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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, November 22, 2002, at 11 a.m.

Senate

WEDNESDAY, NOVEMBER 20, 2002

END OF THE 107TH CONGRESS

Mr. DORGAN. Mr. President, I come to offer a few remarks today about the end of this legislative session. But of course, as is always the case when I have an opportunity to sit in this Chamber and listen to my colleague, Senator BYRD, I learn a great deal, and it is always a joy to do so.

I am going to be very brief. I have to make a speech to a convention at a hotel near the Capitol in a few minutes, but I did want to say at the end of this session, and especially after the election of this year, something about what I believe is ahead of us.

We have just gone through an election. That is the exercise that the late Claude Pepper used to describe as the miracle in the U.S. Constitution. He said every second year our Constitution provides that the American people are able to grab the steering wheel of this country and decide which way to nudge our country, which direction to provide America. So that is what the elections are about.

This election is described by some in the press as dispiriting and disquieting to those of us on the Democratic side of the aisle. To me, it is not dispiriting or disquieting. I wish the election had gone differently, but over two cen-

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MARK DAYTON, *Chairman.*

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turies we have elections that change and move and in other ways affect this democratic system of ours—this system of democracy, I should say—and I accept the election. The election described a government by the American people as a government that is very divided. The House of Representatives they chose is about 51 percent Republican, 49 percent Democrat. The Senate they have chosen is about 51 Republican, 49 Democrat. Of course, there is a special election in Louisiana in December that may alter that.

The point is the American people have chosen a very closely divided government. That is not dispiriting to me at all.

We are able, those who come to this passion and this public calling, to look ahead to great challenges in our country and understand with the President and with the cooperation of Democrats and Republicans, we have to work together to meet these challenges. The change in the Senate from a Democratic majority to a Republican majority is not much of a change, after all, because it simply moves a couple of seats around. It is now 51 to 49 instead of 50 to 49 to 1.

The fact is, in order to get things done to meet the challenges we face in America, we must find ways to work together. The art of this democracy working is through compromise. There are some who come here and decide to say, here is what I believe and I will not move from that point in the compass. I will not accept anything less than that which I believe today, on Wednesday.

That is not the way to get things done. We will be best served as we meet significant challenges ahead if we, the President and all in the Senate, understand we serve the same master; that is, the American people. And we want for this country the same thing: To do well, to grow, to prosper, to be safe, to be secure.

Much of the agenda we work on, especially on the Democratic side of the aisle, is an agenda that is almost timeless, the things people sit at the supper table in the evening and talk about, as they have supper together as a family. These are the things we have worked on for decades. Questions that a family asks: Do I have a good job? Does dad or mom have a good job? Does it pay well? Does it offer job security? Do grandpa and grandma have access to decent health care now they have reached their declining income years? Are we sending our children to schools we are proud of? Are our children entering a schoolroom door that is the best we can make it? Do we live in a safe neighborhood, free from crime? Is our country safe? Is the security of America safe? These are issues the families care about and are issues we work on in the Congress and the Senate.

There are some who come to public service with a very critical message of our country; it is the easiest thing in the world. It takes no talent at all. I could demonstrate it in 2 minutes. The easiest thing in the world is to take a flaw in our system and hold it to the light and say, look at this, isn't this ugly? Look at this imperfection, isn't it ugly? Yes, it is a flaw and an imperfection and there are many in our great country.

But that is not the norm in America. We have industries that spring up looking at our imperfections. We have television programs that entertain the American people with other people's dysfunctional behavior, and they get great ratings. But it is not the main of what America is about. It is so easy to give the negative side. I am tempted but I will not; in 2 minutes I can recite the awful things about our country. We have people who are professionals doing it on radio and television and in politics every day: Look how awful this place is.

It is not awful at all. This country is a country born of the courage and blood of patriots. It is a country that survived the Civil War. It has overcome a depression; beat back the forces of Hitler, Nazism. It is a country that has done what no other country has done. It has built the strongest economic engine for growth and opportunity for people in the world. It has split the atom, spliced genes, cloned animals, inventions too numerous to mention. It is a country that had people build airplanes and learn to fly them, had people build rockets and go to the moon and walk on the moon. Along the way, it cured smallpox and polio, invented the telephone, the television, the computer.

It is a strong country with a resilient people, people who live in communities and help each other, who care about their kids, care about their future. Gregg Easterbrook wrote ''America the OK.'' I like the title—and the book. I like the title because it describes a different attitude about America, ''America the OK.'' That book came out some while ago but came out at a time when, as is usually the case, there were so many voices talking how awful things were in America.

There is not a better place on Earth to live. We are lucky to be Americans. We are lucky to be alive now.

When I mention the challenges ahead, first and foremost is a national security challenge. That is an awesome challenge. There is no question that the September 11 tragedy that befell our country and killed so many innocent American citizens reminds all this is a big, troubled world in many respects and national security is very important, as is homeland security. We must find ways to work together in a big, free, and open country, to provide some assurance of security for the American people. We must do that without diminishing the basic civil liberties that exist in our Constitution for the American people.

This discussion about a national identification card, about a database in which they will data mine all the information about people's lives to find out if there is somebody doing something untoward, that is not the way to approach providing security for our country, by diminishing the basic civil rights in our country.

We face this very significant threat from Osama bin Laden, who apparently still lives. I might say, in the early part of this year I was in Afghanistan, I flew from Tajikistan-Uzbekistan to Baghram Airbase in Afghanistan, myself, Senator DASCHLE and others. Flying over the mountains of Afghanistan, preparing to land at Baghram, I looked down at the hills and understood deep in those caves were terrorists led by Osama bin Laden plotting the murder of innocent Americans by crashing airplanes into the World Trade Center. You understand especially more than ever when you look on the mountains that we cannot ever be oblivious to what is going on in the rest of the world. We do so at our peril. What happens in other parts of the world is of significant interest to us.

So national security is very important. I don't think there is any division, any partisanship, on that issue. We care about this country. We care about its security. We care about the men and women who wear its uniform proudly in the armed services.

In addition, the issue of national security, another part of security that is important is economic security for our country because all we can become in this country relates to having the economic engine that provides people opportunities so people can work, have jobs that pay well, with security, to build the good schools, send your kids to good schools, and provide health care for grandma and grandpa and do the things that make this a great place in which to live. That economic security and all of the attendant issues dealing with this economy are also very important.

I am proud to be part of a caucus in the Senate that says, here are the things we think we need to do to strengthen our country and provide opportunity to people in this country. Not handouts, opportunities.

There are times when people are down and out and have a tougher time with it, when it is important for a country to say, let us help you up. But the most important element of what we are about is to provide opportunity. There is no social program in America as important as a good job that pays well. That is what represents the basis for providing for a family and providing opportunity in the future.

This is a big old world, with 6 billion people; about half of them have never made a telephone call; 2.5 billion live on less than $2 a day; 150 million children are not in school.

It is a big, difficult, challenged world in many ways, and we are enormously blessed to live here, right here, in this great democracy. We come from different parts of our country, different backgrounds, different philosophies, to

arrive here amidst 100 seats in the Senate. None of us owns a seat here. We are here as a matter of privilege—privileged to represent those who sent us here from our home States.

When we come to this Senate and in public policy engage in debate, there are some who look at that debate and say: Look, isn't that awful. Debate has broke out in the Senate.

I remember one day reading the Washington Post and one of the critics some number of years ago said—talking about some very aggressive debate in public policy here in the Senate:

This has just degenerated into a dispute about principle.

I thought to myself: Well, I hope so. That's why I came here—about principle.

Debate is what best serves the American people. The old saying: When everyone in the room is thinking the same thing, no one is thinking very much—that is a very important thing for us to remember here in the Senate. We will best serve the cause of our country's future and best serve the American people by continuing to be aggressive about that which we believe for the future of this country; by standing here, offering ideas that represent the approaches we believe will advance America's interests.

The next session of Congress, both because of national security and also economic security issues, will be a very difficult Congress. There is no question about that. But it will not be made more difficult by me wanting to see the other side lose. I want America to win. And this country wins when we best serve this country's interests by not wishing others to lose, but offering the best ideas we have and hoping that they will engage us in a way that selects the best of all the ideas offered in the Senate to advance this country's interests.

My fervent hope is that the next couple of years will be years of accomplishment in which all of us together can think we have done a good job in a troubled time for this country; in the face of threats—terrorist threats, national security threats—we have still advanced the interests of this country, even while keeping this country safe; advanced the interests of people who work for a living and want education, good schools, they want health care. They want the things that make this a good life, as well, here at home. If we do that, at the end of 2 years I think we will have accomplished something very significant for this great country of ours.

I thank the Senator from West Virginia for his indulgence as well. I saw by his papers he is intending, perhaps, to visit with us today a bit about Thanksgiving, and what a perfect, appropriate subject, the week prior to Thanksgiving.

I will yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I want to just take off on a word that the Senator spoke, the Senator from North Dakota. I will not detain him. I know he has to be somewhere, but he spoke about privilege, that we ought to be thankful; that this is a privilege. He referred to a privilege. I want to tee off that word, ''privilege.''

Also, I must say before the Senator leaves that I still have not come up with the right word when I am thinking about that Greek—it was not Aristides, it was not Alcibiades, but I will come up with it. But it was another word. It will come to me. I am still worrying about it.

But on this word ''privilege,'' let us think, if I may suggest for a little while, about what a privilege it is—what a privilege it is to be an American, a person born in this country of whatever background, or a person who has emigrated to this country and been accepted as an American citizen—what a privilege that is.

I am not thinking about Afro-Americans or Italian-Americans or Greek-Americans or Anglo-Saxon Americans or anything—we have too much of these hyphenations. I am not much on hyphenations. I don't go around talking about my being an Anglo-Saxon American—but I am proud of it. I know other individuals in this country are proud of their heritage, and they should be. They should be proud that their ancestors came from Africa or their ancestors came from England or their ancestors came from Germany or their ancestors came from Ireland or from Poland or the Middle East or wherever. They ought to be proud of that. But I don't go around saying I am an Anglo-Saxon-American. I am proud of being a descendant of an Englishman who came to this country in 1657—but I am an American, that's the thing—of whatever lineage it may be.

It may be from the subcontinent of Asia. It may be a Persian. It may be an Iranian. It may be an Iraqi. Or it may be an Indian from India, where they have that beautiful Taj Mahal, at Agra.

But I am an American. What a privilege that is. Do you remember what Paul said? Paul, who was earlier Saul, but he persecuted the Christians and he came to be named Paul, the great Apostle. He and Silas—I believe it was Silas—they were arrested and they were beaten. But when the Roman centurion or the Roman officer heard that Paul was a Roman, he sent word: Don't—don't strike that man anymore. He is a Roman.

Being a Roman was something, in those days of Biblical history. It meant something very special, being a Roman. Don't strike him. Don't flog him anymore, he is a Roman, a Roman citizen.

The distinguished Senator from North Dakota who just addressed the Senate has a deep appreciation for the privilege of being an American. And, on this day when we are about to adjourn the Senate, and in thinking of a day that is coming soon, Thanksgiving Day, we should be grateful and prayerfully grateful, for being an American; grateful for this land of ours; grateful, privileged to be an American—privileged.

Let me now refer to the Mayflower Compact. The Mayflower Compact, adopted on November 11—ha. What is that day in our time? The old Armistice Day, the day on which my mother, my angel mother was buried. She died of the influenza the night before Armistice Day.

My mother—and may I say to my brother, who is 90 years old and living in Wilkes County, NC, today, I would almost imagine that he is listening to the Senate—''debate.'' He is listening to us on the Senate floor today. That's my brother. I don't know that he is, but I would wager he is. He is 90 years old. He listens to the Senate debates.

May I say, if he is listening: Our mother died on November 11, the night preceding. I don't know whether it was before midnight or after on that night. Just as I don't remember whether Caesar crossed the Rubicon before midnight or after midnight on January 11, in the year 49 B.C. I don't remember that. But in any event, isn't it interesting that the Mayflower Compact was drawn up on November 11, 1620, and Governor Bradford makes this reference to the circumstances under which the Compact was drawn up and signed—this is William Bradford. He said this:

This day, before we came to harbour, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement, that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set our hands to this that follows, word for word.

In The Name of God, Amen,

In The Name of God, Amen. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the faith . . . Having undertaken for the Glory of God.

Are you listening?

Having undertaken for the Glory of God.

Do I hear that a judge in this land has said to take that monument to the Ten Commandments out of your Statehouse? Read it. It is in today's papers—or yesterday's—where a judge who wears his robes of justice, said remove it.

He should visit my office and see the words of the Ten Commandants all over the walls there in that public place—the Ten Commandants.

How could we come to a place like this in America, this wonderful land of ours, this land in which it is a privilege to be born, or to become a citizen, to live, to serve, to die in this land of ours, where we can be privileged, how could that judge—how could any judge—say: Remove those words, the Ten Commandants? Was that the kind of judge, was that the kind of interpretation of the Constitution—I wonder if Governor Bradford had that in mind. I

wonder what he was thinking about when he referred to God.

Let us hear it again. This is what the Mayflower Compact said:

In The Name of God, Amen. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James.

King James was King of England from the year 1603 until the year 1624, I believe.

By the way, that Bible, the King James Version, was authorized at Hampton Court in 1604, and it was first published in 1611—the King James Version of the Holy Bible.

Let me say it again. This is what the Mayflower Compact said. This is not what some misguided judge may have said about the Ten Commandments. This is not some misguided judge who has misinterpreted the Constitution, in my judgment. But who am I? But I am a citizen—not a Roman citizen. I am an American, ''privileged,'' in the words of Senator DORGAN, to serve in this land, to work in this land, and to live in this land.

