

heirs, many such cases would involve only a small fractional interest in land. Thus, CBO estimates that the costs of private-sector mandates in the bill would not exceed the annual threshold established in UMRA in any of the first five years that the mandates are in effect.

The CBO staff contacts for this estimate are Lanette J. Walker (for federal costs), and Cecil McPherson (for the impact on the private sector). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

UNITED STATES DEPARTMENT OF THE  
INTERIOR, OFFICE OF THE SEC-  
RETARY,

Washington, DC, Jun 24, 2002.

Hon. DANIEL K. INOUE,  
Chairman, Committee on Indian Affairs, U.S.  
Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter sets forth the views of the Administration on S. 1340, a bill to amend the Indian Land Consolidation Act of 2000 to provide for probate reform with respect to trust or restricted lands. We support the bill.

S. 1340 will provide the American Indian people who own trust and restricted assets with one uniform probate intestate code that can be applied throughout Indian country. The legislation is clearly the product of a lot of hard work by Departmental employees and members of your staff in order to achieve the common goal of reforming the Department's Indian probate program.

During tribal consolidations held in July and August 2000 on the proposed probate regulations, many Tribes recommended and supported a uniform probate intestate code. At the present time, federal statutes provide that the law of the state where the land is located be applied in the distribution of the estate. See 25 U.S.C. §348. As a result of inter-tribal marriage, it is not uncommon that an Indian decedent owns lands on reservations in several states. The effect of applying up to 33 different state laws to the restricted and trust lands of a decedent results in disparate and unfair treatment of the distribution of the entire estate to the same heirs.

For example, in Nebraska a surviving spouse is entitled to receive the first \$50,000 of the estate. Thereafter, the law provides that the surviving spouse receive ½ and children get ½ of the remainder of the estate. Minnesota law provides that a surviving spouse's share is the first \$150,000 plus ½ of the balance of the intestate estate if all of the heirs are also heirs of the surviving spouse. In contrast, Wisconsin law provides that a surviving spouse receive 100 percent of the estate unless one or more children are not the children of the surviving spouse, then the surviving spouse receives only ½. New Mexico law differs from the previous examples in that a surviving spouse gets all the community property, then ¼ of the estate if there are descendants of the decedent.

Another area of concern is the inheritance rights of adopted children and the inconsistencies in state laws. Minnesota law provides that an adopted child may inherit from his/her natural parents, while Montana law provides that an adopted child may only inherit from the adopted parents.

The enactment of a uniform intestate code for trust and restricted estates is of great benefit to both the heirs and the Department. The benefit to the heirs is that the same law will be applied to all the trust and restricted estate of the decedent no matter where the real property is located. A uniform intestate probate code will provide for the division of shares of the entire estate and will be the same throughout the United States. The heirs may disclaim their interests or otherwise agree to a settlement to distribute the estate if the children want to

give a larger share to their surviving parent. The federal government's cost to update and maintain land records will be reduced. The Department will be able to decide cases and issue orders in a more timely manner. A new body of federal law will be created and decisions will be more consistent across the Nation, resulting in fewer appeals. The necessity of thoroughly researching state laws will no longer exist, it will take less time to issue an order determining heirs. Finally, a uniform intestate code may encourage Indian tribes to adopt their own inheritance codes. The uniform intestate code will serve as a model for Tribes to develop their own tribal probate codes.

The proposed uniform intestate succession facilitates the consolidation of interests to remain in trust or restricted status and complements the provision of Indian Land Consolidation Act to minimize further fractionation of Individual Indian interests in trust and restricted lands. For estate planning purposes, one uniform intestate code will provide a foundation to encourage the execution of wills for disposition of trust or restricted assets. For example, the proposed section for pretermitted spouses and children will necessitate specific estate planning if the decedent marries after the execution of a will but intends to leave nothing to a new spouse. S. 1340 at §232(d). Similarly, if the testator divorces after executing a will and has left property to the former spouse, the devise is revoked by law unless the will provides otherwise. S. 1340 at §232(e)(2).

State probate laws are often amended and likewise affect long term estate planning. A change in state law may also necessitate the execution of a new will. Thus, frequent amendments of state laws frustrate the purposes of promoting estate planning among Indian landowners. There will obviously need to be considerable community education on the new sections of the proposed uniform intestate law that will require more comprehensive estate planning.

We recommend that Senate Bill 1340 include a provision that excepts the application of the uniform intestate code to the Five Civilized Tribes of Oklahoma until such time as the Five Nations bill is enacted. The Five Civilized Tribes are subject to the state district courts of Oklahoma and Oklahoma probate law is applied to determine intestate succession. Thus, the removal of the exception should be reflected in S. 2880, the Five Nations legislation.

