) an analysis of--

(A) the extent to which the rule regulates in an area of traditional State authority; and

(B) the extent to which State or local authority will be maintained if the rule takes effect;

(3) a description of the significant impacts of the rule on State and local governments;

(4) any measures taken by the agency, including the consideration of regulatory alternatives, to minimize the impact on State and local governments; and

(5) the extent of the agency's prior consultation with public officials, the nature of their concerns, and the extent to which those concerns have been met.

(e) PUBLICATION- For any applicable rule, the agency shall include a summary of the federalism assessment prepared under this section in a separately identified part of the statement of basis and purpose for the rule as it is to be published in the Federal Register. The summary shall include a list of the public officials consulted

and briefly describe the views of such officials and the agency's response to such views.

SEC. 8. PERFORMANCE MEASURES.

Section 1115 of title 31, United States Code, is amended by adding at the end the following:

'(g) The head of an agency may not include in any performance plan under this section any agency activity that is a State-administered Federal grant program, unless the performance measures for the activity are determined in cooperation with public officials as defined under section 4 of the Federalism Accountability Act of 1999.'.

SEC. 9. CONGRESSIONAL BUDGET OFFICE PREEMPTION REPORT.

(a) OFFICE OF MANAGEMENT AND BUDGET INFORMATION- Not later than the expiration of the calendar year beginning after the effective date of this Act, and every year thereafter, the Director of the Office of Management and Budget shall submit to the Director of the Congressional Budget Office information describing interim final rules and final rules issued during the preceding calendar year that preempt State or local government authority.

(b) CONGRESSIONAL RESEARCH SERVICE INFORMATION- Not later than the expiration of the calendar year beginning after the effective date of this Act, and every year thereafter, the Director of the Congressional Research Service shall submit to the Director of the Congressional Budget Office information describing court decisions issued during the preceding calendar year that preempt State or local government authority.

(c) CONGRESSIONAL BUDGET OFFICE REPORT-

(1) IN GENERAL- After each session of Congress, the Congressional Budget Office shall prepare a report on the extent of Federal preemption of State or local government authority enacted into law or adopted through judicial or agency interpretation of Federal statutes during the previous session of Congress.

(2) CONTENT- The report under paragraph (1) shall contain--

(A) a list of Federal statutes preempting, in whole or in part, State or local government authority;

(B) a summary of legislation reported from committee preempting, in whole or in part, State or local government authority;

(C) a summary of rules of agencies preempting, in whole or in part. State and local government authority; and

(D) a summary of Federal court decisions on preemption.

(3) AVAILABILITY- The report under this section shall be made available to--

(A) each committee of Congress;

(B) each Governor of a State;

(C) the presiding officer of each chamber of the legislature of each State; and

(D) other public officials and the public on the Internet.

SEC. 10. FLEXIBILITY AND FEDERAL INTERGOVERNMENTAL MANDATES.

(a) DEFINITION- Section 421(5)(B) of the Congressional Budget Act of 1974 (2 U.S.C. 658 (5)(B)) is amended--

(1) by striking '(i)(I) would' and inserting '(i) would';

(2) by striking '(II) would' and inserting '(ii)(I) would'; and

(3) by striking '(ii) the' and inserting '(II) the'.

(b) COMMITTEE REPORTS- Section 423(d) of the Congressional Budget Act of 1974 (2 U.S.C. 658b(d)) is amended--

(1) in paragraph (1)(C) by striking 'and' after the semicolon;

(2) in paragraph (2) by striking the period and inserting '; and'; and

(3) by adding at the end the following:

'(3) if the bill or joint resolution would make the reduction specified in section 421(5)(B)(ii)(I), a statement of how the committee specifically intends the States to implement the reduction and to what extent the legislation provides additional flexibility, if any, to offset the reduction.'.

(c) CONGRESSIONAL BUDGET OFFICE ESTIMATES- Section 424(a) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(a)) is amended--

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

'(3) ADDITIONAL FLEXIBILITY INFORMATION- The Director shall include in the statement submitted under this subsection, in the case of legislation that makes changes as described in section 421(5)(B)(ii)(I)--

'(A) if no additional flexibility is provided in the legislation, a description of whether and how the States can offset the reduction under existing law; or

'(B) if additional flexibility is provided in the legislation, whether the resulting savings would offset the reductions in that program assuming the States fully implement that additional flexibility.'.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

END

ISSUE: Federal Gas Tax

Ensuring efficient transportation corridors is one of Arizona's greatest challenges. With a population that is increasing at a rate of more than 127,000 people a year, this concern will only be exacerbated as we enter the 21st century.

Last year the Arizona Legislature passed a measure to complete the valley's freeways seven years ahead of schedule as well as provide $250 million for projects outside of Maricopa. This accomplishment would not have been possible without the increased funding and flexibility provided by TEA-21.

Despite such legislation, however, Arizona's transportation planners are predicting a transportation shortfall of several billion dollars over the next twenty years if an additional source of revenue is not provided for transportation. The most frequently suggested method of acquiring additional funds is by raising Arizona's gas tax.