Here is what the Mayflower Compact said.

Hear me. Hear me now. This is the Mayflower Compact.

In The Name of God.

I am going to go out to meet Him soon. Abraham lived to be 170. Isaac was 180. Jacob lived to be 147. Joseph lived to be 110. STROM THURMOND is going to be 100 in just a few days. I am 85 today. But we can't be here always. I am going out to meet God.

Here is what the Mayflower Compact said. It was drawn up by those rugged, brave people on that ship as they prepared to get off that ship and step on the stormy shores—the rockbound coast of Massachusetts.

In the name of God—

Let us listen today as we prepare for Thanksgiving in this Year of our Lord, 2002.

In The Name of God, Amen. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord, King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, [et cetera] Having undertaken for the Glory of God, and Advancement of the Christian Faith, in the Honor of our King and Country, a Voyage to plant the first colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually in the Presence of God and one another . . .

I think it means and of one another—

. . . covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid; And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience. In WITNESS whereof we have hereunto subscribed our names at Cape Cod this eleventh day of November, in the year of the Reign of our Sovereign Lord King James of England, France, and Ireland, the eighteenth and of Scotland, the fifty-fourth. Anno Domini, 1620.

There it is. That is the Mayflower Compact.

Today, on Thanksgiving, let us be thankful to the same God referenced in this Mayflower Compact. Let us be thankful we are Americans, that we live in America, that we live in the land of the free and the home of the brave, that we live in this land which has been so wonderfully blessed by the God of Hosts, the Creator. Let us be thankful to Him.

Great God, our king.

And the names that followed were: Mr. John Carver, Mr. William Bradford, Mr. Edward Winslow, Mr. William Brewster, Isaac Allerton, Myles Standish, John Alden, John Turner, Francis Eaton, James Chilton, John Craxton, John Billington, Joses Fletcher, John Goodman, Mr. Samuel Fuller, Mr. Christopher Martin, Mr. William Mullins, Mr. William White, Mr. Richard Warren, John Howland, Mr. Steven Hopkins, Digery Priest, Thomas Williams, Gilbert Winslow, Edmund Margesson, Peter Brown, Richard Britteridge, George Soule, Edward Tilly, John Tilly, Francis Cooke, Thomas Rogers, Thomas Tinker, John Ridgdale, Edward Fuller, Richard Clark, Richard Gardiner, Mr. JOHN Allerton, Thomas English, Edward Doten, Edward Liester.

There you have it, the Mayflower Compact and all the names of the signatories.

Then there was Thanksgiving Day, an annual national holiday in the United States, celebrating the harvest and other blessings of the past year. It originated in the autumn of 1621 when Plymouth Gov. William Bradford invited neighboring Indians to join the Pilgrims for a 3-day festival of recreation and feasting in gratitude for the bounty of the season. By the end of the 19th century, Thanksgiving Day had become an institution throughout New England and was officially proclaimed as a national holiday by President Abraham Lincoln in 1863. The traditional feast of turkey and pumpkin pie has since become an indigenous part of the national culture. Traditionally celebrated on the last Thursday in November, it was changed by act of Congress in 1941 to the fourth Thursday of that month. Canada first adopted Thanksgiving as a national holiday in November 1879, and it is now celebrated annually on the second Monday in October.

That has reference to Thanksgiving Day, again, referring to Plymouth Gov. William Bradford who, in the autumn of 1621, invited the neighboring Indians to join the Pilgrims for a 3-day festival of recreation and feasting in gratitude for the bounteous season.

So on Thanksgiving Day let us remember those colonial forbears of ours, let us remember Plymouth Gov. William Bradford, who recognized that day of thanksgiving and whose name I referenced earlier in regard to the Mayflower Compact.

(Mr. DURBIN assumed the Chair.)

Mr. BYRD. So, Mr. President, I want to spend a few minutes just being thankful. The change in party control is but a small shift in the wind compared to the gale forces that have blown in the past. It does not compare to war, to acts of terror, the upheavals in the strategic balance of power. I will live through that again, if I live, if the Good Lord so blesses me.

Today, as the Senate attempts to conclude its work for this session, one can almost smell the turkey roasting.

Tomorrow, if the Good Lord willing—in the Book of James it says: Don't say you will go here or there tomorrow, and you will buy this and that, or you will visit this city or that tomorrow; but say: If the Lord wills.

The Book of James.

So tomorrow, if the Lord wills, my wife and I hope to visit the Giant store over in McLean. And I can see the lines in the grocery stores. They are long. And the carts are full, as families prepare for the feast, for the feast to come next week: Plump turkeys, deep red cranberries—my wife is the best when it comes to fixing that cherry pie and the cranberry dressing, and all these things—rich pumpkin pie filling, sweet whipped cream, crisp green beans, flour and spices for baking—all are fond reminders of the season of Thanksgiving.

This year, travel is expected to rebound, after the scares of last year, as families reconnect more strongly. The Thanksgiving feast, the epitome of family tradition, is back, more precious, more appreciated than ever.

The Nation, too, feels stronger. Our economy may be weaker, but we are more aware of ourselves as a nation of Americans, as citizens of one land, rather than an eclectic mix of communities with little connection to each other.

As a nation, we feared the sniper who stalked the National Capital Area just a few weeks ago. As a nation, we pulled for those coal miners.

I know the Presiding Officer of the Senate today, the distinguished Senator from Illinois, Mr. DURBIN, whose ancestry goes back to the great country of Poland, does not go around saying: I am a Polish American. He says: I am an American. He is proud of his ancestry. I have talked with him about it. But he does not remind me every day that he is a Polish American. He is an American, just, as I said a little earlier, I am an Anglo Saxon American. But I do not go around talking about it. These hyphenated Americans, I am not too high on using the hyphen in that respect. We are all Americans.

In any event, as a nation, we feared that sniper. And as a nation, then, we pulled for those miners. And the Senator from Illinois knows about the coal miners of that State, as I know about the coal miners of West Virginia.

As a nation, we pulled for the miners who were trapped underground in Pennsylvania. As a nation, we followed the hunt for terrorists. We mourned for the victims of terrorist acts committed around the world.

We now know the feeling of wearing a target on our backs by virtue of the

passport we carry. It is a new feeling for many Americans; not exactly a pleasant one, but if it is a burden of our citizenship, we wear it with pride.

The flags that have flown in yards nationwide since September 11, 2001, are still flying in our minds and in our memories, in our hearts.

Our military, with the National Guard and Reserve forces, is more unified this Thanksgiving. All are under the strain of extended callups and deployments but all are working together. They are not weekend warriors, they are not sunshine patriots versus regulars, but they are full-time professionals, operating under the shadow of war, pushing hard to extend security across the globe. I am thankful for their effort.

I am reminded of the words of Thomas Paine, who wrote, on December 23, 1776:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands in NOW, deserves the love and thanks of man and woman.

Now, Mr. President, as I share my turkey and dressing with my dear Erma and with my daughters and sons in law, grandchildren and great grandchildren, I will offer a prayer to each of the Nation's men and women in uniform and their families. As we dine, they are flying, they are steaming, driving, and standing guard over our Nation's liberty. They are on the front lines of the war against terrorism.

Their families are gathering around tables that are not as full as they should be. Some of the chairs will be vacant. The circle of smiling faces will be incomplete.

This year especially we ought to remember and be thankful to them and to God for their effort. We should remember and give thanks for the efforts of our Nation's veterans. They and their families have also sacrificed for our Nation. Their families have sacrificed. Their wives have sacrificed. Their children have sacrificed. Their parents have sacrificed. Their brothers, their sisters, their kinsmen have sacrificed.

In this year even more than ever, we will remember the firemen, the policemen, the lifesaving crews who have performed so heroically during the crises of the past year and more. As terrorism struck our homeland, as anthrax filled our Federal buildings, as a sniper took aim at innocent people going about their everyday business, these first responders rose to the challenge. People are alive today because of their efforts.

In addition to their everyday duties, the local and State police, the fire departments, the public health departments, the hospitals, the ambulance crews, all are planning how they might best respond to a major terrorist attack, whether it comes in the form of conventional explosives or chemical, biological, or even nuclear weapons. Their diligence at this task may make the difference for all of us in the future. They, too, will have my prayers this Thanksgiving.

Those of us in the Senate family should remember in our prayers the men and women who gave their lives on September 11, who gave their lives for us. There was a fourth plane, and some noble men and women on that fourth plane decided among themselves that they were going to die, but they decided that that plane, while it would carry them to their death, that plane would never complete its mission. Its mission, we understand, was this Capitol.

So we Members of this body, the members of the Senate family, the pages, the security people here, the Chaplain and his staff, our staffs, may all give thanks on that day for those brave men and women who knew they were going to die, who took phones and called their loved ones and said, for the last time: I love you. But they concluded among themselves: We will die that others won't die. If one could write the chapter, if one could have been there, they gave their lives and brought forth their sacrifices. Who knows? Who knows? Those eagles up there that from time to time must scream would not be there today.

That plane, that fourth plane, went down in Pennsylvania, the State in which that Philadelphia Convention was held, out of which came the Constitution and this great constitutional system that we know about.

So it is a daunting task when we think about the settlers who thanked Providence for seeing them through a difficult first year. It is a daunting task to carve a homestead out of the wilderness thousands of miles from anything familiar. One could not drive to the hardware store to purchase lumber and nails and shingles and windowpanes. You could not plug in or charge up labor-saving tools such as power saws and nail guns. No, each log had to be cut with an axe, dragged to the site and lifted by hand—not by an electric crane—and placed.

Each shingle for the roof had to be planed for more wood; each stone for the foundation and the chimney had to be dug up and hauled to the site. And while the home building was going on, the fields had to be cleared. The fields had to be planted; the fields had to be tended. Game had to be hunted and cured, or there would be no food for winter, let alone for a Thanksgiving feast.

So in this year of our Lord 2002, we gather in warm houses with our loved ones, each house a glowing lamp of civilization in an increasingly hostile world. It is a different kind of wilderness that surrounds us now, a forest of threats from unfamiliar places with unfamiliar names that press in from all sides. But for a day we can easily push our nagging fears aside and find comfort in the warm bonds of family affection.

As we work together, polishing the silver, setting the table, and preparing and serving the delicious food and talking to the little ones, the little grandchildren, and to little puppies, like Trouble over at my house and Danny over at my daughter's home, and washing the dishes, we share in life's greatest gift—our families.

I would like to close with a poem. I am still looking for that Greek name. It has slipped my mind.

The poem is ''Home, Sweet Home'':

'Mid pleasures and palaces though we may roam,
Be it ever so humble, there's no place like home;
A charm from the sky seem to hallow us there,
Which, seek through the world, is ne'er met elsewhere,
Home, home, sweet, sweet home!
There's no place like home, oh, there's no place like home!

An exile from home, splendor dazzles in vain;
Oh, give me my lowly thatched cottage again!
The birds singing gaily, that came at my call—
Give me them—and the peace of mind, dearer than all!
Home, home, sweet, sweet home!
There's no place like home, oh, there's no place like home!

I gaze on the moon as I tread the drear wild,
And feel that my mother now thinks of her child,
As she looks on that moon from our own cottage door
Thro' the woodbine, whose fragrance shall cheer me no more.
There's no place like home, oh, there's no place like home!

How sweet 'tis to sit 'neath a fond father's smile,
And the caress of a mother to soothe and beguile!
Let others delight 'mid new pleasure to roam,
But give me, oh, give me, the pleasures of home.
Home, home, sweet, sweet home!
There's no place like home, oh, there's no place like home!

To thee I'll return, overburdened with care;
The heart's dearest solace will smile on me there;
No more from that cottage again will I roam;
Be it ever so humble, there's no place like home.
Home, home, sweet, sweet home!
There's no place like home, oh, there's no place like home!

God bless our homes, and God bless the sweet land of liberty, America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, God bless America, and God bless Senator BYRD and what he has meant to this institution, and for serving in this institution, the Congress of the United States, for over a half century.

We have had the privilege of again having one of the great insights into American history as seen through the prism of Senator BYRD's observation after a half century of American politics and American history.

When I was a Member of the other body, the House of Representatives, one of the great delights I had was to

sit at the knee of Congressman Claude Pepper, a former Senator. He was a walking political history book. And along with that delightful personality, you could learn so much just listening. Of course, he was always a great delight. The Senator who presides and I both had the pleasure of being with Claude Pepper. So often I would hear when he would take what he would call his ''boys''—those members of the Rules Committee—on a trip and those younger Members of Congress—younger by one-half and sometimes two-thirds the age of the venerable Claude Pepper—could not keep up with the energetic pace he kept on those congressional delegation trips.

And so, likewise, it has been such a privilege for me that I have now had the opportunity to come here to the Senate and sometimes to sit at the knee and learn from the senior Senator from West Virginia.

For what you have given to all of us—the particular interests and affection you have shown to the new Members of the Senate in the 107th Congress—we are all so very appreciative to you.

Again, thank you for your words today in commemorating this time of Thanksgiving that so many of us in our own way will say a little prayer of gratefulness for this blessed land of which we have the privilege of being citizens.

Mr. President, I rise today to again give another one of my speeches about my favorite little agency, the National Aeronautics and Space Administration.

Mr. BYRD. Mr. President, before the distinguished Senator proceeds, if he would allow me to interrupt him for a comment.