We would like to suggest amendments to portions of existing federal statutes relevant to inheritance prior to the passage of S. 1340. The amendments are:

25 U.S.C. §348—After the second "Provided," strike the words, "That the law of descent in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except by the" and insert "the Indian Land Consolidation Act, as amended, shall apply where such trust or restricted assets are located". See S. 1340 at §234(c).

25 U.S.C. §372—Insert before the word "hearing" in the words "upon notice and hearing", the words "opportunity for a". Insert the words "probate the decedent's trust estate, and pay valid creditor's claims out of funds in such estate or funds that may accrue up to the date of death of the decedent" after the word "decedent.". Insert "Provided, That in the payment of claims, 31 U.S.C. §3713(a)(1)(b) shall not apply." after "section 373 of this title."

25 U.S.C. §373—Insert "Provided also, that the Secretary shall pay valid creditor's claims out of funds in such estate or funds that may accrue up to the date of death of the decedent except that 31 U.S.C.

§3713(a)(1)(b) shall not apply:" after the words "or use it for their benefit:."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

NEAL A. MCCAULEY,  
Assistant Secretary for Indian Affairs.

#### RECOGNITION OF DOLORES GARCIA

Mr. BINGAMAN. Mr. President, it is rare for me to make a statement for the RECORD in honor of a retiring staff member, but this is a rare staff member—one who by any measure would be deserving of the Senate's time and of space in the CONGRESSIONAL RECORD. I am speaking of Dolores Garcia, whose service in the Senate started the same day as my own, January 3, 1983. Dolores and I had worked together prior to that when I was Attorney General of New Mexico, and she had been with the Attorney General's staff long before I came to that office.

My staff and I, as well as countless New Mexicans, feel fortunate to know and work with Dolores. Diligent, competent, with a benevolent nature and a strong work ethic, Dolores embodies the best of human traits. In her work as the coordinator for service academy nominations, she has started many young leaders on their way to success. She helps keep my Santa Fe office running smoothly, attends the needs of local and legislative officials, helps manage my office budget, and coordinates my state schedule. No matter how busy she might be, she always has time and a kind word for those who turn to her for help.

Dolores is a great friend to my staff and me. We hold her in the highest esteem. Another long-time staff member commented that he thought his best hope of getting into Heaven is on her coattails. I feel the same, Mr. President, and would feel fortunate to have her vouch for me.

#### A SPECIAL ADOPTION MONTH

Mr. CRAIG. Mr. President, November is a special month to the adoption community, because it is National Adoption Month. In my state of Idaho, this particular November is a very special month because it is when one of our newest citizens—Tilly McKeown—came home.

Tilly is one of hundreds of children from Cambodian orphanages who are the focus of a special humanitarian initiative by the United States Immigration and Naturalization Service and the State Department. Adoptions from Cambodia were halted late last year because of serious concerns about the process in that country, and the initiative has been working since then to investigate and clear these adoptions on a case by case basis.

We all want the adoption system to be ethical, transparent, and efficient. To achieve those goals in international adoptions, the United States signed the

Hague Convention on Intercountry Adoption, a landmark international treaty setting standards for adoption that will protect the interests of children and families everywhere in the world. The Senate ratified the treaty, and Congress passed legislation to implement it.

We expect our federal agencies involved in international adoption to work toward these goals with all sending countries, whether they have signed the treaty or not. These are important policy goals for our government, but what is more important, they will help bring waiting children everywhere together with the families who will love them forever.

They also will help prevent situations like the Cambodian dilemma from ever happening again. Before last December, our country had never placed a moratorium on adoptions out of a foreign country, and I think it is safe to say that anyone who knows anything about the Cambodian moratorium hopes our country never takes such an action again. In fact, some of us in Congress have worked on legislation to that end.

This surely must be the hope of every family whose adoption was caught in the moratorium. Mr. President, the anguish these families have endured is indescribable. I do not think a day has passed when they have not pressed the Cambodian and American governments for a resolution to enable them to bring their children home to the United States. They know all too well what an enormous impact government policies can have on human lives and futures.

I hope that some day, Tilly's parents will tell her the true story of how hard they worked, every day, to bring her home how sad they were every time the answer was "not yet," how they traveled all the way to Cambodia just to see and hold her, and how overjoyed they were when they finally got the call to bring their daughter home.