Before asking Arizona's residents to bear a heavier tax burden, they should be afforded the full benefit of their current tax dollars. Rather than receiving a 100% return on its federal gas tax dollars, our state currently receives 91.5% of its gas tax funds. If Arizona received its full share of gas tax revenues, the state would have an additional $225 million per five-year transportation program cycle. This would significantly diminish the argument for increasing taxes.

While the TEA-21 apportionment rates would be difficult to alter during the life of the act (1998-2003), Arizona's elected officials should make every effort to ensure100% of the hard-earned tax dollars of their constituents are returned to Arizona for the state's transportation needs. As the current apportionment rates stand, Arizona is one of a minority of states forced to subsidize the transportation desires of others while its own needs are becoming increasingly difficult to realize.

ISSUE: Federal Redesignation of Land

In September 1996, executive authority was administered to transform 1.7 million acres of southern Utah into a national monument under the 1906 Antiquities Act. Portions of Arizona are now being similarly threatened. The Interior Secretary has asked the President to designate about a dozen additional sites as federal monuments under the Act. These sites include the Perry Mesa and associated Pueblo cliff dwellings near Phoenix and La Cienga Creek near Tucson.

Additionally, the President recently proposed the permanent elimination of roadbuilding from 40 million acres of national forest land. The proposal is an administrative process, meaning it could be implemented by federal agencies rather than by lawmakers. With exception to the projects mentioned above, it is difficult to determine how many of the 40 million acres would include land in Arizona. Finally, in order to best plan for Arizona's future, these federal land redesignations must be considered when examining local growth measures.

J. D. HAYWORTH
6TH DISTRICT, ARIZONA

COMMITTEES:
WAYS AND MEANS
SUBCOMMITTEES:
SOCIAL SECURITY
OVERSIGHT

VETERANS' AFFAIRS
SUBCOMMITTEE:
BENEFITS
VICE CHAIR

ASSISTANT MAJORITY WHIP

Congress of the United States
House of Representatives
Washington, DC 20515–0306

MEMORANDUM

December 7, 1999

To: Federal Mandates Meeting Attendees
From: The Hon. J.D. Hayworth, M.C.
Re: Designation of Additional Federal Lands for Preservation

Members of the Committee:

Many of you will recall from your Arizona history that one of the conditions for admission of the Arizona Territory as a full-fledged State in 1912 was the designation of millions of acres of land for control under the auspices of the United States government.

Unlike the circumstances in 1912, the decision to cede vast tracts of land to a government entity is not being made by Arizonans for Arizonans, but has gained popularity in Washington, D.C. by interests motivated to prohibit taxpayers from using lands and amenities for which they have paid. I call these interests the "new prohibitionists."

Under the guise of environmentalism, these prohibitionists have propagated the fiction that America's forests are being denuded by timber companies and other legitimate users. Nothing could be further from the truth.

The facts show that between 1964 and 1994, the U.S. Forest Service actually *increased* it's control over land by 5.3 million acres. And, government-controlled forests now yield 18 million more board feet of timber annually than they did 50 years ago. With the advent of sound forestry techniques, forest growth has continually exceeded harvest since the 1940's. In fact, today growth exceeds harvest by 33 percent.

Despite empirical evidence of this nature, the Clinton-Gore administration has proposed taking an additional 40 million acres of land under federal control under the rubric of a "roadless policy." Given that most available land assets are in the western U.S., this can only be seen as yet another battle in the ongoing War on the West.

The Administration proposal has not been clearly defined, at least not to Congress or the general public. Therefore, it's difficult to determine how many of the proposed 40 million acres would include land in Arizona. However, Interior Secretary Bruce Babbitt has made it his clear intent to create federal holdings at Perry Mesa near Black Canyon City, and at the Shivwits Plateau north of the Grand Canyon. Secretary Babbitt would promote these actions with little public comment, and evidently, no consent of Congress.

In fact, in a town meeting several months ago, Secretary Babbitt met with a fair amount of criticism for his Shivwits Plateau scheme. This, from a community more often associated with the environmental movement. Clearly, these proposals should be vetted by Congress, the Governor, and the Arizona Legislature. Secretary Babbitt should not be allowed to dictate public policy to Arizonans merely for his personal "legacy."

If the Forest Service program was eliminated, the national forests would essentially be shut down to fire suppression, recreation, access for local residents, and environmental enhancement. 97 percent of all roads in the national forest system are open for all uses, not just timber harvesting. The public has the right to expect to use these lands their tax dollars go to protect.

The effect of the broad consequences of this policy should be of great concern to the Arizona Legislature. Arizona counties with excess federal lands rely on payments from timber sales to fund public education and other essential public services. In FY 1995, nearly $260 million was returned to communities dependent on timber monies, mainly in the west.

Any attempt by the administration to take control of additional lands on prohibit multiple use of those lands, would only exacerbate that problem. Sadly, as most of you are aware, the timber industry in Arizona is all-but-extinct, and rural communities are suffering as a result.

It's my belief that the Arizona Legislature should take all necessary steps to stop this misguided and dangerous proposal.