Mr. NELSON of Florida. I yield to the Senator for that purpose.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his kind words of praise. But let me say some good words about him. That is why I have sought to interrupt him. The Senator has come to the Senate and brings with him a marvelous background of knowledge—knowledge of space, space flight, and our explorations into space. He is not by any means as long in his experience in this great country as I am. I can remember when Lindbergh flew across the ocean in 1927, I believe on May 9. When he launched that flight in the Spirit of St. Louis, the New York Times had a headline, if I remember, that said Lindbergh flew across New York City—or perhaps it was Nova Scotia—at the ''tremendous'' speed of 100 miles an hour. That man, when he flew across the ocean—sometimes 10 feet above the water, sometimes probably 10,000 feet above the water—he had a payload of about 5,500 pounds; he had about five sandwiches, and he ate a half of one on his way across the water. That was a lonely man.

But now this man from Florida, who graces this Chamber, flew in space at the tremendous speed, I would imagine, of about 18,000 miles an hour. So as we in high school used to talk about that flivver—there were not many flivvers in that day. A few automobiles were owned by high-ranking officials in the coal mining community, and they spoke of that automobile coming down Sofia Mountain at the speed of a mile a minute. Here is this man who has come to us and has flown at the tremendous speed of 18,000 miles an hour. He has also brought with him a deep respect of the Constitution of the country, a deep respect for this institution.

I thank God, as we near Thanksgiving Day, for pioneers like this man, Senator NELSON of Florida. He is a pioneer in space. We have thankfulness to him and other men like him, such as the Presiding Officer who comes from Illinois; they both came over from the other body. So many of us came from the other body, and so many of us, I am sorry to say—especially those who have come lately—seem to think this body should be another House of Representatives. I should not get started on that.

But I thank the distinguished Senator, my dear friend, for his kind references to me and the context in which he made those references. I hope I can live up to his faith and his accomplishments. I thank him for the Senator he is and the American that he is as we near Thanksgiving Day in a land for which we have so much to be grateful.

Mr. NELSON of Florida. Mr. President, I thank the Senator for his kind words. Whenever he is so gracious to me, as he just has been, I think myself undeserving of those kind words.

I look around this Chamber and see the places that people who have really shown courage and devotion to duty and to country sit, a place like over there, Senator INOUYE, a winner of the Congressional Medal of Honor; a place like over there, Senator MCCAIN, a prisoner of war who withstood those horrors for over 6 years; a place like over there for Senator CHUCK HAGEL, a distinguished veteran of Vietnam; a place like over here, the seat of Senator JOHN KERRY, the holder of the Silver Star from Vietnam; or that seat right there, the occupant of which will be leaving us at the end of this Congress, a triple amputee from Vietnam, Senator MAX CLELAND, who has overcome so much and yet who has the greatest attitude of any Senator in this body. These are the heroes, and there are many more, both men and women, in daily acts of courage. I feel very privileged to be a part.

NASA'S FISCAL YEAR 2003 BUDGET AMENDMENT AND A NON-PARTISAN NASA

Mr. NELSON of Florida. Mr. President, I have been making a series of speeches about NASA, and I rise again today to speak about this little agency. It is a favorite agency of mine, the National Aeronautics and Space Administration.

Last week, the White House submitted a budget amendment to its 2003 budget request for NASA. The budget amendment, which also retools NASA's 5-year budget plan, amounts to a watershed point for NASA.

In this budget amendment, the administration has requested a significant change in its 2003 NASA priorities. Instead of funding a program to replace the space shuttle, this amendment seeks to scale back funding for the space launch initiative to a more realistic development time line.

This budget amendment, in my opinion, signals a revamping of NASA's integrated space transportation plan. The new plan incorporates the space shuttle, a new orbital space plane, and technology for future reusable launch vehicles into one comprehensive plan to provide for the advancement of human space flight. It is about time we had such a plan, and I applaud the administration's efforts to move in this direction.

The new plan includes an increased shuttle launch rate to better meet the research needs of the space station. Under this new budget plan, both the shuttle and the station programs will be funded on a much more sustainable and long-term level, while also seeking to develop a new orbital space plane. This new spacecraft would be used to provide astronauts regular access to the international space station without always needing to rely on the aging space shuttle fleet.

The new budget plan provides for a much-needed infusion of cash to start to provide for space shuttle safety upgrades and infrastructure repairs and modernization. These repairs and improvements will help us fly the shuttle much more safely through the middle of the next decade and possibly even longer.

This funding is a welcome reprieve for the neglected and decaying human space flight infrastructure that is literally falling apart at NASA centers around the country.

The new budget plan also responds to the concerns of a new study. This study, called the ReMAP study, concluded that the space station in its currently planned form would not be able to conduct even a minimum level of science research to call it a science program.

NASA's 2003 budget amendment seeks to fix some of these concerns by providing additional funding to increase the research capabilities onboard the space station. I welcome this decision. I have been into the mockup of the space station at the Johnson Space Center, and the capability for science, for research, is there if we can have the crew members who can be dedicated to the research while in orbit.

With this budget amendment, I am pleased with the administration's restructuring of NASA's budgetary priorities for fiscal year 2003, and I congratulate administrator Sean O'Keefe. In this budget amendment, the administration, with Administrator O'Keefe,

and his deputy administrator Fred Gregory, have provided more funding for the shuttle program, including an increased flight rate and more funds dedicated to safety and supportability upgrades, as well as improvements to the ground-based infrastructure.

These areas are in dire need of additional financial support. The space shuttle simply cannot continue to fly safely if NASA does not dedicate additional resources to the orbital fleet.

The one missing piece from this plan is the formal cooperation with the departments dealing with the Nation's defense. NASA's new plans to upgrade the Evolved Expendable Launch Vehicle—everything has an acronym at NASA—or the EELV—to meet the human-rated requirements may also yield great efficiencies and reliabilities for defense launch needs. An orbital space plan could also meet some of our defense needs, and the Air Force has also had on the books for many years plans to develop such a vehicle.

The defense establishment should be part of this effort. DOD, NASA, and other agencies need to pool their resources to develop these high-risk, expensive technology programs. NASA cannot be expected to do this alone. Our country will be better served by jointly developing the technology needed for exploration and use of space.

I congratulate the agency and its leadership on what I think is a budgetary watershed point and one that is a shift in the right direction, and I encourage the defense-related agencies to start cooperating with NASA to develop these new technologies.

Mr. President, there is another area in which I have concern and I want to express it. NASA has a proud history of staying outside the partisan nature of our political arena. As one of the largest independent agencies, NASA has a unique role in the structure of our executive branch. Its leader does not assume a Cabinet-level position, and yet its policies and practices have a significant impact on the strength and future of our Nation's science and technology programs and sector.

No other independent agency has as much influence on our country's innovation capabilities in science and technology, outside of the medical field. Yet unlike the Departments of Commerce or the Department of Education, NASA does not usually get brought into partisan battles or political struggles of Congress. Rather, NASA's nonpartisan approach is more akin to the nonpartisan style of the Department of State and the Department of Defense. There are clearly occasionally disagreements within these Halls about the future of this little agency, but never have the differences come down to simply a question of to which party a Member belongs.

The Nation's space program is not a partisan program. It is an American program, and that is the way the Senators of this body treat it.

In recent weeks, constituents, newspaper columns, editorials, and NASA employees have brought to my attention at least two incidents of partisan political activity on the part of the agency's head, who may have been acting at the direction of the White House itself.

In October, NASA's Administrator made a decision that could stand to challenge this agency's traditional bipartisan and nonpolitical status. Administrator Sean O'Keefe flew to Alabama to campaign for a candidate for Governor, and then he publicly announced his plans to travel to Florida to hold a space townhall meeting for a nonincumbent congressional candidate. He also participated in a fundraiser in Alabama.

Now, in this last announced trip, were it not for a mechanical problem that delayed his flight beyond the candidate's reasonable timeframe, Administrator O'Keefe would have been on the ground in Florida conducting political campaign events.

I am troubled about the implications of this public decision. At present, I have the good fortune of cooperating on space policy issues with dozens of my colleagues in both parties. Senators who share my love and enthusiasm for space exploration include Senators TRENT LOTT, DON NICKLES, ORRIN HATCH, KAY BAILEY HUTCHISON, CONRAD BURNS, GEORGE ALLEN, RICHARD SHELBY, BARBARA MIKULSKI, JOHN BREAUX, MARY LANDRIEU, and BOB GRAHAM.

When it comes to supporting our favorite little agency, we agree wholeheartedly and together happily roll up our sleeves and work on furthering the Nation's space-faring capabilities, despite what other issues might separate us, or despite the partisanship in which we sometimes engage in this body.

In the other Chamber, NASA's supporters come from both sides of the aisle. Representatives TOM DELAY, DANA ROHRABACHER, KEN CALVERT, DAVE WELDON, NICK LAMPSON, RALPH HALL, BART GORDON, and BUD CRAMER are but a few who have repeatedly gone out on a limb for NASA.

By announcing his plans to participate, being perceived as acting in his official capacity as the head of NASA, Administrator O'Keefe diminished the spirit of bipartisanship. Well, thank goodness for an airline mechanical problem on that last occasion.

So I rise to make a public request of our Administrator, which follows the private request I made of him prior to his scheduled trips, and that was a private one before the fact. My request now publicly is do not ruin the spirit of bipartisanship and bipartisan cooperation that NASA and its supporters enjoy.

When it comes to political campaigns, just stay out of them altogether and keep the long-standing tradition that NASA Administrators stay out of partisan politics.

This is a speech in which for the first two-thirds I praised the Administrator of NASA for the change in direction that I think is a good change, and I think shows his good leadership, but it is a speech also with a heavy heart that since he would not take my advice, or that of many others privately, it needs to be stated publicly that there is a great and long-standing tradition that NASA Administrators stay out of partisan politics.

I ask unanimous consent that supporting documentation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Florida Today, Oct. 23, 2002]

NASA HEAD STUMPS FOR GOP CANDIDATES

(By John Kelly and Kelly Young)

Sean O'Keefe is taking time off from his day job, as administrator of NASA, to campaign for Republican political candidates in two states with high-profile NASA centers.

O'Keefe took time off Monday and went to Huntsville, Ala., to endorse the Republicans' candidate for governor at a space museum near Marshall Space Flight Center. Monday, he will be at the Cocoa Beach Hilton with Tom Feeney, the GOP nominee in the 24th Congressional District that includes Kennedy Space Center.

NASA is not paying for the trips and O'Keefe is not doing official business, agency spokesman Glenn Mahone said. He is not flying on NASA planes or taking government aides along. O'Keefe and the candidates are paying any costs, Mahone and the GOP campaigns' officials said.

High-ranking presidential appointees often hit the campaign trail for party candidates. A search of news archives and interviews with longtime NASA watchers yielded no examples of former administrator Daniel Goldin politicking so openly or endorsing specific candidates. If Goldin ever did make such an appearance, ''I'm reasonably sure he would have been the first,'' said Howard McCurdy, an American University public affairs professor.

McCurdy, who has written books about NASA, said the practice is becoming more common. Goldin could not be reached for comment.

''It's certainly expanding in the federal government as a whole,'' McCurdy said. ''It's not unusual to see the head of the parks services doing the same thing.''

There are no rules against it as long as government resources are not used and O'Keefe carefully distinguishes his appearances as personal rather than official.

''As long as he's not trying to say four out of five astronauts agree, and I assume he's not, then he's OK,'' said John Pike, a defense and space policy analyst with Virginia-based globalsecurity.org. ''Now if I was a partisan Democrat with an interest in these races, I wouldn't have to work very hard to come up with a cheap shot.''

Mahone said everyone knows O'Keefe is a Republican, and he has rights as an individual to support candidates like anyone else.

''He did not endorse them as the NASA administrator, but as Sean O'Keefe, a Republican and a member of the administration,'' Mahone said. ''He is Sean Q. Citizen.

Apparently, that's not how U.S. Rep. Bob Riley saw it. His campaign material clearly identified ''NASA Administrator Sean O'Keefe'' among the people who've endorsed him.

''Bob Riley is an enlightened leader who understands the critical nature of research investment, and Alabama's economy will prosper under Bob Riley's leadership,'' O'Keefe said at the event, according to a

campaign news release. ''Bob Riley is the right man with the right plan for Alabama.''

The release quoted Riley: ''Having NASA's administrator fly down from Washington to endorse my campaign for governor illustrates the viability of my plan to build a new high-tech research-based economy in Alabama. Administrator O'Keefe's strong endorsement highlights his confidence that Alabama can become a vital part of the new economy if given the right leadership.''

Riley campaign spokesman Dave Acbell said O'Keefe in interested in Riley's plan to develop Alabama's economy like North Carolina's Research Triangle.

The Hunstville Times quoted O'Keefe in Tuesday's edition saying his two appearances were not about bipartisanship but leadership ability. The paper reported that when asked if he would endorse Democrats with similar leadership abilities, O'Keefe said, ''These are the only two opportunities I had to be involved with.''

Feeney's campaign is stressing that O'Keefe is appearing in an ''unofficial capacity.'' But the campaign is billing the event as a ''Space Town Hall Meeting'' at which space industry officials selected by the campaign will get to ask the men about NASA and other space issues.

In debates and other space-related appearances in the district, which includes Kennedy Space Center, Feeney has said his close relationship with O'Keefe and President Bush will help the area.

His press secretary, Kim Stone, made the same case Tuesday. Harry Jacobs, the Democrat candidate running against Feeney, is not invited. Questions asked of Feeney and O'Keefe will be screened by the campaign, she said.