And when they tell her that story, I hope they also share with her the fact that there were people across the nation and around the world who also cared, and worried about her, and were trying to help her and her family. In the United States Senate, the House of Representatives, the Department of State, the Immigration and Naturalization Service, and our embassies, people knew about Tilly and were working to remove the obstacles that kept this family apart, while still carrying out the requirements of the law. The White House played a critical role, providing extraordinary leadership and resources to resolve this complicated situation. The commitment this Administration has made to all of these families and their children is truly remarkable and should be commended. The humanitarian initiative has made tremendous progress, and none of this could have happened without the dedicated efforts of all these individuals, working together.

I realize the resolution of the Cambodian adoption crisis cannot come fast enough for the families involved, and some will never accept or forgive the decision that was made last December, or the amount of time that has passed. To them, I pledge to see this initiative through and work for reforms so that no other families are put in this predicament again. To the many government officials who are working in the field or in Washington, D.C. on this initiative, I encourage you to persevere in this very important effort; you are making a lasting difference in the lives of these families and their children.

And to Tilly, a very happy welcome to Idaho—at last.

#### SPINA BIFIDA

Mr. COCHRAN. Mr. President, I am pleased today to pay tribute to the more than 70,000 Americans and their family members who are currently affected by Spina Bifida, the Nation's most common permanently disabling birth defect. I also want to compliment the Spina Bifida Association of America, an organization that was founded in 1973 to address the needs of the individuals and families affected by Spina Bifida and which is currently the only national organization dedicated solely to advocating on behalf of the Spina Bifida community.

Spina Bifida is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Spina Bifida affects more than 4,000 pregnancies each year, but with proper medical care, people who suffer from Spina Bifida can lead full and productive lives. Today, approximately 90 percent of all babies diagnosed with this birth defect live into adulthood, approximately 80 percent have normal IQs, and approximately 75 percent participate in sports and other recreational activities. However, they must learn how to move using braces, crutches or wheelchairs, and how to function independently. The challenge now is to ensure that these individuals have the highest quality of life possible and to prevent future cases of Spina Bifida.

Congress has done much to deal with the challenges posed by Spina Bifida including providing funding to establish a National Spina Bifida Program at the Centers for Disease Control and Prevention. I was pleased the Senate recently adopted the "Birth Defects and Developmental Disabilities Prevention Act of 2002," which takes important steps to improve the quality of life for individuals and families affected by Spina Bifida.

I also want to thank the Spina Bifida Association of Mississippi for all it has done for the families in our State who are affected by this condition. Specifically, I commend Susan Branson, the president of the Spina Bifida Association of Mississippi, for her dedication

and commitment to helping families like her own who each day face the joys and challenges of having a child with Spina Bifida. In October, which was designated as National Spinal Bifida Awareness Month, Susan and her husband, Alan, and their 4-year-old daughter, Abigail, visited Washington and met with me. The Bransons live in Jackson, Mississippi, and in addition to Abigail they have four other children. We talked about their family's experience with having a child with Spina Bifida. When Abigail was born they were told that she would never be able to walk. Today, due to her and her parents' vigilance, advocacy, and commitment, Abigail can now walk with the aid of braces and a walker.

The Spina Bifida community and our nation have made great progress over the past three decades. Much work still needs to be done, but I am confident this organization and its chapters are up to the challenge.

#### CONGRESSMAN JOSEPH R. SKEEN

Mr. BINGAMAN. Mr. President, when this session of Congress ends, one member of New Mexico's congressional delegation will be retiring, and I rise to acknowledge his departure from public life and to express appreciation for his loyal service to our state and this nation.

JOE SKEEN has been involved in Republican politics in New Mexico for more than forty years, most of them as an elected official. He was in the State Senate for ten years, and while his two campaigns for governor in the 1970's were unsuccessful, he is one of the very few in the history of our country elected to the Congress as a write-in candidate. That occurred in 1980, and he has served his district in the House of Representatives for eleven terms, longer than any New Mexico House Member.

It cannot be said that JOE and I agree on even every fourth issue that comes down the pike, but we have worked well together on so much that matters to New Mexico. I have never doubted for a moment his devotion to what he thinks is right, nor have I doubted his ability to get the job done.

New Mexico is a small town in many ways, and while JOE and I were acquainted before either of us came to Washington, it was when I came here that we really got to know one another. I consider him, and his wife, Mary, to be friends, and am honored that they think the same of me.

They raise sheep on their ranch in Lincoln County, and I know JOE will be glad to get back home after having distinguished himself in the Congress, and representing his District so well. We'll miss him.

#### THE REAL INTERSTATE DRIVER EQUITY ACT

Mr. TORRICELLI. Mr. President, the coming days will be historic for a large