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ISSUE: CAP Repayment

The repayment of the costs associated with the construction of the Central Arizona Project has been the subject of an ongoing dispute between the Central Arizona Water Conservation District (CAWCD) and the federal government. The project was constructed by the Bureau of Reclamation and was deemed substantially complete in 1993, at which time the CAWCD took over operation and maintenance of the project.

The primary issue of disagreement between the CAWCD and the federal government has been the amount of the CAWCD's repayment obligation for the reimbursable costs of the project. There are, however, other financial and water issues involved. The CAWCD sued the federal government in U.S. District Court in 1995 over the repayment of the project. The first phase of that trial is now complete, the judge having ruled that CAWCD's repayment obligation cannot exceed $1.781 billion. The remaining phases of the trial will address other outstanding financial and water supply issues.

On October 7, 1999, the CAWCD voted to endorse the concepts in a proposed settlement that will address all issues of disagreement between the CAWCD and the federal government. If this proposed settlement is agreed to by both parties, the remaining phases of the trial will not proceed.

The proposed settlement contained a number of provisions, the most notable being:

- Finalization of CAWCD's repayment obligation at $1.65 billion.
- Recalculation of CAWCD's repayment bills to the U.S. from 1993-1999 so the District receives appropriate credits for past payments and project expenditures.
- Offset of the repayment by $300 million in exchange for lower cost water delivered to Indian reservations to facilitate an Indian water rights settlement that includes other state parties.

Once the terms of the settlement are entered in a stipulated agreement in the U.S. District Court, the financial terms of the agreement will be implemented immediately. The agreement includes several conditions that if not met within a specified period of time will vacate the settlement and the parties would have to return to court to resolve the issues of disagreement. The primary conditions include:

- Settlement of the Indian water rights claims off the Gila River Indian Community and the Tohono O'odham Nation.
- Resolution of certain elements of the overall water settlement such that the total amount of CAP water allocated to federal purposes will be 665,224 acre-feet, and the remainder of the CAP supply, including the 65,647 acre-feet of uncontracted M&I (municipal and industrial) water, is allocated for non-federal use within Arizona.
- The Bureau of Reclamation obtaining congressional funding to pay the U.S. Fish and Wildlife Service for costs required pursuant to various biological opinions.

ISSUE: Internet Taxation

In 1998, Congress passed the "Internet Tax Freedom Act" (ITFA) which prohibits state and local governments from imposing *new* taxes on the Internet for three years, beginning October 1, 1998 through October 21, 2001. The bill prohibits states from levying discriminatory taxes on electronic commerce or levying new taxes on Internet access charges. United States Senator John McCain has proposed federal legislation to not only make the current ban on new Internet taxes permanent, but to specifically prohibit any future attempts to impose a sales tax structure on Internet sales. Senator McCain's proposal also contains a provision that will ask the World Trade Organization (WTO) to adopt a global moratorium on Internet taxes. In Arizona, the State Legislature formed the Joint Legislative Study Committee on Internet Privacy, Jurisdiction, Regulation and Taxation. The Committee has heard weeks of testimony on a variety of e-commerce issues, including Internet taxation.

ISSUE: Voter Registration Act

The National Voter Registration Act of 1993 was intended to increase the number of citizens who register, enhance participation of eligible citizens, protect the integrity of the electoral process and ensure accurate and current voter registration rolls. While many of these goals have been accomplished, the Act has imposed some burdensome requirements upon Arizona. The Secretary of State's office has identified two specific aspects of the Act which are particularly cumbersome:

1) Public assistance offices are required to ask every person who comes to their offices if he or she wants to register to vote and, if they do not, obtain a "declination form. Some people come every month to get public assistance and, therefore, the Secretary of State's office is inundated with a tremendous amount of paperwork that serves no purpose. The original intent of the form was to keep statistics on the number of people who registered to vote at these offices. After a short while, that turned out to be impossible and the reporting requirement was abandoned.

2) The requirement that the state send out two first class mailings in order to remove a person's name from the active voter list is burdensome and expensive. Most people feel they have taken care of the problem once they have sent the first card back to the state. The majority of those who receive the second card do not send it back because they do not realize that without the second card their name will not be removed from the list. Additionally, this process is extremely expensive. Maricopa County alone has spent $775,000 using the first class mailing process to clean up their registration rolls. For that cost, Maricopa has removed approximately 240,000 names. If the federal government feels the need to require the states to follow this Act, it should consider providing the necessary funds to carry out the Act.

Ideally, the Secretary of State would like to do away with the declination forms, require only one mailing be returned in order to remove a name from the active voter rolls, and have the mandate requiring specific procedures to remove ineligible voters from the rolls funded. These changes would further the purposes of the Act, while making it less costly and burdensome to the taxpayers of Arizona.