Jacobs' spokeswoman Azalea Candelaria said such events are not unusual and President Bush's aides and appointees have been helping Feeney from the start. She said she hoped O'Keefe and NASA were equally willing to provide the Democrat candidate with access to tours and to face-to-face discussions with the administrator.

''Harry Jacobs has lots more support than the Republicans expected so Tom Feeney rang the alarm and a series of dignitaries are coming down to campaign for him,'' she said. ''When the president of the United States is a Republican and you're not, you can't get that campaign help.''

Neither Mahone nor Feeney's spokeswoman said they knew whether O'Keefe will endorse Feeney.

O'Keefe has long served Republican administrations, including that of President Bush's father. The younger Bush moved O'Keefe over from the Office of Management and Budget to head NASA on orders to clean up the agency's money woes.

Pike said previous NASA administrators have been ''space cadets'' who were at NASA because it was their dream job. O'Keefe is more of a career political appointee, so it's not surprising he is politically active, Pike said.

[From the Orlando Sentinel, Oct. 23, 2002]

NASA CHIEF O'KEEFE TO JOIN FEENEY AT CAMPAIGN STOP IN COCOA BEACH

(By Gwyneth K. Shaw and Sean Mussenden)

NASA chief Sean O'Keefe will campaign with House Speaker Tom Feeney in Cocoa Beach next week—a highly unusual foray into politics for the head of an agency that has tried hard for its 44 years to stay above the partisan fray.

O'Keefe's appearance will occur eight days before voters decide whether to send Feeney or opponent Harry Jacobs to Congress.

District 24, a new district essentially hand-drawn for Feeney, includes parts of Volusia, Orange and Seminole counties. It also encompasses much of northern Brevard County—including Kennedy Space Center, one of NASA's highest-profile sites and the workplace of thousands of constituents.

The Feeney campaign and officials with the National Aeronautics and Space Administration insist the visit Monday is simply a gesture of friendship from O'Keefe and that he is appearing with Feeney as a private citizen, not as the nation's top space policymaker. They also say the trip will not cost taxpayers: O'Keefe is taking the day off, and the campaign is paying for his commercial airline ticket.

O'KEEFE IS A REPUBLICAN

Glenn Mahone, NASA's associate administrator for Public Affairs, pointed out that O'Keefe is a Republican as well as a political appointee named by a Republican president.

''He was invited by Speaker Feeney to come down and attend an event on his own time, and he graciously accepted,'' Mahone said. ''He is going not as NASA administrator, but as a friend of Speaker Feeney.''

On Monday, O'Keefe traveled to Huntsville, Ala.—home of NASA's Marshall Space Flight Center—to endorse U.S. Rep. Bob Riley, R-Ala., who is running for governor.

O'Keefe could not be reached for comment.

Alex Roland, Duke University professor and former NASA historian, called O'Keefe's political visits unprecedented in the annals of the agency. NASA administrators, who often complain about interference from Capitol Hill, typically do not get involved in elections, he said.

Roland said it's ironic that O'Keefe has chosen to step in.

''It's one thing to be politicized, in the sense that the agency represents a set of policies with which some elected official may or may not be in agreement. But it's entirely different to be partisan, because those members of Congress that decide about this can be of either party,'' he said, ''This is a member of a federal agency saying a representative of one party is better able to serve NASA's interests than the representative of another party. That's just none of their business—how the elected representatives get there.''

Bill Allison of the Center for Public Integrity, a Washington-based nonpartisan ethical watchdog group, said the situation is clearly more than just a friendly gathering. ''It's obviously a favor being done to elect a member, a Republican, to Congress,'' he said. ''This is somebody trying to use the prestige of his position to further the political interests of a candidate.

Mahone said that if O'Keefe were invited by other Republicans he knows to campaign with them between now and the elections, he would be open to it if his schedule would allow it.

''Is it unusual for a NASA administrator? Well, we have a new NASA administrator, and this NASA administrator has decided this is something that he wants to do,'' Mahone said.

Jacobs, the Altamonte Springs lawyer challenging Feeney in the Nov. 5 election, said if he wins, O'Keefe's decision to help Feeney would not make it more difficult for him to work with the agency.

''NASA is not Sean O'Keefe and Sean O'Keefe is not NASA,'' Jacobs said. ''NASA will be there before or after Sean O'Keefe.''

Asked whether he thought it was improper of O'Keefe to break with the neutral tradition of his predecessors, Jacobs said, ''That's a question for Sean O'Keefe.''

DISTRICT SPLIT-UP

When Feeney's top lieutenants in the Legislature were carving out District 24, they swiped Kennedy Space Center from a Brevard-based seat now held by U.S. Rep. Dave Weldon, R-Palm Bay. Weldon was able to keep the adjacent Cape Canaveral Air Force Station, site of the military's space operations.

The split, Feeney and others have said, ensured that Central Florida would have two sets of eyes in Washington focused on space.

O'Keefe's visit Monday is Feeney's latest attempt to court the votes of the area's space workers—something he has done with promises to funnel more money into developing the region's space industry and his tours of key public- and private-sector facilities.

Feeney also frequently mentions that his wife, Ellen, works at KSC—reminders that are exceeded only by his frequent descriptions of his ''close'' ties with President Bush and O'Keefe, two people with extraordinary power over NASA's budget. The implication is that Jacobs does not have the connections needed to bring the bacon back to Brevard.

Jacobs, in response, has said that Democratic leaders in Congress have promised him a seat on the committee that oversees NASA's budget.

But Feeney's partisan ties have granted him access that Jacobs has not enjoyed. Although KSC officials invited Jacobs on a tour of NASA facilities, Feeney was a guest of O'Keefe at a shuttle launch earlier this month. Jacobs was invited to the same launch by U.S. Sen. Bill Nelson, D-Fla., but was unable to attend, a Jacobs spokeswoman said.

Ralph Gonzales, Feeney's campaign manager, said the town hall meeting at the Hilton Oceanfront in Cocoa Beach is ''not really a political event.''

The 90-minute meeting, which begins at 4 p.m., is by invitation only, campaign spokeswoman Kim Stone said, with a a host of Republicans and about 100 people from the space community, including Democrats, Republicans and independents, on the list.

Allison said it has become fairly common in recent years to use administration officials, from the President on down, to lend a hand to candidates.

And Feeney has been a beneficiary several times over: In August, Vice President Dick Cheney raised an estimated $250,000 at an Orlando cocktail party. Last month, Veterans Affairs Secretary Anthony Principi and Commerce Secretary Donald Evans campaigned with Feeney.

But O'Keefe's visits do stand out, Allison said.

''It definitely muddies the water,'' he said. ''A NASA administrator is supposed to be running NASA. He's not supposed to be intervening in politics.''

[From Florida Today, Oct. 29, 2002]

PLANE TROUBLE CANCELS NASA TOWN MEETING

(By Kelly Young)

CAPE CANAVERAL.—NASA Administrator Sean O'Keefe canceled plans to attend a Space Coast event with Republican Congressional candidate Tom Feeney after airplane problems in Washington on Monday.

The administrator took some personal time off from his normal duties to fly down to Florida to appear with Feeney, who is running for a District 24 seat in the U.S. House of Representatives. The joint event was billed as a town hall meeting where space industry officials could ask O'Keefe and Feeney questions about NASA.

After O'Keefe was delayed at the airport for about an hour, Feeney's office decided to cancel the event when they realized he would not make it to the Cocoa Beach Hilton by the scheduled start time at 4 p.m.

The cockpit door wouldn't close, said Feeney spokeswoman Kim Stone. O'Keefe

was traveling on a commercial flight to Orlando and paying his own way.

Other passengers got off the plane and boarded another flight. O'Keefe stayed in Washington, said NASA spokesman Glenn Mahone.

O'Keefe probably will not make it back to the Space Coast before elections next Tuesday, but Mahone said a later visit was not unreasonable.

''If invited and if time permits, he'll be more than happy to go down because he thinks very highly of Speaker Feeney,'' Mahone said.

[From Aviation Week & Space Technology, Oct. 28, 2002]

MR. O'KEEFE, STICK TO NASA

Breaking with a long-standing tradition that NASA administrators do not directly participate in partisan politics, Sean O'Keefe has taken to the hustings for Republican candidates and participated in a state party fund-raiser. Last week he turned up in Huntsville to endorse U.S. Rep. Bob Riley in his bid to become governor of Alabama. This week, O'Keefe is scheduled to appear at a political event in Cocoa Beach with Tom Feeney, the speaker of the Florida House of Representatives, who is running in the congressional district that includes Cape Canaveral. O'Keefe will insist he is making these efforts purely as a private citizen. But that is a thin reed to grasp—and one not recognized by the candidates. In a press release, Riley gushed about ''having NASA's administrator fly down from Washington to endorse my campaign for governor.''

Even more disturbing than running out onto the campaign trail, O'Keefe participated in an Alabama Republican party fund-raising dinner in Huntsville in February. It was billed as a tribute to the aerospace and defense industry, but at $250-a-plate, the dinner might more honestly have been labeled an occasion for the Grand Old Party to extract tribute from NASA contractors. Want some face time with Sean? Fork over your check.

Lest anyone accuse us of being naive or disingenuous, we are not ''shocked, shocked'' to learn that O'Keefe is a staunch Republican. Nor do we think there is anything illegal or immoral about a presidential appointee taking part in party affairs, provided it is done on his own time and does not involve government resources.

But that doesn't make these campaign swings and party fund-raisings a good idea. Throughout its history, NASA has depended on bipartisan support. It's support that some have characterized as a mile wide but only an inch deep, so O'Keefe should be careful not to drain much off this reservoir of goodwill. In politics, what goes around comes around. And while none of the Democrats running against the candidates O'Keefe is endorsing is likely to turn against NASA should they win, the administrator should not be surprised if Democrats seek a payback and, in so doing, disrupt his plans for this storied government agency.

Mr. NELSON of Florida. I wish all of the Senate, all of our colleagues in Congress, as well as the American people, Happy Thanksgiving.

I yield the floor.

TRIBUTE TO SENATORS BOB SMITH AND FRED THOMPSON

Mr. NICKLES. Mr. President, one of the privileges we have of serving in this body is we get to work with a lot of outstanding men and women. I wish to mention a couple of those who are very good friends of mine, who will be leaving the service of the Senate, one of which is BOB SMITH. BOB SMITH has served in the Senate for 12 years. I had the pleasure of working with him. He is a respected veteran. He served in Vietnam. I have had the pleasure of knowing BOB SMITH and his wife Mary Jo and their kids. Actually, their kids went to the same school as my children did.

BOB was a high school teacher and a coach from the great State of New Hampshire. He was elected to Congress in 1984, but I did not really get to know BOB SMITH until he was elected to the Senate in 1990. He was reelected in 1996. He served on the Armed Services Committee and was what I would call a very strong defender of our Nation's freedom, a very strong national patriot.

He was always interested in improving our national defense and he did an outstanding job. He was a leader in trying to find out what happened to the men and women serving in the Army, Navy, and Air Force who were missing in action in Vietnam. He showed great courage on a lot of issues that were not popular. He led the fight in trying to ban partial-birth abortion, and my guess is we will pass that in the next Congress, and it will be because of the leadership of BOB SMITH and his courageous effort in initiating that.

On behalf of countless unborn children, on behalf of the men and women serving in the military, on behalf of a nation that is very grateful for patriots who have led the fight in Congress to make our country free, they have always had a friend in Senator BOB SMITH. I congratulate him on his years of service in Congress, both in the House and the Senate, and I wish him and Mary Jo every best wish for their future.

I also wish to make a couple of comments about our soon retiring colleague, Senator FRED THOMPSON. Senator THOMPSON's career was shorter than many of us had hoped. He only served 8 years in the Senate. He was elected in a special election in the State of Tennessee 8 years ago, and then was reelected. He has served this body very ably and very nobly well.

Senator THOMPSON had remarkable achievements in his very short Senate career. After he was in the Senate for only 2 years, he was selected and elected chairman of the Governmental Affairs Committee, a remarkable accomplishment. He served as chairman of the Governmental Affairs Committee at a very interesting time. I was on that committee for a couple of years during the investigation of campaign abuses, primarily focused on the Clinton administration. Chairman THOMPSON conducted those hearings and investigations in a way that deserves great credit. It would have been quite easy to have the hearings evolve into nothing but a partisan allegation, and he did not do that. He conducted the hearings very nobly, in a very respected manner. I was proud to serve with him on that committee. It was an enormous responsibility to be investigating the sitting President. I believe Senator THOMPSON conducted those hearings very well.

He also, in a very short period of time, was made a Member of the Senate Finance Committee. I had the pleasure of serving with him on the Senate Finance Committee, again, a committee where we were able to make some positive changes for the country regarding tax cuts. Senator THOMPSON has proven to be a real friend of taxpayers in enacting probably one of the largest tax cuts in our Nation's history, certainly in the last couple of decades.

He always provided common sense, a sense of humor, as well. Certainly Senator FRED THOMPSON will be missed in the Senate. He is my friend from Tennessee. I wish Senator FRED THOMPSON and his lovely wife, Geri, every success in the future. No doubt he will have many.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

BRINGING SOUTH DAKOTA'S COMPASSION TO AFRICA

Mr. DASCHLE. Mr. President, in August, I had the good fortune to be able to travel with several Senate colleagues to South Africa, Kenya, Botswana, and Nigeria. We wanted to get a clear look at the development challenges in Africa, including health crises, U.S. investment and trade, microenterprise development, education and agriculture.

