

“(II) neither parent of the child is a member of the Indian tribe.

“(3) If an Indian tribe files a motion for intervention in a State court under this subsection, the Indian tribe shall submit to the court, at the same time as the Indian tribe files that motion, a certification that includes a statement that documents, with respect to the Indian child involved, the membership or eligibility for membership of that Indian child in the Indian tribe under applicable tribal law.

“(f) Any act or failure to act of an Indian tribe under subsection (e) shall not—

“(1) affect any placement preference or other right of any individual under this Act;

“(2) preclude the Indian tribe of the Indian child that is the subject of an action taken by the Indian tribe under subsection (e) from intervening in a proceeding concerning that Indian child if a proposed adoptive placement of that Indian child is changed after that action is taken; or

“(3) except as specifically provided in subsection (e), affect the applicability of this Act.

“(g) Notwithstanding any other provision of law, no proceeding for a voluntary termination of parental rights or adoption of an Indian child may be conducted under applicable State law before the date that is 30 days after the Indian child's tribe receives notice of that proceeding that was provided in accordance with the requirements of subsections (c) and (d).

“(h) Notwithstanding any other provision of law (including any State law)—

“(1) a court may approve, if in the best interests of an Indian child, as part of an adoption decree of an Indian child, an agreement that states that a birth parent, an extended family member, or the Indian child's tribe shall have an enforceable right of visitation or continued contact with the Indian child after the entry of a final decree of adoption; and

“(2) the failure to comply with any provision of a court order concerning the continued visitation or contact referred to in paragraph (1) shall not be considered to be grounds for setting aside a final decree of adoption.”

#### SEC. 9. FRAUDULENT REPRESENTATION.

Title I of the Indian Child Welfare Act of 1978 is amended by adding at the end the following new section:

##### “SEC. 114. FRAUDULENT REPRESENTATION.

“(a) IN GENERAL.—With respect to any proceeding subject to this Act involving an Indian child or a child who may be considered to be an Indian child for purposes of this Act, a person, other than a birth parent of the child, shall, upon conviction, be subject to a criminal sanction under subsection (b) if that person knowingly and willfully—

“(1) falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether, for purposes of this Act—

“(A) a child is an Indian child; or

“(B) a parent is an Indian; or

“(2)(A) makes any false, fictitious, or fraudulent statement, omission, or representation; or

“(B) falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact described in paragraph (1).

“(b) CRIMINAL SANCTIONS.—The criminal sanctions for a violation referred to in subsection (a) are as follows:

“(1) For an initial violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 1 year, or both.

“(2) For any subsequent violation, a person shall be fined in accordance with section 3571

of title 18, United States Code, or imprisoned not more than 5 years, or both.”

#### AUTHORIZATION FOR PRODUCTION OF DOCUMENTS BY COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 302, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 302) to authorize production of records by the Committee on Indian Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

#### AUTHORIZATION FOR PRODUCTION OF DOCUMENTS BY COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, the Committee on Indian Affairs has received requests from the U.S. Department of Justice and counsel for the plaintiff-relators and for the defendant in a civil action captioned United States of America ex rel. William I. Koch, et al. versus Koch Industries, Inc., et al., pending in the northern district of Oklahoma, for access to committee records amassed in the course of an investigation in 1988 and 1989 by the committee's Special Committee on Investigations into allegations of theft of natural resources from Indian lands. The lawsuit is a qui tam fraud action, which similarly alleges theft of oil and gas resources from Federal and Indian lands and seeks monetary recovery on behalf of the United States.

In the interest of assisting in the development of a full evidentiary record for the trial of these claims, this resolution would authorize the chairman and ranking minority member of the Indian Affairs Committee to respond to these, and any future, requests for access to these records, except for the committee's internal deliberative or confidential records, for which the committee would maintain its privilege.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 302) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

##### S. RES. 302

Whereas, the United States Department of Justice and counsel for the plaintiff-relators and defendant in the case of United States of

America ex rel. William I. Koch, et al. v. Koch Industries, Inc., et al., Case No. 91-CV-763-B, pending in the United States District Court for the Northern District of Oklahoma, have requested that the Committee on Indian Affairs provide them with copies of records of the former Special Committee on Investigations of the Committee on Indian Affairs for use in connection with the pending civil action;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Chairman and Ranking Minority Member of the Committee on Indian Affairs, acting jointly, are authorized to provide to the United States Department of Justice, counsel for the plaintiff-relators and defendant in United States of America ex rel. William I. Koch, et al. v. Koch Industries, Inc., et al., and other requesting individuals and entities, copies of records of the Special Committee on Investigations for use in connection with pending legal proceedings, except concerning matters for which a privilege should be asserted.

#### VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 585, S. 1791.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1791) to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SIMPSON. Mr. President, it is a pleasure for me, as chairman of the Senate Committee on Veterans' Affairs, to request Senate approval of S. 1791. This legislation, Mr. President, would grant to recipients of compensation, and dependency and indemnity compensation [DIC] benefits, from the Department of Veterans Affairs [VA] a cost of living adjustment [COLA] increase to take effect at the beginning of next year.

This legislation is appropriate and warranted—even as we continue to work diligently to achieve deficit reduction. We can balance the budget, and simultaneously treat our veterans, and their survivors, with fairness and compassion.

This bill is simple and straightforward. It would grant to recipients of certain VA benefits—most notably,

veterans with service-connected disabilities who receive VA compensation, and the surviving spouses and children of veterans who have died as a result of service-connected injuries or illnesses, who receive dependency and indemnity compensation or DIC—the same percentage COLA that Social Security recipients will receive in 1997. So, for example, if Social Security recipients receive a 2.8-percent adjustment at the beginning of next year—the percentage of increase that the Congressional Budget Office now estimates will be forthcoming—then so too would the beneficiaries of VA compensation and DIC.

Last year, the committee's COLA bill put into effect certain modifications, as approved by the Committee on Veterans' Affairs, on how COLA's are computed. For example, our 1996 COLA contained a "round down" feature—that is, a provision that required that monthly whole number benefit amounts be "rounded down" in all cases when they are recomputed. Under normal practice—and under this bill—benefit checks, which are paid in whole dollar amounts, are "rounded up" when the benefit recomputation yields a fractional dollar amount of \$0.50 or more and rounded down when the computation yields a fractional dollar amount of \$0.49 or less.

It may happen, Mr. President, that the Committee on Veterans' Affairs will again elect to direct that VA "round down" as part of a package of measures approved to reach budget reconciliation targets. That action, however, will be taken—if it needs to be taken—as part of a coordinated package of deficit reduction measures. For now, we request Senate approval of a "clean" COLA bill to assure enactment with no controversy before our adjournment.

I do take this opportunity to mention ever so briefly my continued strong commitment to moving toward a balanced budget. We can do it. And I hope we will attempt to make real progress to do it during the time still remaining in the 104th Congress.

The "round down" provision also serves as an instructive example of the sorts of things that can be done—if we have the vision to act now—to achieve that end without causing any needy or deserving person any real pain. To round down a VA beneficiary's monthly check might cause some beneficiaries to lose one dollar per month of the COLA increase that will be forthcoming. Those COLA increases will range up to \$50 per month and more. One dollar lost of the \$50 increase is not a life-threatening hardship, I submit, to any person. Yet such a measure would result in savings of \$500 million over a 6 year period. Such savings opportunities can be—and must always be—considered. To fail to do so will require much more drastic measures later.

Please notice, Mr. President, I am talking about a measure that reduces

ever so slightly a significant increase in benefits that would still be received by a VA beneficiary. I am not talking about cuts in veterans benefits. Despite what some so-called veterans advocates continue to say, I have never—ever—talked of any real cuts. Nor does anyone talk of actual cuts in veterans benefits as a route to a balanced budget—except, that is, one man: the President of the United States. President Clinton has proposed that VA health care spending be actually and truly cut from \$16.9 billion to \$13.0 billion in the year 2000. And yet he seems to have gotten a free pass on that one from the so-called veterans advocates. Why that is, I have not been able to figure out. But I have a hunch that will be a topic of a different speech.

For now, I just say again to my colleagues as I start to approach the final days of my final Congress: We must face up to the deficit and the national debt. And I say to the young people of this great land: Wake up. See what is happening. You must get involved—before your elders carelessly spend your legacy. If you do not force elected officials to act, in not too many years from now there will be nothing left in the Federal budget for you to spend on yourselves after Social Security, Medicare, Medicaid, Federal retirement, service on the debt and, yes, veterans benefits, are paid. Nothing left. That will be it. And that will be a tragedy. We can avoid it—but the Congress cannot wait. It must act now.