HR 2795 IH

106th CONGRESS

1st Session

H. R. 2795

To establish the Shivwits Plateau National Conservation Area in the State of Arizona, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

August 5, 1999

Mr. STUMP (for himself, Mr. HANSEN, Mr. MCKEON, Mr. WALDEN of Oregon, Mr. SHADEGG, Mrs. CUBIN, Mr. CALLAHAN, Mr. HAYWORTH, Mr. YOUNG of Alaska, Mr. BAKER, Mr. HEFLEY, Mr. DOOLITTLE, Mr. GIBBONS, Mr. HILL of Montana, Mr. EVERETT, Mr. SKEEN, Mr. HERGER, Mr. BURTON of Indiana, Mr. POMBO, Mr. SESSIONS, Mr. COLLINS, Mr. TAUZIN, Mr. COOKSEY, Mr. SALMON, Mr. TANCREDO, and Mr. SCHAFFER) introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To establish the Shivwits Plateau National Conservation Area in the State of Arizona, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Shivwits Plateau National Conservation Area Establishment Act'.

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

Sec. 1. Short title and table of contents.

TITLE I--SHIVWITS PLATEAU NATIONAL CONSERVATION AREA

Sec. 101. Definitions.

Sec. 102. Establishment of Shivwits Plateau National Conservation Area, Arizona.

Sec. 103. Administration of conservation area.

Sec. 104. Effect on existing and historical uses of Federal lands included in conservation area.

Sec. 105. Acquisition of land.

Sec. 106. Mineral assessment program and relationship to mining laws.

Sec. 107. Ecological restoration and protection.

Sec. 108. Effect on water rights.

Sec. 109. Road improvements to enhance access to conservation area.

Sec. 110. Archaeological, historical, and scientific survey.

Sec. 111. Authorization of appropriations.

TITLE II--LAND RESTORATION AND CONVEYANCES

Sec. 201. Public lands restoration and demonstration project, Arizona Strip/Southern Utah Restoration Area.

Sec. 202. Land conveyances, certain Bureau of Land Management lands in Arizona and Utah.

Sec. 203. Authorization of appropriations.

TITLE I--SHIVWITS PLATEAU NATIONAL CONSERVATION AREA

SEC. 101. DEFINITIONS.

In this title:

(1) CONSERVATION AREA- The term `conservation area' means the Shivwits Plateau National Conservation Area established by section 102.

(2) ADVISORY COMMITTEE- The term `advisory committee' means the Shivwits Plateau National Conservation Area Advisory Committee established under section 103(d).

(3) SECRETARY- The term `Secretary' means the Secretary of the Interior, acting through the Bureau of Land Management.

SEC. 102. ESTABLISHMENT OF SHIVWITS PLATEAU NATIONAL CONSERVATION AREA, ARIZONA.

(a) ESTABLISHMENT- In order to protect the remoteness, native biodiversity, and ecological richness of the Federal lands in the area in the State of Arizona known as the Shivwits Plateau and to increase the public awareness, outdoor recreation use, and enjoyment of this area, while also preserving the ranching lifestyle and maintaining the existing, historic, and traditional multiple uses of this area, there is hereby established the Shivwits Plateau National Conservation Area in the State of Arizona.

(b) AREA INCLUDED- The conservation area shall consist of the Federal lands and interests in lands depicted on the map entitled `Shivwits Plateau National Conservation Area', as revised April 19, 1999. The Secretary shall revise the boundaries of the Lake Mead National Recreation Area in the manner provided in section 2 of Public Law 88-639 (16 U.S.C. 460n-1) to reflect the inclusion in the conservation area of lands excluded from the Lake Mead National Recreation Area by this subsection.

(c) PREPARATION OF LEGAL DESCRIPTIONS- Not later than 100 days after the date of the enactment of this Act, the Secretary shall prepare legal descriptions of the Federal lands and interests in lands included in the conservation area under subsection (b). In case of a conflict

between the map referred to in subsection (b) and the legal descriptions, the map shall control.

(d) PUBLIC AVAILABILITY- The map referred to in subsection (b) and the legal descriptions prepared under subsection (c) shall be on file and available for public inspection in the offices of the Secretary of the Interior, the Arizona State Director of the Bureau of Land Management, and the appropriate Bureau of Land Management field offices.

SEC. 103. ADMINISTRATION OF CONSERVATION AREA.

(a) USE OF BUREAU OF LAND MANAGEMENT- The administration, protection, and development of the conservation area shall be exercised under the direction of the Secretary by the Bureau of Land Management, subject to this title.

(b) PROHIBITION ON USE OF OTHER DEPARTMENT OF THE INTERIOR AGENCIES- The Secretary may not use the National Park Service or the Fish and Wildlife Service to administer the conservation area or otherwise include the conservation area, or any portion thereof, as a unit of the National Park System or the National Wildlife Refuge System, except by express authorization of Congress contained in a law enacted after the date of the enactment of this Act.

(c) MANAGEMENT PLAN- Subject to the requirements of section 104, the Secretary shall prepare a management plan for administration and use of the conservation area. In preparing the plan, the Secretary shall comply with the goals and objectives identified in the 1992 Arizona Strip Resource Management Plan, the Parashant Interdisciplinary Plan, the Mt. Trumbull Interdisciplinary Plan, and the Rangeland Standards and Guidelines developed by the Arizona Resource Advisory Council, which are designed to ensure the protection of existing uses of the lands included in the conservation area.