Even before we left, we got a sense of the common cause between the people of the United States and the people of Africa. Working with the South Dakota Red Cross and Hope Worldwide, citizens from Sioux Falls donated more than 1000 pounds of clothes and toys to South African children who have been affected by the AIDS pandemic. I want to publicly acknowledge the great work of Stephanie Koster, director of HIV/AIDS Services for the Sioux Empire Chapter of the American Red Cross, on this effort.

I was overjoyed to be able to deliver, on behalf of South Dakotans, some glimmer of hope to children who have suffered either because one or both of their parents contracted HIV or because they themselves contracted it. In Soweto we met a young girl, Mary, who gave me an indication of the price children are paying as a result of HIV.

Mary is 12 and the eldest of five children. She recently lost both of her parents due to complications with AIDS.

Not yet a teenager, she is left to fend for herself and her four siblings. Despite this challenge, Mary rose to greet our delegation and recited a poem she had recently written to her parents entitled, ''Parents yesterday, parents today, parents tomorrow.''

I left for that trip convinced that these challenges facing Africa—chief among them the AIDS pandemic—were tragic humanitarian crises. After this trip, I am convinced Africa's challenges, if left unaddressed, could soon become America's national security threats. Failure to more energetically engage this troubled continent, especially in the post-September 11 world, poses risks to both the lives of millions of Africans and our own national security.

That is why I was especially disappointed to learn last Friday morning that the House chose to adjourn without passing two important pieces of legislation that could have energized our efforts in Africa.

S. 3032, a bipartisan bill to expand U.S. efforts to support micro-enterprise and which passed the Senate unanimously, was a casualty of the House's rush to leave town. We all know that micro-enterprises are a lifeline for the poorest of the poor—and have proven to be a pivotal tool that has allowed women, especially, to provide for their families. Across Africa, we saw women fighting for their families and raising their children on money they earned at small shops. But for every woman who was able to make ends meet because of her micro-enterprise, there are thousands of others who need a helping hand to get started. And by helping hand I don't mean a costly program. The typical micro-enterprise loan is $50. By failing to pass S. 3032, the House missed the opportunity to provide that helping hand and opportunity.

The House also left town without passing a Global HIV/AIDS bill. In July, the Senate unanimously passed H.R. 2069, which authorized the resources that we all know will be required in the battle against HIV/AIDS. We were told by the House that the price tag on that bill was too high, and that they would pass it if we reduced the funding level. So we made clear to the House that we were ready to cut back the amounts authorized for this battle—vastly if they insisted—to remove the obstacles to some form of progress on this vital issue. Apparently, any amount at all was too much for the House leadership, because the House just could not get to yes on this vital issue.

I am particularly disappointed because the House's refusal to act ends any hope of enacting the Family Partnership Survival Act. This program is very simple. It authorizes $75 million over the next 2 years to treat HIV-positive mothers and their partners. By keeping mothers and fathers alive so that they can help raise their children, it is, in effect, an orphan-prevention program.

I remember vividly arriving at an HIV Voluntary Counseling and Testing Center in Kibera, the largest slum in Nairobi, Kenya. We were greeted by mothers, each of whom was HIV-positive. Yet they greeted us, dancing and singing a song whose lyrics were:

We are so blessed, because we know our status.

They felt blessed to have learned they were HIV-positive because, by knowing their status, they could take steps to protect their partners. And they could receive counseling and nutritional supplements to keep themselves healthy in the face of this insidious virus.

It will be an even more joyful day when these women will feel blessed not only because they know their status, but also because they have access to treatment and drugs that will keep them alive. The House could have hastened that day. It did not. And so, Mr. President, I will come back at this issue until it is law.

The President is scheduled to travel to Africa in January. As I was able to carry with me on my trip—to young Mary and others—some of the compassion of South Dakota, I wish the President could have been able to bring with him two new laws expressing the compassion of the United States.

As our dear colleague Paul Wellstone used to say, ''time is not neutral.'' We can no longer afford to ignore Africa's challenges, because before long they will become our challenges. The House missed its chance to help confront those challenges in the 107th Congress. I hope it will help us address them in the next.

HONORING THE RETIRING SENATORS OF THE 107TH CONGRESS

Mr. DASCHLE. Mr. President, one of the advantages of a lame duck session is it gives us a little longer before we have to say good-bye to departing colleagues. Quite a few members of our Senate family will not be with us when the 108th Congress begins in January.

From the moment we first step foot on this floor, most of us are powerfully aware that we are links in an extraordinary chain of history. When we open our desks, we see carved or penned in them the names of those who served in this body before us.

Over in the historic Old Senate Chamber, we can almost hear the voices Daniel Webster, Henry Clay and John Calhoun. Here in this Chamber, we walk in the footsteps on such leaders as leaders like Lyndon Johnson, Mike Mansfield and Howard Baker.

Once you have served here, you never leave here entirely. Every Senator who has ever served here remains here in some form.

That connection is not only carved in our desks. It is carried in those with whom we serve.

Think about this: Senator THURMOND entered the Senate in 1954.

He served with Walter George, who entered in 1922. Walter George served with Henry Cabot Lodge, who entered in 1893, who served with John Sherman, who entered in 1861, who served with Hannibal Hamlin, who entered in 1848, who served with William King, who entered in 1819, who served with Rufus King, who re-entered in 1813, who served with Joseph Anderson, who entered in 1797, who served with John Brown, who entered in 1792, who served with Robert Morris.

Robert Morris entered in 1789—and signed both the United States Constitution and the Declaration of Independence.

Through just ten people, we are directly connected to the two documents that this Nation is founded upon—two documents that all of these departing Members have advanced and defended throughout their careers.

We are able to see those linkages because of the masterful historical work of another of our colleagues, Senator BYRD, whose birthday, we have noted, is today.

Every departing Senator has added pages to the history of this Senate and this Nation. Some have provided whole chapters. And, in a couple of cases, whole volumes of history.

I would like to take a moment and acknowledge our departing Senators.

STROM THURMOND is the longest serving Senator in our Nation's history. His career has spanned the arc of the last century, and his service has helped usher in this one.

He has gone from Democrat, to Dixiecrat, to Republican. His party affiliation may have changed, and his position on some issues may have changed, but his service to the people of South Carolina has been unwavering. He is truly the Cal Ripken of the Senate.

JESSE HELMS began his first term in the Senate in January 1973. Senator HELMS is a giant—not only on the Senate stage, but also on the world stage. And, with his budding friendship with the rock star, Bono, in retirement we may yet see him on a concert stage. It has been said that leaders face a choice between being loved or feared—Senator HELMS is both.

JESSE and Dot have been indispensable members of the Senate family, and we will miss them.

PHIL GRAMM has been at the center of every major economic and domestic policy battle in my time here. And even though I have frequently disagreed with him, I have always learned from him. Virtually singlehandedly, he has changed America's economic policy—twice. Like all things Texan, he is larger than life, and he leaves some big shoes to fill.

FRANK MURKOWSKI is departing the Senate not because the people of Alaska don't want him in Washington, but because they do want him closer to home. That makes sense, because he has been a tireless advocate for his State. I have no doubt that he will continue to be, whether it is shaping policy at home, or twisting the arms of his former colleagues here. Congratulations, Governor.

BOB SMITH once said, ''I hope that they'll put in my obituary that I was a good legislator—that I did my job for the people of New Hampshire. I hope they put that whole picture in.''

Well, we don't have time to capture the whole picture—and I know that there are more chapters to be written in BOB SMITH's political life—but for nearly 20 years in the Congress, he has been a good legislator, and he has certainly done his job for the people of New Hampshire.

We may not be seeing FRED THOMPSON on C–SPAN anymore, but we will certainly be seeing him on TV. And should he ever take a role that involves combating government fraud, waste, and mismanagement, it will be a case of life imitating art—because that is just one of them many things he has done so well here in the Senate.

From the Arkansas State house, to the House, to the Senate, TIM HUTCHINSON has brought his keen understanding of both education and small business to bear for the people of Arkansas—and that is something I am certain he will continue to do in the days and years ahead.

Let me also say a word to Senator BARKLEY. I recently saw an interview in which Senator BARKELY said he would bring some bottled water from Minnesota so as not to catch Potomac Fever. I think you probably need a slightly longer exposure to catch it—but we thank him for his service at this time of transition for Minnesota and for the Senate.

I also want to say a few words about the departing members of the Democratic Caucus:

There is no tougher fighter for this party or its values than BOB TORRICELLI. There is no more loyal ally, there is no more passionate Senator. He has lived a life devoted to public service.

I have often heard Senator TORRICELLI talk about how, growing up in his house, ''a person's value was measured by what they did for other people.'' By that measure—or by any measure—BOB TORRICELLI has been an invaluable member of the Senate.

BOB TORRICELLI has always put others first. He helped recruit and elect the Senators who would ultimately put Democrats in the majority—embracing a thankless task, and excelling beyond all expectations. In an act of political courage, he stepped down when he felt his own candidacy would threaten that majority he worked so hard to build.

In the legislative arena, he has worked to protect Americans from gun violence—to protect women's rights—and workers' rights—and civil rights—and he has sought to provide tax relief for working families.

And in the wake of the tragic events of 9/11, BOB TORRICELLI took on the cause of rebuilding—helping New York rebuild—helping the region rebuild—and helping the victims and the survivors begin the process of rebuilding their lives.

I will miss BOB TORRICELLI's eloquent, passionate, articulate voice—and I thank him for his service.

I am sure these last few weeks have been bittersweet for MAX CLELAND. He lost an election—but he did get engaged the next day.

It shows he has his priorities straight.

But then, he always has had his priorities right. After Vietnam, just about anyone else would have said: I've given enough for this country. Not MAX CLELAND. When some of the people whose job it was to care for him lost hope, saying that the very act of putting on a shirt would tire him for the whole day—MAX willed himself to health. And then he set out to help others.

In 1970, at age 28, he became Georgia's youngest State Senator ever. In 1977, he became President Carter's outspoken chief of Veterans Affairs. After that, he served for 13 years as Georgia's Secretary of State.

In every job, he worked to make life better for Georgians, for veterans, and for those who needed the government to work for them.

And then—as if he hadn't given enough of his time and energy to others—he volunteered for another tour of duty—this time as a U.S. Senator.

In the Senate, MAX's personal experience gave him a voice in the issues of war and peace, the preparedness of our armed forces, and the way in which we treat those whose service is done.

Though MAX knows the sacrifices service sometimes demands, he didn't limit his focus to those who have sacrificed. He dedicated himself to the creation of an America worthy of that sacrifice: a society of justice, freedom, compassion and strength.

In the wake of September 11, and the anthrax attacks here on my office, MAX was instrumental in passing the legislation that better secures our ports and airports, better prepares our armed forces, and better equips the CDC to confront the new challenges of bioterrorism.

The things he has done may have been important for Georgia, but they were vital for America—and history will bear that out.

From his service in Vietnam, to the VA, to the U.S. Senate, MAX has exhibited a rare, almost singular kind of patriotism. He has taken his service seriously, but—as anyone who has been a subject of one of his jokes, or has witnessed him telling jokes about himself can tell you—he has never taken himself too seriously.

It has been reported that nearly every day, someone calls MAX's office, just to thank him for being MAX—for overcoming what he has overcome to become a leader.

Today, I want to thank MAX CLELAND for being MAX—for being a great Senator, a personal inspiration, and a dear friend, one who I will miss tremendously here in the Senate.

Tragedy carried JEAN CARNAHAN into the Senate, but she refused to let it define her once she arrived here.

I saw that most vividly last October 16, the first anniversary of the plane crash that killed her husband, her son Randy, and their aid Chris Sifford.

Jean had visited their graves over the weekend—and then returned to Washington so she could debate and vote on a foreign operations bill that strengthened our efforts to track terrorists, to strengthen the coalition against terrorism, and to feed and shelter Afghanistan's refugees.

That was the same day a letter containing anthrax was opened in my office, forcing her to continue her work—as a freshman Senator—without an office.

Compared to the adversity she has overcome, that was nothing. From the day she arrived, JEAN CARNAHAN brought with her to the Senate the hopes and concerns of millions of Missouri's families. She has a unique ability to find compromise, but there was one thing she never compromised—she never compromised the interests of hardworking Missourians.

Whether it was working for tax relief, prescription drug coverage, a National Patients' Bill of Rights that would be as strong as Missouri's, or help for laid-off workers—her elegant words and depth of understanding commanded attention, and more often than not, got something done.

JEAN sits in Harry Truman's seat—and I think that is fitting, because she occupied it with strength, dignity, plain-spoken independence.

She may not have served long, but she served this Nation and the people of Missouri well, and she served at one of the most turbulent and historic times in the life of our Nation.

I remember once hearing Government CARNAHAN say, ''Most of the time, you just get to sit in the boat, but every now and then you get to row the boat and direct it.''

In a short time, JEAN CARNAHAN demonstrated that she belongs at the helm, and I, for one, am going to miss having her there.

I sometime think MAX CLELAND and JEAN CARNAHAN possess as much internal strength and grace as the rest of the Senate combined. They are extraordinary people, exceptional public servants. Each in his or her way, is an inspiration.

They served their Nation faithfully, and at great personal cost.

I must say, it was disturbing and disheartening to see how their records and characters were misrepresented in this campaign. They deserved far better. Voters in Georgia and Missouri deserved far better.

I hope that through the clarity of history, the people of their States see these two great patriots for what they are, and how well they served.

Finally, let me mention a colleague who left us too soon—Paul Wellstone. It was a joy and an honor to have him in the Senate.