I thank the Chair for the time to address this subject. And I yield the floor.

Mr. ROCKEFELLER. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I urge the Senate to pass the pending legislation, S. 1791, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 1996.

Mr. President, effective December 1, 1996, this bill would increase the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation [DIC] paid to the survivors of certain service-disabled veterans. The rates would increase by the same percentage as the increase in Social Security and VA pension benefits for fiscal year 1997. The Congressional Budget Office currently estimates that rate of increase will be 2.8 percent.

Mr. President, in my State of West Virginia, there are over 23,400 service-disabled veterans and almost 7,500 survivors who depend on these compensation programs. Nationwide, the numbers are 2.2 million service-disabled veterans and 300,000 survivors. For many of the more seriously disabled individuals, this compensation is their primary source of income; this is certainly the case in my home State. Even small changes in the daily cost of living can produce hardship as they struggle to make ends meet, to put food on the table and to clothe and house their families.

That is why the cost-of-living adjustment in the rates of VA compensation

that we are now considering is so important. This adjustment is not a luxury—it is a necessity to protect the income of service-disabled veterans and their families from the continual erosion of inflation, thereby ensuring a standard of living that is decent and fair.

Mr. President, these families have already sacrificed several fold for our country. First, they disrupted their lives, leaving behind the comforts and security of home, the companionship of family, friends, and loved ones, to go to strange places, live in cramped and difficult circumstances, and place themselves in harm's way. Then, they returned with disabilities that changed the course of their lives forever, and the lives of the family members who live with them.

Truly we can never fully repay these veterans and their families for the sacrifices they have made. But we have a fundamental obligation to try to meet the financial needs of those who became disabled as the result of military service, as well as the needs of their families. And once we have put in place a compensation program, we have an equal obligation to periodically review that program to make sure that it remains adequate to meet those needs. This bill fulfills that obligation.

Since 1976, Congress has consistently acted to safeguard the real value of these benefits by providing an annual COLA for compensation and DIC benefits. Most recently, on November 22, 1995, Congress enacted Public Law 104-57, which provided for a 2.6-percent increase in these benefits, effective December 1, 1995. The bill we currently consider carries on that proud and fitting tradition.

Mr. President, I urge all of my colleagues to support this vitally important measure.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and the Veterans' Committee be immediately discharged from consideration of H.R. 3458; further, all after the enacting clause be stricken and the text of S. 1791 be inserted in lieu thereof, the bill be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed at the appropriate place in the RECORD, and that S. 1791 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3458), as amended, was deemed read the third time and passed, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 3458) entitled "An Act to increase, effective as of December 1, 1996, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.", do pass with the following amendments:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1996".

**SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.**

(a) *IN GENERAL.*—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1996, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995 (Public Law No. 104-57; 109 Stat. 555). This increase shall be made in such rates and limitations as in effect on November 30, 1996, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1996, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(b) *SPECIAL RULE.*—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) *PUBLICATION REQUIREMENT.*—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1996, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

The title was amended so as to read:

To increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

#### WILDLIFE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from S. 2078 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2078) to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5406

(Purpose: To authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire)

Mr. LOTT. Senator KEMPTHORNE has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. KEMPTHORNE, for himself, Mr. BINGAMAN, Mr. CRAIG and Mr. KYL proposes an amendment numbered 5406.

Mr. LOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This act may be cited as the "Wildfire Suppression Aircraft Transfer Act of 1996".

**SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.**

(a) *AUTHORITY.*—(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) *CONDITIONS OF SALE.*—Aircraft and aircraft parts sold under subsection (a)—

(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

(c) *CERTIFICATION OF PERSONS AND ENTITIES.*—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

(d) *REGULATIONS.*—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regard-

ing alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) *ADDITIONAL TERMS AND CONDITIONS.*—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

(f) *REPORT.*—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) *CONSTRUCTION.*—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to, that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5406) was agreed to.

The bill (S. 2078), as amended, was deemed read the third time and passed.

#### SETTLEMENT OF THE NAVAJO- HOPI LAND DISPUTE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 582, S. 1973.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1973) to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Navajo-Hopi Land Dispute Settlement Act of 1996".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974" (Public Law 93-531; 25 U.S.C. 6400 et seq.);