(d) ADVISORY COMMITTEE-

(1) ESTABLISHMENT- The Secretary shall establish an advisory committee for the conservation area, to be known as the Shivwits Plateau National Conservation Area Advisory Committee, whose purpose shall be to advise the Secretary with respect to the preparation and implementation of the management plan required by subsection (c).

(2) REPRESENTATION- The advisory committee shall consist of 9 members appointed by the Secretary as follows:

(A) A grazing permittee in good standing with the Bureau of Land Management who has maintained a grazing allotment within the

boundaries of the conservation area for not less than five years.

(B) The chairperson of the Kaibab Band of Paiute Indians.

(C) An individual with a recognized background in ecological restoration, research, and application, to be appointed from nominations supplied by Northern Arizona University.

(D) The Arizona State Land Commissioner.

(E) An Arizona State Game and Fish Commissioner.

(F) A resident of the State of Utah not holding an elected office, to be appointed from nominations supplied by the Arizona Strip Regional Planning Task Force.

(G) A representative of a recognized environmental organization.

(H) A local elected official from the State of Arizona, to be appointed from nominations supplied by the Arizona Strip Regional Planning Task Force.

(I) A local elected official from the State of Utah, to be appointed from nominations supplied by the Arizona Strip Regional Planning Task Force.

(3) TERMS- Members of the advisory committee shall be appointed for terms of three years, except that, of the members first appointed, 3 members shall be appointed for a term of 1 year and 3 members shall be appointed for a term of 2 years. A member may be reappointed to serve on the advisory committee upon the expiration of the member's current term.

SEC. 104. EFFECT ON EXISTING AND HISTORICAL USES OF FEDERAL LANDS INCLUDED IN CONSERVATION AREA.

(a) IN GENERAL- The designation of the conservation area shall not be construed to alter the existing authorized uses or rights to use of the Federal lands included in the conservation area. For purposes of this subsection, the Secretary shall treat a land use as an existing authorized land use if that land use was an authorized use as of January 1, 1999, was an historical or traditional use of lands included in the conservation area, or was a right of use as of January 1, 1999.

(b) HUNTING, TRAPPING, AND FISHING- The Secretary shall permit hunting, trapping, and fishing on lands and waters within the conservation area in accordance with applicable State law.

(c) ACCESS TO STATE AND PRIVATE LANDS- If any State or privately owned land or any valid mining claim or other valid occupancy is within the boundaries of the conservation area, or if State or private subsurface rights underlie public lands within the conservation area, the Secretary shall provide the State or private owner, claimant, or occupier and their successors in interest such rights as may be necessary to assure adequate, reasonable, and economically feasible access for economic and other purposes to the site concerned.

(d) MAINTENANCE OF ROADS, TRAILS, AND STRUCTURES- In the case of all existing and historical roadways, jeep trails, and paths located in the conservation area, the Secretary shall maintain or allow the maintenance of the roadways, trails, and paths to standards capable for sustaining at least the same level of use as in existence as of the date of the enactment of this Act.

(e) GRAZING- The Secretary shall permit grazing on lands within the conservation area at least to the same extent as was permitted on such lands during calendar year 1998. The Secretary shall ensure that persons holding grazing permits for lands within the conservation area, their designees, and their successors in interest have unrestricted access to buildings, stock tanks, corrals, and other man-made structures within their allotments that are necessary for their grazing operations. The Secretary shall guarantee grazing permit holders the right to maintain existing improvements and to create new improvements needed for grazing operations.

(f) OVERFLIGHTS- The Secretary shall permit aircraft and helicopter overflights of lands and landings within the conservation area at least to the same extent as was permitted over such lands during calendar year 1998.

SEC. 105. ACQUISITION OF LAND.

(a) ACQUISITION AUTHORIZED; METHODS- The Secretary shall acquire State or privately held land or interests in land within the boundaries of the conservation area only by--

(1) donation;

(2) purchase with donated or appropriated funds from a willing seller; or

(3) exchange with a willing party.

(b) EXCHANGE- During the 2-year period beginning on the date of the enactment of this Act, the Secretary shall make a diligent effort to acquire, by exchange, from willing parties all private lands, subsurface rights, and valid mining claims within the conservation area. If an exchange requested by a property owner is not completed

by the end of the period, the land owner who requested the exchange may, at any time after the end of the period, declare that the owner's private lands, subsurface rights, or valid mining claims within the conservation area have been taken, or partially taken, by inverse condemnation and seek compensation from the United States in the appropriate United States district court in Arizona or Utah.

(c) VALUATION OF PRIVATE PROPERTY- The United States shall pay the fair market value for any interests or partial interests in property acquired under this section. The value of the property shall be assessed as if the conservation area did not exist.

SEC. 106. MINERAL ASSESSMENT PROGRAM AND RELATIONSHIP TO MINING LAWS.