Paul said that he came here to rattle some cages—and sometimes he rattled

mine. But he always told the truth. And he always remembered who he was speaking for. As I have said before, he was the soul of the Senate. He had that rarest and most difficult kind of bravery: moral courage. He always stood for what he believed in, even if it meant standing alone. And he fought in a way that ennobled his causes and inspired us all. And I will miss him dearly.

To hear each of these leaders call me ''leader'' has been one of the greatest honors of my life—and I will be forever grateful to you.

In 1998, Senator LOTT inaugurated the ''Leader's Lecture Series,'' featuring speakers who had ''enrich[ed] the memory of the Senate by sharing with us the wisdom and insights that can be gained only by a lifetime of service.''

Without exception, every speaker—including those who went on to serve as Vice President, even President of the United States—has recalled his years in the Senate as the best and happiest of his career.

Given the historic events that shaped this Congress, I don't know that any of us will look back on these 2 years as the happiest of our careers—although there have been moments of great joy for all of us.

But I hope we will look back on these 2 years and remember times when we were able to work together to help lead America through one of our Nation's darkest chapters.

The private times we have all shared together over those months have forged bonds that make us more than just colleagues. In keeping with the Senate's best traditions, we have become friends, and family.

I regret that we weren't always able to maintain that unity—especially this year—that I had hoped we might have. I hope we can recapture it in the days ahead.

To all of my departing colleagues, it is an honor to be connected to history—that short thread that ties us to the Founders of this great Nation. But as a much of an honor as it is to be connected to history, it has been a privilege to be connected to each of you.

THANKING STAFF

Senators may be the most visible people here, but there are also many people who make the Senate work.

I want to thank all of those who make the Senate run: our staff here on the floor, the reporters, the doorkeepers, the police officers, the pages, the tour guides, the librarians, the employees of the Architect of the Capitol, our Chaplain and his staff—and the list goes on.

Our clerks, those who are with us today, our Parliamentarian—to all of them, to each of them, let me express my heartfelt thank you.

They deserve our thanks, but there are two people in particular who I also want to thank: Jeri Thomson, the Secretary of the Senate, and Al Lenhardt, our Sergeant at Arms—both of whom I had the privilege, as majority leader, to nominate.

I have heard them called our 101st and 102nd Senators, and they truly have been indispensable to me, and to the Senate family.

For Al Lenhardt, the fact that he was in place in this job 6 days before September 11 is further proof for me that God watches over this body. Through 9/11, anthrax, he helped the Senate to handle unprecedented challenges, and prepare for a new generation of threats.

For Jeri Thomson, no challenge was too big, no detail too small, the consummate professional, unflappable. She kept the Senate functioning in the aftermath of anthrax. Without her, we would not have broken ground on the Visitors Center. She made the Senate work better—not only for the Senators, but for the people we serve.

She has been by my side my entire time as leader. She has become a dear personal friend. And I will miss her, as we all will.

This has been an historic Congress. Between September 11 and anthrax, we have lived through two of the greatest crises the Capitol has not seen since Civil War soldiers were camped out in this Chamber 140 years ago.

The dedication and professionalism of Jeri Thomson, Al Lenhardt, and all of those who work here helped us not only survive those who work here helped us not only survive those crises, but to work through them, and to continue to serve the American people.

I thank them, the Senate thanks them, and I feel confident that history will record them as able servants who deserve our thanks for generations to come. And that, too, is a part of the recognition they deserve.

I yield the floor.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Pennsylvania.

TRIBUTE TO THE SENATE AND TO DEPARTING SENATORS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about the conclusion of our Senate session. We finished our last vote late last night, and after today's session, we will be in adjournment until January.

The Senate, unlike the House of Representatives, is a continuous body. Only one-third of our number stands for election each year, unlike the House of Representatives, where there is a new House elected every two years. So we are continuous.

The Senate has been called the world's greatest deliberative body. Sometimes I doubt that acclamation, but sometimes we measure up to it, and I think we did yesterday in passing homeland security and the terrorism insurance bill.

There is an air of collegiality and an air of civility, which is the backbone of the Senate. There are only 100 of us. We get to know each other very well. We do that in our committee meetings. We do that in our travels. We do that on the floor of the Senate. A good occasion for that is when we have consecutive votes, back to back to back to back, as we had last night, four votes. This gives us a chance to avoid playing telephone tag, which occurs frequently, and to see our colleagues on the floor and to talk to them.

We will be missing some really outstanding Senators as we conclude the 107th Congress. There is a great deal that could be said about each of them from my own personal experiences.

Senator THURMOND is truly a living legend. When I first saw him chair the Judiciary Committee, he asked a nominee if the nominee promised to be courteous. I questioned whether that was a very good inquiry. What else could the nominee say? The nominee said, ''Yes.'' Then, Senator THURMOND said, ''the more power the person has, the more courteous a person should be.''

Senator HELMS finished six terms in the Senate, elected in 1972. One of my fondest recollections of Senator HELMS is relative to the pornography bill, which he wrote, and which was declared unconstitutional. After being consulted by him, I gave him a hand in writing a bill which was constitutional.

In order of seniority on our departing colleagues, FRANK MURKOWSKI came to the Senate with 15 other Senators, a total of 16. They called us the ''Sweet 16,'' elected in 1980. Now there are but three: Senator GRASSLEY, Senator NICKLES, and myself.

Senator MURKOWSKI goes on to be Governor of Alaska, where he can maintain his own schedule and be an executive without relying on 50 other Senators to carry the day.

PHIL GRAMM is truly an extraordinary Senator. Nobody in the Senate is smarter than PHIL GRAMM. Perhaps nobody in the history of the Senate was smarter than PHIL GRAMM. One of his memorable moments was when we were debating how to proceed on the impeachment proceedings of President Clinton. There was a lot of disagreement. Suddenly, like a bolt of lightning, PHIL GRAMM and TED KENNEDY agreed. What were the other 98 of us to do? If those two men could agree, it must be an appropriate solution.

BOB SMITH, with distinguished service in the House and distinguished service in the Senate, was perhaps a little too candid sometimes as he took the floor in his quest for the Republican nomination. A little critical of the party, but he was always courageous and always straightforward. I learned a lot from Senator SMITH in our caucuses on impeachment. I had not known the depth of his knowledge as a high school teacher, but he was an extraordinary Senator and made a great contribution.

Senator FRED THOMPSON, a super star. When he came to the Senate, he took over the chairmanship of a major committee in record time and presided

over very important hearings on campaign finance reform. What is not really known about FRED is that he is as lighthearted and as good at repartee as he is at the law, which is a very high degree.

TIM HUTCHINSON served on the Committee on Veterans' Affairs with me, very devoted, very serious, very sincere. He had the misfortune to lose an election or else, I think, he would have had a very long and illustrious career in the Senate. Yet, he may have a long, illustrious career in the Senate. He will live to fight another day.

BOB TORRICELLI, always on top of the issues, very important to the Judiciary Committee where we served together. He was the ranking Democrat when I chaired the Subcommittee on Department of Justice Oversight; always judicious, always fair and always a great contributor.

MAX CLELAND, a real hero, a man of great courage. To see MAX function in the Senate or in life, with the tremendous injuries he suffered in Vietnam when he fell on a hand grenade, is truly inspirational. We will all miss MAX CLELAND.

JEAN CARNAHAN. Senator JEAN CARNAHAN picked up the mantle of her husband, Governor Mel Carnahan, and made a real contribution in her two years in the Senate.

Paul Wellstone has been the subject of tribute and a man who will be truly missed. His work on mental health parity with physical ailments will be Paul Wellstone's real legacy. I had an opportunity to travel to Minneapolis to pay tribute to the Wellstones' two sons. The tragedy with Paul and Sheila and their daughter is truly the saddest occasion of the past Congress.

Beyond those who will no longer be with us in the 108th Congress, just a moment to pay tribute to two of our colleagues who are having birthdays today. Senator BYRD, I know his age but I shall not repeat it. That is up to him to say, however, he finishes his 50th year in the Congress of the United States. He was elected to the House of Representatives in 1952 and the Senate in 1958. I am glad to be able to have a few minutes on the floor of the Senate to make a few comments. It is a little hard to be recognized when Senator BYRD is in the Chamber.

I heard on National Public Radio, so the world knows, that JOE BIDEN is 60 today. He was just elected to a sixth term, which is really remarkable.

It is a great privilege to be a Member of the Senate and to have had the opportunity to work with these men and women and to work for the people of Pennsylvania, my State, and for the people of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I join my colleague from Pennsylvania and other colleagues who have recently been on the floor today, first in expressing happy birthday wishes to our esteemed colleague from West Virginia, Senator ROBERT BYRD. I just expressed those birthday wishes to him personally a few moments ago on this, as I told him, the 35th anniversary of his 50th birthday. Because in so many ways Senator BYRD has been a real pillar of strength in the Senate, standing up for the rights and privileges of the Senate, standing up for the demarcation set down by our Founding Fathers between the legislative branch and the executive branch of the Government.

When I say 35th anniversary of his 50th birthday, I mean that because, quite frankly, Senator BYRD does not appear in any way to be one day over the age of 50. So I wish him the best on his birthday and wish him to maintain strength and good health to continue the leadership he has shown in the Senate for the last almost 30 some years.

I also pay my respects to Senators who are leaving: Senator THURMOND, Senator HELMS, Senator BOB SMITH, Senator FRED THOMPSON, Senator TIM HUTCHINSON on the Republican side. Especially I pay my respects to Senator HUTCHINSON for his great work on the farm bill. We got a really good farm bill out this year. He was a very diligent and good member of the Senate Agriculture Committee, and we worked very hard together in a bipartisan fashion to report out a very good farm bill for farmers and for rural America. I especially thank Senator HUTCHINSON for his efforts in getting that farm bill through.

I also pay my respects to Senator HELMS. Senator HELMS was the chairman of the Agriculture Committee when I first came to the Senate. We formed a friendship at that time that has endured, although I am sure it is clear to anyone watching or listening that Senator HELMS and I have probably not agreed too much on too many things, but nonetheless, we have maintained a very close friendship and respect for one another through all the years. I wish him the best in his retirement, and many happy years ahead for our distinguished colleague, Senator HELMS.

For those Senators on this side, Senator BOB TORRICELLI, again, I thank him for all the work he has done, first as the Chair of our Democratic Senate Campaign Committee that ensured we had the wherewithal in the election before last to win many elections and maintain our strength in the Senate. I wish Bob the best in his future endeavors.

For Senator JEAN CARNAHAN, again, I thank her for her 2 years of service here under very trying circumstances. I was a close friend of her deceased husband, Governor Mel Carnahan, who, as we know, was lost in a tragic plane crash a little over 2 years ago, right before the election, along with her son Randy. Senator CARNAHAN did a remarkably good job for Missouri and the Nation during these 2 years. She was diligent, hard working, and fought very hard for Missouri and her constituents. Again, I wish her the best in her future endeavors, and her family, to her son Tom and daughter Robin whom I have worked with in the past.

I also pay my respects to Senator MAX CLELAND. MAX and I do go back a long way. I first met MAX when he was here in the Senate on the Senate Veterans' Affairs Committee. He became President Carter's Secretary of Veterans Affairs when I was in the House of Representatives. Being a veteran and being a member of the veterans sort of group we had in the House of Representatives at that time, we couldn't have asked for a better champion for veterans issues at that time in the late 1970s than we had in MAX CLELAND. It was Senator CLELAND who, as Secretary of Veterans Affairs, set up the vets centers around the United States. There are now more than 200 of them.

In every case I have been privileged to see a vets center, they are just sort of the heart and soul of outreach and a place for veterans to get help, if they need it, and a place where veterans can make sure they have access to the outlets of the Federal Government for job training and that type of thing, for education.

That is his lasting legacy all over the United States. Of course, it has been repeated time and again about his great heroism in the Vietnam war, for which he received a Silver Star. I will miss him as a very close friend for all these years, and the country has lost the service of a truly remarkable, courageous, compassionate, brave American, MAX CLELAND.

Senator DEAN BARKLEY, our second Independent, came here from Minnesota under trying circumstances. I had not known him before, but over the last couple of weeks I got to know him, and I have a great deal of respect for him for what he has done here. Very few people serve for only a couple of weeks in the Senate and actually get a bill passed. Senator BARKLEY got his bill through, and I congratulate him for that. I thank him for his service here and, again, wish him the best and hope he will stay involved in public affairs, both in Minnesota and nationally.

TRIBUTE TO SENATOR PAUL WELLSTONE

Lastly, I want to pay my respects to our departed friend, Senator Paul Wellstone. I did not want this session to end without saying something for the RECORD about the large gap left in the Senate by the untimely death of PAUL WELLSTONE.

Paul was my closest friend in the Senate. But in truth, Paul Wellstone was one of those rare souls who so many saw as their best friend. He had a powerful authenticity that made a miner on the Iron Range know that he was as important to Paul as the President of the United States.

Paul never had to proclaim his decency; it shone forth every day in great acts of political courage and small acts

of human kindness. He never had to ever say he cared. It just showed in how he greeted the elevator operators and the policemen outside. Sometimes we would walk over to the Hart Building and talked to workers on the ground. Everyone was a friend of Paul's and he always had a smile and a handshake for everyone.

We saw this in him every day, in dozens of ways, from that hand over there at his desk relentlessly chopping the air as he stood on the floor speaking for those who otherwise had no voice, to the countless people he reached out to help across his State and across the Nation.