(a) ASSESSMENT PROGRAM REQUIRED-

(1) DESCRIPTION OF MINERAL ASSESSMENT- Not later than 2 years after the date of the enactment of this Act, the Secretary shall assess the oil, gas, coal, and other mineral potential on Federal lands in the conservation area in order to expand the data base with respect to the mineral potential of the lands. The mineral assessment program shall include reconnaissance level geophysical mapping, reconnaissance level geologic mapping, surface sampling of soils, water, and rock for gold, silver, platinum group metals, copper, zinc, lead, molybdenum, and uranium. Those areas that are identified as having one or more mineral anomalies shall be further assessed using diamond core and test drilling and laboratory analysis of selected core specimens.

(2) DEFINITION- In paragraph (1), the term `core and test drilling' means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells.

(b) CONSULTATION AND PEER REVIEW-

(1) CONSULTATION AND EXCHANGE OF INFORMATION- To the maximum extent practicable, the Secretary shall consult and exchange information with the Governor of the State of Arizona and the Arizona Department of Mines and Mineral Resources regarding the responsibilities of the Secretary under the mineral assessment program and similar programs undertaken by the State.

(2) PEER REVIEW- The mineral assessment program shall be subject to review by the Arizona State Department of Mines and Mineral Resources, and shall not be deemed to have been completed until the results of the assessment have been approved by the Arizona State Department of Mines and Mineral Resources.

(c) IMPLEMENTATION OF ASSESSMENT PROGRAM- The Secretary may enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program.

(d) CONDITIONS ON MINERAL WITHDRAWAL AUTHORITY-

(1) EFFECT OF MINERAL ASSESSMENT PROGRAM- The Secretary may not make, modify, or extend any mineral withdrawal authorized by section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) or by any other law within the boundaries of the conservation area after January 1, 1999, until the assessment, consultation, and peer review required by subsections (a) and (b) are completed. If a mineral withdrawal was made, modified, or extended between January 1, 1999, and the date of the enactment of this Act, the withdrawal shall be deemed to be vacated until the assessment, consultation, and peer review required by subsections (a) and (b) are completed.

(2) MINERAL LEASING- After completion of the assessment, consultation, and peer review required by this section, under existing and future regulations, the Secretary shall permit--

(A) the removal of the nonleasable mineral from lands or interest in lands within the boundaries of the conservation area in accordance with section 10 of the Reclamation Project Act of 1939 (43 U.S.C. 387); and

(B) the removal of leasable minerals from lands or interests in lands within the conservation area in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(e) DISPOSITION OF FUNDS FROM PERMITS AND LEASES- All receipts derived from permits and leases issued on lands in the conservation area under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall be disposed of in accordance with the applicable Act. All receipts from the disposition of nonleasable minerals within the conservation area shall be disposed of in the same manner as funds received from the sale of public lands.

(f) RELATION TO MINING LAWS- Nothing in this title shall affect the applicability of the United States mining laws on the public lands within the conservation area.

(g) PROTECTION OF EXISTING SUBSURFACE MINERAL RIGHTS- The establishment of the conservation area shall not adversely affect the value of subsurface mineral rights owned by a third party as of the date of the enactment of this Act, or the development, production, or processing of such minerals with respect to lands included in the conservation area.

SEC. 107. ECOLOGICAL RESTORATION AND PROTECTION.

(a) PROJECTS AUTHORIZED- Subject to the availability of funds for this purpose, the Secretary shall develop and carry out ecological resources restoration projects within the conservation area.

(b) LIMITATIONS- A restoration project undertaken by the Secretary in the conservation area shall not adversely affect grazing allotments for a period of more than three years, unless an extension has been agreed upon by the permittee. To the extent that a project affects a grazing allotment, the Secretary shall provide alternative grazing allotments within the same grazing district to affected permittees so that the total number of animal unit months is unaltered.

(c) CONTROL OF PLANT GROWTH- To obtain the appropriate interspersion of cover and forage on lands in the conservation area, the Secretary may use, or permit the use of, techniques to control plant growth, except that

the Secretary shall permit the continued use of those land management practices regarding control of plant growth that were authorized for use on such lands as of January 1, 1999, as well as new practices useful for restoring productivity to the land.

SEC. 108. EFFECT ON WATER RIGHTS.

Nothing in this title shall be construed to establish a new or implied reservation to the United States of any water or water-related right with respect to lands included in the conservation area. No provision of this title shall be construed as authorizing the appropriation of water, except in accordance with the substantive and procedural law of the State of Arizona.

SEC. 109. ROAD IMPROVEMENTS TO ENHANCE ACCESS TO CONSERVATION AREA.

The Secretary shall improve and maintain as all weather roads the following:

(1) Bureau of Land Management roads 5 and 109, beginning at their intersections with Arizona State Highway 389 to their common intersection.

(2) Bureau of Land Management road 5 from its intersection with Bureau of Land Management road 109 to its intersection with Bureau of Land Management road 115.

(3) Bureau of Land Management road 115 from its intersection with Bureau of Land Management road 5 to the Toroweap Overlook.

SEC. 110. ARCHAEOLOGICAL, HISTORICAL, AND SCIENTIFIC SURVEY.

(a) SURVEY REQUIRED- The Secretary shall conduct a survey of the conservation area, noting all sites of archaeological, historical, or scientific interest.