The hard-working folks he cared about most didn't have lobbyists or influence, but they had Paul Wellstone, and he truly was their best friend. Everyone called him Paul—not just his colleagues but staff and citizens alike. He would not have it any other way. No one ever wore the title of ''Senator'' better—or used it less.

In the days since that terrible tragedy, we have seen an outpouring of grief and admiration every bit as authentic as Paul was himself. It is a tribute to him and to the yearning I believe in this country for a politics that can truly be the noble profession of putting principle above the latest polls. Paul truly was the soul of the Senate. Sometimes he cast votes that even some of his friends disagreed with—on war or on welfare. But when he did, he was the mirror in which we, his colleagues, looked at ourselves and searched our own hearts to ask whether or not we were doing the right thing.

So we say thank you to the political science professor whose measure of truth was never in political theory, but the impact that his decisions and ours had on real people.

Since he left us, Paul's friends and admirers have focused on Paul Wellstone as the lone man in the arena fighting a battle against injustice. Paul Wellstone was that. But he was also a doer who left behind a real record of accomplishment in the Senate.

Paul was one of the Senate's leading voices for education, pushing for investments in early education, for class size reduction, and for student financial aid so working and middle-class families could afford to send their kids through college. And we worked together tirelessly to increase the Federal Government's investment in special education, so students with disabilities could get the education that is their right.

Paul Wellstone worked alongside Senator DEWINE to pass sweeping reforms of our Nation's job training, adult education, and vocational rehabilitation programs. By streamlining often confusing and overlapping programs and paperwork, Paul Wellstone's efforts are helping ensure that America's workers get the training and help they need to stay on the job or to find new employment.

As a warrior for peace, Paul understood this Nation's duty to the men and women who bear the scars of war. Paul authored, fought for, and helped enact legislation to improve the living conditions of hundreds of thousands of American veterans. This law ensures that homeless veterans who suffer with alcoholism and drug addiction have ready access to the treatment and care they need and deserve.

Paul also made a courageous push for a policy whose time had passed and should be done now, and that is mental health parity. Along with Senator DOMENICI, Paul authored the Mental Health Parity Act of 1996, a groundbreaking proposal ensuring health care coverage of mental illnesses be provided on par with coverage of other medical illnesses. In the final year of his life, he continued to push for the expansion of mental health coverage, again teaming with Senator DOMENICI to introduce the bipartisan Mental Health Equitable Treatment Act, which could expand parity for mental health insurance.

I hope that in the next Congress, the Senate and the House will enact what I hope will be deemed the Paul Wellstone Mental Health Parity Act, to finally put mental health on the same plain, the same level as all other medical illnesses.

Paul once said, ''Politics is about what we create by what we do, what we hope for, and what we dare to imagine.''

Paul didn't just dare to imagine a better America—he helped to build it. Sure, he was willing to fight the lonely fight when he thought it was right and proper, but he also knew how to turn idealism and ideas, ideas into action to improve people's lives—investing in education, expanding health care, fighting killer diseases such as Parkinson's, helping homeless veterans, and veterans exposed to radiation.

Because of what he did, family farmers will have a better future. Because of what he demanded, mental illness will be soon treated equally in our health care system. Because of who he married—his wife Sheila—and because of her passionate charge, more women and children will find safe harbor from the scourge of domestic violence.

Paul Wellstone left us at a time when America needs him the most. He believed, as his champion and mentor Hubert Humphrey once said, that ''the moral test of Government is how that Government treats those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the disabled, and the needy.''

Those words, as much as anything else, form the focus of my public life and, I hope, the true path of my political party. It is a course in conscience that Paul Wellstone tried to set for his party and his country.

But it now falls to each of us, those in the land of the living, to continue Paul Wellstone's journey for justice, to continue to speak out, to stand up and fight the good fight, and to lead our Nation with courage and conviction. The times demand it. In the coming days, may we all have the courage of our friend, Paul Wellstone.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WORKING WITH SENATORS DON NICKLES AND MITCH MCCONNELL

Mr. REID. Mr. President, when I first was elected to the House of Representatives, I knew a man by the name of Cliff Young who had also served in the House of Representatives for two or three terms, ran for the Senate, was defeated, and then served for many years in the Nevada State Senate, and then served in the supreme court, where he became the chief justice of the Nevada Supreme Court—that is also an elective job. At the end of this year, he will retire. He is a wonderful man, a Republican, who rendered great service to the State of Nevada and to the country. The reason I mention his name, however, is that he said: HARRY, you are going to Washington to serve in the House. Make sure you do a couple of things. One is use the gym. You need to get some exercise. Also, make sure you do nothing to change the seniority system. The seniority system is the only thing that gives that body, the House of Representatives, stability.

He certainly spoke volumes when he said that because it is absolutely true. The seniority system in the House has some faults, but at least it gives that body stability. One of the things the Gingrich-led Congress did to hurt the House was change the seniority system.

I mention that because there is going to be a change in the Senate. MITCH MCCONNELL is going to take over for DON NICKLES as the assistant Republican leader, their whip. That is being brought about as a result of the fact that they do not follow the seniority system there and have term limits on their jobs, except for the leader of the Republicans. That is a rule they have, and even though I think it is wrong and I think they are making a mistake doing it, that is the way it is.

Having said that, I want to acknowledge publicly how I have enjoyed serving with DON NICKLES as my counterpart on the minority side. DON NICKLES and I have worked together since I came to the Senate. We were on the Appropriations Committee together. We served as chairman and ranking member on the Legislative Branch. We

did a lot of work together on the Interior Appropriations Committee. I always found him to be easy to work with, someone who is very set in his views but would tell you how he felt. That has not changed in all of the years I have known him.

The reason I admire and respect DON NICKLES is I do not agree with a number of things he wants to do politically and tries to do politically, but he believes in those things. These are ideological feelings he has, and I have great respect for people who do things based on ideology. So I am going to miss DON NICKLES in this capacity, and I want him to know that I have great admiration and respect for him, and I consider the friendship we have developed over the years as something that is very important to me.

I say to MITCH MCCONNELL, who is going to take his place, that I welcome him. He will be assistant to the Republican leader, Senator LOTT, and will do a good job for him, but also for the Republicans generally. I have told him this personally and I say publicly, anything I can do to help the transition to make it more smooth, I will be happy to do that.

MITCH MCCONNELL is someone whom I have gotten to know. MITCH MCCONNELL has held different leadership positions on the other side, including having been the campaign chairman, where he did an excellent job. He served in other capacities with the Republicans. A lot of times I disagree with what MITCH MCCONNELL does politically, but he never hides his feelings from anybody. Campaign finance reform: There was a train moving down the track, and he was the only one brave enough to stand in front of it, and he never left. I have admiration for his stand on that issue, even though I disagree with what he wanted to try to do.

So I will miss DON NICKLES. I welcome Senator MCCONNELL. I have great respect for his abilities and look forward to working with him.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

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

Thereupon, the Senate, at 4:17 p.m., recessed until 5:40 p.m. and reassembled when called to order by the Presiding Officer (Mr. DAYTON).

UNEMPLOYMENT INSURANCE EXTENSION

Mr. DASCHLE. Mr. President, I come to the floor to make one final plea with regard to unemployment compensation. It is important to remember what the Senate has done as we reflect back over the last many months in our efforts to deal with this issue.

We offered an amendment that was sponsored by our departed, distinguished Senator Paul Wellstone. That legislation was the same as legislation that Congress passed when the first President Bush was in office in the early 1990s. We tried to pass it. Unfortunately, it was blocked by our Republican colleagues on eight different occasions.

Again, let me repeat. That was what we had in place when the first Bush administration was in office. Unemployment benefits that were actually extended three times when President Bush Sr. was in office.

The Senate then took up a bipartisan compromise to extend benefits for just 3 months. Republicans and Democrats got together. On the 14th of November we passed a simple extension for 3 months. Once again, the House refused to act.

So we took what was originally acceptable to the senior Bush administration, and that didn't work with the House. Then we passed what worked on both sides of the aisle here in the Senate for a simple 3-month extension, and that too didn't work for the House.

Over the course of the last 48 hours, we have been involved with House leadership, asking if there was any possible compromise, any way that we could extend it for 2 months, 1 month, any way that somehow we could send a message to the almost one million people who will lose their benefits on the 28th of December and to the 95,000 people who will lose them each week following the 28th of December. Hundreds of thousands of people, ironically, right over the Christmas holidays will lose any opportunity to provide for their familiar with unemployment insurance.

I must say I am disappointed to announce to my colleagues that once again our House Republicans said no.

I have to say that I think it is a story right out of Charles Dickens. I can't imagine that under these circumstances, even for a month, they couldn't see fit to act. Ebenezer Scrooge had a last-minute conversion. I hope that our Republican colleagues in the House will do so.

They are coming back on Friday and the Senate's bipartisan 3-month extension is waiting. I would urge the President—I ask President Bush—to call on the House Republican leadership to recognize the consequences of their inaction and pass our bipartisan unemployment extension.

We were, as I said, prepared to take whatever action necessary. We would have stayed in session if we had to to accommodate something that the House could have done to extend those benefits for a couple of months, which would have allowed us to work out something for a longer period of time.

That is my plea, my hope, recognizing, as I say, that hundreds of thousands of people will be affected at the worst possible time of the year.

I again renew that request. I urge the President to act. I urge our House colleagues to reconsider.

Mr. FITZGERALD. Mr. President, I want to call upon the House to act on the unemployment insurance compensation relief that we have passed in this body. I have been a cosponsor with other Members on this side of the aisle, as well as Senators CLINTON and SARBANES on the Democratic side.

I think we need to pass the legislation over in the House which has already cleared this body. If we do not, benefits are going to fall off the cliff on December 28, as the majority leader stated. I hope the House will take up that important legislation and at least extend the benefits until we can come back and deal in the new year with this issue.

PRESIDENTIAL AUTHORITY TO INTRODUCE ARMED FORCES INTO IRAQ

Mr. BYRD. Mr. President, earlier this year, I wrote to a number of constitutional scholars advising them that I was concerned about reports that our Nation was coming closer to war with Iraq. I asked a number of esteemed academics their opinion as to whether they believed that the Bush administration had the authority, consistent with the U.S. Constitution, to introduce U.S. Armed Forces into Iraq to remove Saddam Hussein from power.

All of the scholars I consulted responded by stating that, under current circumstances, the President did not have such authority. Several of the professors I consulted, namely Peter Raven-Hansen of George Washington University Law School, and Philip Trimble, Professor Emeritus of the UCLA School of Law, were kind enough to call and discuss their views on this subject with my office. I would like to take this opportunity to thank them for taking the time to provide me with their thoughts on this matter.

While those professors contacted me by phone, others provided written responses. I have previously submitted for the RECORD the responses of professors Michael Glennon of the Fletcher School of Law and Diplomacy at Tufts, Jane Stromseth of Georgetown University Law Center, Laurence Tribe of Harvard Law School, and William Van Alstyne of the Duke University School of Law.

Now, I would like to submit four additional responses I received on this same subject from professors Jules Lobel of the University of Pittsburgh School of Law, Thomas M. Franck of the New York University School of Law, Bruce Ackerman of Yale Law School, and Larry Sabato of the University of Virginia. I found their analyses of this important issue to be exceptionally learned and informative. For this reason, I ask unanimous consent that their responses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF PITTSBURGH
SCHOOL OF LAW

Pittsburgh, Pennsylvania, August 2, 2002.

Senator ROBERT C. BYRD,
U.S. Senate, Committee on Appropriations, Washington, DC.

DEAR SENATOR BYRD: Thank you for your letter of July 22, 2002 requesting my analysis of President Bush's constitutional and/or legislative authority to introduce U.S. Armed Forces into Iraq for the purpose of removing Saddam Hussein from power. I too, am deeply concerned that the Bush Administration is moving toward war with Iraq, and doing so without congressional authorization. I only received your letter Thursday, August 1 and unfortunately leave for vacation on Saturday August 3rd. Because of the importance of this issue, I intend to send you my opinion analysis today by FAX.

I. PRESIDENT'S CONSTITUTIONAL AUTHORITY

As you correctly state, Article I, Section 8 of the Constitution provides Congress the power to, among other things, declare war. (It also provides an important power which is omitted from your letter, but which I and other scholars have argued was designed to prevent the President from unilaterally engaging in reprisals, or limited wars—the power to issue letters of marque and reprisal.)

The meaning of the power to declare war is course, contested, with Presidents at times asserting the power to engage U.S. troops abroad in various limited actions. I, along with many other constitutional scholars believe that the Constitution requires congressional authorization for all non-defensive, non-emergency deployment of U.S. forces in combat against another country.[1] Nonetheless, proponents of Executive power argue that the President can initiate minor uses of force without obtaining congressional approval. Despite this dispute, virtually all scholars agree with Judge Greene's interpretation of the war powers clause in the case of *Dellums v. Bush:* where "the forces involved are of such magnitude and significance as to present no serious claim that a war would not ensue if they became engaged in combat," Congress has the authority under the Constitution to decide upon whether to go to war. 752 F. Supp. 1141, (D.D.C. 1990). In *Dellums*, Judge Greene held that in the context of the U.S. threat of war against Iraq over its invasion of Kuwait, "the Court has no hesitation in concluding that an offensive entry into Iraq by several hundred thousand United States servicemen . . . could be described as a 'war' within the meaning of Article I, Section 8, Clause II of the Constitution" To put it another way: the Court is not prepared to read out of the Constitution the clause granting to the Congress, and to it alone, the authority "to declare war." 752 F. Supp., *supra* at 1146.