(b) PUBLICATION OF RESULTS- The Secretary shall publish and make available to the public the results of the survey required by subsection (a).

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Effective for fiscal years beginning after September 30, 1999, there are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II--LAND RESTORATION AND CONVEYANCES

SEC. 201. PUBLIC LANDS RESTORATION AND DEMONSTRATION PROJECT, ARIZONA STRIP/SOUTHERN UTAH RESTORATION AREA.

(a) IMPLEMENTATION- To the extent possible, the Secretary of the Interior shall implement the recommendations contained in the April 1999 report of the Sonoran Institute regarding the Arizona Strip/Southern Utah Restoration Area.

(b) DEMONSTRATION PROJECT-

(1) AUTHORITY TO CONDUCT- The Secretary of Agriculture and the Secretary of Interior may apply all or a part of the revenues received for timber and other resources removed from lands designated as the Arizona Strip/Southern Utah Restoration Area under stewardship end-result contracts as an offset against the costs of stewardship services, including silviculture, replanting, recreation, wildlife habitat, range enhancement and soil conservation.

(2) APPLICABILITY OF ENVIRONMENTAL LAWS- The requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to all projects conducted under subsection (a).

(3) REVIEW PANEL- The Secretary of Agriculture and the Secretary of the Interior shall designate an independent scientific review panel, to be appointed from representatives of

universities and other appropriate institutions and foundations, to review and approve all projects conducted under subsection (a). The panel shall provide a detailed explanation and review of each project to the Secretary of Agriculture, the Secretary of the Interior, and Congress, utilizing the services and funding made available for those purposes to the Escalante Center or other institutions designated by the Secretary of Agriculture or the Secretary of the Interior.

(4) DURATION- The authority to conduct projects under subsection (a) shall terminate 7 years after the date of the enactment of this Act.

SEC. 202. LAND CONVEYANCES, CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN ARIZONA AND UTAH.

(a) CONVEYANCES REQUIRED- The Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to the lands designated for conveyance on the map entitled `XXXXXXX', dated XXXXXX to Colorado City, Arizona, Fredonia, Arizona, Mohave County, Arizona, and the Kaibab Band of Paiute Indians.

(b) DESCRIPTION OF PROPERTY- The exact acreage and legal description of the lands to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the lands.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Effective for fiscal years beginning after September 30, 1999, there are authorized to be appropriated such sums as may be necessary to carry out this title.

END

S 1560 IS

106th CONGRESS

1st Session

S. 1560

To establish the Shivwits Plateau National Conservation Area.

IN THE SENATE OF THE UNITED STATES

August 5, 1999

Mr. KYL (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the Shivwits Plateau National Conservation Area.

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 `Shivwits Plateau National Conservation Area Establishment Act'.

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Shivwits Plateau National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the landscapes, native wildlife and vegetation, and prehistoric, historic, scenic, and traditional human values of the conservation area (including ranching, hunting, sightseeing, camping and hiking).

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA- The term `conservation area' means the Shivwits Plateau National Conservation Area established by section 2.

(2) SECRETARY- The term `Secretary' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF SHIVWITS PLATEAU NATIONAL CONSERVATION AREA, ARIZONA.

(a) IN GENERAL- There is established the Shivwits Plateau National Conservation Area in the State of Arizona.

(b) AREAS INCLUDED- The Shivwits Plateau National Conservation Area shall be comprised of approximately 381,800 acres of land administered by the Secretary in Mohave County, Arizona,

as generally depicted on the map entitled 'Shivwits Plateau National Conservation Area--Proposed', numbered XX, dated XX.

(c) MAP AND LEGAL DESCRIPTION-

(1) IN GENERAL- As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the conservation area.

(2) FORCE AND EFFECT- The map and legal description shall have the same force and effect as if included in this Act.

(3) PUBLIC AVAILABILITY- Copies of the map and legal description shall be on file and available for public inspection in--

(A) the Office of the Director of the Bureau of Land Management; and

(B) the appropriate office of the Bureau of Land Management in Arizona.

SEC. 5. MANAGEMENT OF CONSERVATION AREA.

(a) IN GENERAL- The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances all of the values specified in section 2 under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law.

(b) HUNTING AND FISHING- The Secretary shall permit hunting and fishing in the conservation area in accordance with the laws of the State of Arizona.

(c) GRAZING-

(1) IN GENERAL- The Secretary shall permit the grazing of livestock in the conservation area.

(2) APPLICABLE LAW- The Secretary shall ensure that grazing in the conservation area is conducted in accordance with all laws (including regulations) that apply to the issuance and administration of grazing leases on other land under the jurisdiction of the Bureau of Land Management.

(d) FOREST RESTORATION- The Secretary shall develop and carry out forest restoration projects on Ponderosa Pine forests and Pinion-Juniper forests in the conservation area, with the goal of restoring the land in the conservation area to presettlement condition.

(e) ADVISORY COMMITTEE-

(1) ESTABLISHMENT- The Secretary shall establish an advisory committee for the conservation area, to be known as the 'Shivwits Plateau National Conservation Area Advisory Committee', the purpose of which shall be to advise the Secretary with respect to the preparation and implementation of the management plan required by section 6.

(2) REPRESENTATION- The advisory committee shall be comprised of 9 members appointed by the Secretary, of whom--

(A) 1 shall be a grazing permittee in good standing with the Bureau of Land Management who has maintained a grazing allotment within the boundaries of the conservation area for not less than 5 years;

(B) 1 shall be the chairperson of the Kaibab Band of Paiute Indians;

(C) 1 shall be an individual with a recognized background in ecological restoration, research, and application, to be appointed from among nominations made by Northern Arizona University;

(D) 1 shall be the Arizona State Land Commissioner;

(E) 1 shall be an Arizona State Game and Fish Commissioner;

(F) 1 shall be an official of the State of Utah (other than an elected official), to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force;

(G) 1 shall be a representative of a recognized environmental organization;

(H) 1 shall be a local elected official from the State of Arizona, to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force; and

(I) 1 shall be a local elected official from the State of Utah, to be appointed from among

nominations made by the Arizona Strip Regional Planning Task Force.

(3) TERMS-

(A) IN GENERAL- A member of the advisory committee shall be appointed for a term of 3 years, except that, of the members first appointed, 3 members shall be appointed for a term of 1 year and 3 members shall be appointed for a term of 2 years.

(B) REAPPOINTMENT- A member may be reappointed to serve on the advisory committee on expiration of the member's term.

SEC. 6. MANAGEMENT PLAN.

(a) EXISTING MANAGEMENT PLANS- The Secretary shall manage the conservation area under resource management plans in effect or the date of enactment of this Act, including the Arizona Strip Resource Management Plan, the Parashant Interdisciplinary Plan, and the Mt. Trumbull Interdisciplinary Plan.

(b) FUTURE MANAGEMENT PLANS- Future revisions of management plans for the conservation area shall be adopted in compliance with the goals and objectives of this Act.

SEC. 7. ACQUISITION OF LAND.

(a) IN GENERAL- The Secretary may acquire State or private land or interests in land within the boundaries of the conservation area only by--

(1) donation;

(2) purchase with donated or appropriated funds from a willing seller; or

(3) exchange with a willing party.

(b) EXCHANGES-

(1) IN GENERAL- During the 2-year period beginning on the date of enactment of this Act, the Secretary shall make a diligent effort to acquire, by exchange, from willing parties all State trust lands, subsurface rights, and valid mining claims within the conservation area.

(2) INVERSE CONDEMNATION- If an exchange requested by a property owner is not completed by the end of the period, the property owner that requested the exchange may, at any time after the end of the period--

(A) declare that the owner's State trust lands, subsurface rights, or valid mining claims within the conservation area have been taken by inverse condemnation; and

(B) seek compensation from the United States in United States district court.

(c) VALUATION OF PRIVATE PROPERTY-

(1) IN GENERAL- The United States shall pay the fair market value for any property acquired under this section.

(2) ASSESSMENT- The value of the property shall be assessed as if the conservation area did not exist.

SEC. 8. MINERAL ASSESSMENT PROGRAM AND RELATIONSHIP TO MINING LAWS.

(a) ASSESSMENT PROGRAM- Not later than 2 years after the date of enactment of this Act, the Secretary shall assess the oil, gas, coal, uranium, and other mineral potential on Federal land in the conservation area.

(b) PEER REVIEW- The mineral assessment program shall--

(1) be subject to review by the Arizona State Department of Mines and Mineral Resources; and

(2) shall not be considered to be complete until the results of the assessment are approved by the Arizona State Department of Mines and Mineral Resources.

(c) RELATION TO MINING LAWS- Subject to valid existing rights, the public land within the conservation area is withdrawn from mineral location, entry, and patent under chapter 6 of the Revised Statutes (commonly known as the `General Mining Law of 1872') (30 U.S.C. section 21 et seq.).

(d) MINERAL LEASING- The Secretary shall permit the removal of--

(1) nonleasable minerals from land or an interest in land within the national conservation area in the manner prescribed by section 10 of the Act of August 4, 1939 (43 Stat. 38); and

(2) leasable minerals from land or an interest in lands within the conservation area in accordance with the Act of February 25, 1920 (commonly known as the `Mineral Lands Leasing Act of 1920') (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(e) DISPOSITION OF FUNDS FROM PERMITS AND LEASES-

(1) RECEIPTS FROM PERMITS AND LEASES- Receipts derived from permits and leases issued on land in the conservation area under the Act of February 25, 1920 (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), shall be disposed of as provided in the applicable Act.

(2) RECEIPTS FROM DISPOSITION OF NONLEASABLE MINERALS- Receipts from the disposition of nonleasable minerals within the conservation area shall be disposed of in

the same manner as proceeds of the sale of public land.

SEC. 9. EFFECT ON WATER RIGHTS.

Nothing in this Act--

(1) establishes a new or implied reservation to the United States of any water or water-related right with respect to land included in the conservation area; or

(2) authorizes the appropriation of water, except in accordance with the substantive and procedural law of the State of Arizona.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

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

END

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