In the present situation the magnitude and significance of any United States invasion of Iraq to overthrow Saddam Hussein requires congressional approval. The courts, scholars and even past Administrations have recognized that offensive action involving significant numbers of U.S. troops facing a substantial enemy requires congressional approval. *See, e.g., Mitchell v. Laird*, 488 F.2d 611, 613–14 (D.C. Cir. 1973); *Berk v. Laird*, 429 F.2d 302, 305 (2d Cir. 1970); Moore, *The National Executive and the Use of the Armed Forces Abroad, in* 2 The Vietnam War and International Law 808, 814 (Falk ed. 1969). *See also* Moore, *Emergency War Powers, the U.S. Constitution and the Power to Go to War*, 159, 161 *in* The U.S. Constitution and the Power to Go to War (Gary Stein & Morton Halpern eds., 1994); Peter Spiro, *War Powers and the Sirens of Formalism*, 68 N.Y.U. Rev. 1338, 1353 (1993). *See also* Joseph Biden & John Pitch III, *The War Power at a Constitutional Impasse: A Joint Decision Solution*, 77 Georgetown L.J. 367, 400 (1988); Major Geoffrey S. Corn, *Presidential War Power: Do the Courts Offer Any Answers?*, 157 Mil. L. Rev. 180, 252 (1998) ("Certainly the initiation of significant offensive hostilities in such a policy decision, which under our constitutional system of government should not be made without the approval of Congress.") *See also* Letter of Assistant Attorney General Walter Dellinger, September 27, 1994, reprinted at 89 Am. J. Int'l 122, 126 (1995) (recognizing that where U.S. forces attacked another country without the consent of the recognized government, leading to prolonged hostilities, inflicting substantial casualties on the enemy, and involving such "extreme" uses of force as sustained air "bombardment," the United States was engaged in "war" for constitutional purposes requiring congressional authorization).

William P. Rogers, when he was President Nixon's Secretary of State, argued that Congress' power to declare war is not "purely symbolic":

"While the legislative form in which the power is exercised may change, nevertheless the constitutional imperative remains: if the nation is to be taken into war, the critical decisions must be made only after the most searching examination and on the basis of a national consensus, and they must be truly representative of the will of the people. For this reason, we must ensure that such decisions reflect the effective exercise by the Congress and the President of their respective constitutional responsibilities."

William Rogers, Congress, the President and War Powers, 59 Cal. L. Rev. 1194, 1212 (1971). Therefore, I conclude that any invasion of Iraq to remove Saddam Hussein would involve such significant forces and significant casualties so as to be inescapably categorized as a war which under Article I, Section 8 must be authorized by Congress.

II. WAR POWERS RESOLUTION

The War Powers Resolution clearly would apply to any U.S. effort to attack Iraq to remove Saddam Hussein, since such an effort would introduce U.S. Armed Forces into imminent or actual hostilities. Therefore Section 4(b)'s limitation on such action to 60 (or 90) days would apply, as would the reporting or consulting provisions of the Resolution. I would also argue that the Resolution was not intended to, nor can it override the Constitution's clear proscription that only Congress can decide to engage the U.S. in an offensive attack on another country. Therefore, prior to any such invasion, congressional authorization must be sought and obtained by the President.

III. POTENTIAL LEGISLATIVE AUTHORITY FOR WAR AGAINST IRAQ

You also ask about two potential legislative sources of authority for a Presidential decision to use force against Iraq. Public Law No. 107–40 does not provide authorization for the President to attack Iraq. The language of Section 2 of the Act authorizes the President to use force against nations he determines planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored organizations or individuals who planned those attacks, in order to prevent any future acts of international terrorism by such organizations. To date, the Executive Branch has offered no evidence that Iraq planned, aided or harbored Al Qaeda in connection with the September 11 attacks. The statute is clear that the authorization is limited to using force in connection with responding to nations, organizations and individuals connected with the September 11 attack, and did not authorize any broad based response to all forms of international terrorism. Indeed, the original bill that the President submitted for authorization was so broad as to plausibly authorize an attack on Iraq. Congress refused to enact the President's proposed bill; instead agreeing on the much narrower language currently contained in Section 2 of Pub. L. No. 107–40.

Nor does Pub. L. No. 102–1, authorizing the President to use force in 1991 to reverse Iraq's illegal invasion of Kuwait, provide any authorization for a current assault to remove Saddam Hussein. I understand the Administration's argument to be that since Iraq has not complied with the cease fire resolution 687 ending the 1991 war, Resolution 678 is revived, and thus both the Security Council's and Congress' authorization of force against Iraq pursuant to Resolution 678 are revived. This position is clearly erroneous and has been continuously rejected by the Security Council. Michael Ratner and I wrote a lengthy article published in the American Journal of International Law, 93 Am. J. Int'l Law 124 (1999), refuting this position which had been articulated by the Clinton Administration. To summarize our general view:

(1) Permanent cease fires such as occurred after the 1991 war generally terminate any U.N. authorization of force and such authorizations are not revived by any purported material breach by one side to the conflict.

(2) Article 34 of Resolution 687 is quite explicit that the Security Council, and not individual states, has the authority to determine whether Iraq has violated Resolution 687 and also what "further steps," including presumably the use of force, to take in order to implement that Resolution.

(3) The history of Resolution 687 also supports the conclusion that it terminated the authorization of force contained in Resolution 678. After the suspension of hostilities in 1991, a provisional cease fire, Resolution 686 was adopted. Resolution 686 explicitly refers to Resolution 678 and "recognizes" that it "remain[s] valid" during the period required for Iraq to comply with the provisional cease fire's terms. The Security Council dropped that language in Resolution 687 which, unlike 686 does not recognize that Resolution 687 remains valid. Of all the detailed provisions in the cease-fire, only paragraph 4 guaranteeing the inviolability of the Iraq-Kuwait border contains language authorizing the use of force, and then only by the Security Council and not by individual states. That the Council decided to guarantee Kuwait's boundary by force if necessary—a guarantee that is central to both Article 2(4) of the Charter and the 1991 Persian Gulf war—excludes an interpretation of Resolution 687 as continuing the Resolution 687 authorization so as to allow individual nations to use force to rectify other, presumably less central violations. It would be illogical for Resolution 687 to require Security Council action to authorize force against threatened boundary violations, yet dispense with such action if Iraq violated another provision of the resolution.

[1] Jules Lobel, *Little Wars and the Constitution*, 50 MIAMI L. REV. 61 (1995). *See* letter dated October 14, 1994 from Professors Bruce Ackerman (Yale), Abram Chayes (Harvard), Lori Damrosch (Columbia), John Hart Ely (Stanford and Miami visiting), Gerald Gunther (Stanford), Louis Henkin (Columbia), Harold Hongju Koh (Yale), Philip B. Kurland (Chicago), Laurence H. Tribe (Harvard), and William Van Alystyne (Duke) reprinted 89 Am. J. Int'l L. 127, 130 (1995) (Constitution "reserves to Congress alone the prerogative and duty to authorize initiation of hostilities"). (*See also* letter dated August 24, 1994 from same professors requesting that President Clinton seek and obtain Congress' express prior approval before launching a military invasion of Haiti.) *See also* Ely, *War and Responsibility*, *supra* at p. 1, 66–67; Louis Henkin, *Constitutionalism, Democracy and Foreign Affairs* 40 n.* (1990).

(4) The subsequent history of the efforts to enforce Resolution 687 demonstrates that only the Security Council could authorize the use of force to enforce that Resolution's terms. Resolution 1154 adopted on March 2, 1998 clarified the view of a majority of the Council that its explicit authorization was required to renew the use of force. As the Russian delegate noted, ''No one can ignore the resolution adopted today and attempt to act by bypassing the Security Council.'' Similarly, France stated that the resolution was designed ''to underscore the prerogatives of the Security Council in a way that excludes any question of automaticity . . . It is the Security Council that must evaluate the behavior of a country, if necessary to determine any possible violations, and to take the appropriate decisions.'' Other members of the Security Council concurred.

Moreover, even if the Administration is correct and as a matter of international law Resolution 678 is still in effect and constitutes a U.N. authorization of force, the congressional authorization of force in Pub. L. No. 102–1 is significantly narrower than Resolution 678. Prior Administrations have pointed out that Resolution 678 not only authorized force to enforce the exant Security Council Resolutions, but also to ''restore international peace and security in the area,'' which could conceivably be read to authorize removing Saddam Hussein from power. However, Pub. L. No. 102–1 contains no equivalent language. The congressional authorization only permits the President to use force pursuant to Resolution 678 ''in order to achieve implementation of Security Council Resolutions 600, 661, 662, 664, 665, 666, 667, 669, 670, 674 and 677. Since those resolutions have now all been implemented and are not now at issue (Resolution 687 is of course not mentioned in Pub. L. No. 102–1), that law can not by any conceivable argument be interpreted to authorize the use of force in the current situation.

The Administration will undoubtedly argue that it has been using force against Iraq for the past decade, enforcing the no fly zones, and occasionally bombing Iraq, such as the December 1998 four days of air strikes. Those uses of force in my opinion and the opinion of many experts, and majority of the Security Council have been illegal and unconstitutional. That Congress may have for political reasons acquiesced in or not strongly opposed such actions does not, in my opinion, make them constitutional.

Moreover, whatever the constitutional and international legality of those relatively minor uses of force, what the Administration now proposes is of a totally different character—both in magnitude and purpose. The scale, magnitude and significant of an invasion of Iraq to remove Saddam Hussein can not conceivably be covered by enforcing the no-fly zone and intermittent bombing precedent. What is clearly required in the present situation is an open congressional debate and new authorization of force.

I have been involved in constitutional War Powers issues for many years, both as a scholar and as a litagtor. As a litigator, I have been bipartisan in opposing presidential uses of force without congressional authority. I was lead counsel for 57 democratic legislators who challenged the elder President Bush's plan to go to war to drive Iraq from Kuwait without receiving congressional authorization. I was also lead counsel for a group of predominantly Republican members of Congress led by Congressman Campbell who challenged President Clinton's bombing of Yugoslavia in response to the Kosovo crisis. I have also written on issues involving constitutional war powers, with articles in the Harvard International Law Journal, University of Pennsylvania Law Review, University of Miami Law Review, American Journal of International Law and other journals.

I apologize for this rushed answer to your letter, but I wanted to get you a response before leaving on vacation. As you can see, I, like you, have a deep concern about these constitutional issues, and would be happy to assist you or other legislators in any manner to ensure that these questions are properly debated and voted on by Congress. I will be out of my office for several weeks, but will call in for messages and would be available for any consultation you might wish. My office number is 412–648–1375 and my FAX number is 412–648–2649.

Yours truly,

JULES LOBEL.

UNIVERSITY OF PITTSBURGH
SCHOOL OF LAW,
Pittsburgh, PA, October 3, 2002.

Hon. ROBERT BYRD,
U.S. Senate,
c/o Kathleen Hatfield.

DEAR SENATOR BYRD: Article 2(4) of the UN Charter prohibits preemptive attacks on other nations. The Charter only allows a nation to use force (1) in self-defense where it has either been attacked or faces eminent attack, or (2) when the Security Council authorizes such use of force. Article 6 of the U.S. Constitution makes treaty provisions such as Article 2(4) of the UN Charter part of the ''supreme law of the land.''

For Congress to authorize a preemptive attack on Iraq without imposing a condition that the UN Security Council first approve such force would therefore violate both the Charter and our own supreme law. The general assumption has been that Congress should not and cannot authorize aggressive war. Indeed, the prohibition on aggression is considered a fundamental, peremptory norm of international law and the D.C. Circuit Court of Appeals has suggested that Congress does not have the Constitutional authority to authorize actions that violate such norms. CUSCLIN v. Reagan, 859 F2d 929, 941 (D.C.Cir. 1988).

Therefore, if Congress wants to act legally, it must at minimum include in any authorization a requirement that the Security Council first approve the use of force before the President launches such attack. Including such a condition will also hopefully force Congress to discuss and debate the legality of preemptive strikes.

Sincerely,

JULES LOBEL,
Professor of Law.

NEW YORK UNIVERSITY
SCHOOL OF LAW,
New York, NY, September 4, 2002.

Senator ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: I regret that my absence, until yesterday, has delayed my response to your letter of July 22, 2002. The issues as to which you have asked me to comment are ones of great importance to the constitutional structure that underpins our freedoms as Americans. I have therefore drafted a bare-bones response for the sake of timeliness, but would be glad to provide further comment and sources as to any part of this submission.

(1) *The War Powers Resolution.* Because of its unsatisfactory drafting, the President's obligations towards Congress are quite limited. Under Section 5(b) the President has broad authority to conduct hostilities before Congress' approval is required. Since the provision of Section 5(c) has been rendered migratory by decision of the Supreme Court declaring the ''legislative veto'' essentially unconstitutional, the Act now has more force in validating, rather than invalidating, presidential war-making.

(2) *Pub. L. No. 107–40 (9/18/01).* This wildly overbroad authorization for presidential warmaking—more recently egregiously echoed in legislation authorizing presidential use of force in connection with Americans who may be surrendered to the International Criminal Court by foreign governments—allows the President broad latitude to use force against any nation ''he determines'' to have ''planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.'' And it even specifies that this broad delegation constitutes authorization under Section 5(b) of the War Powers Resolution. ''He determines'' seems to convey unlimited discretion It can be argued, however, that such ''he determines'' language has been defined by courts in reviewing other examples of delegates executive/administrative authority as implying that the authority must be exercised reasonably and justifiably. It can be further argued, accordingly, that the President must justify the reasonableness of his determination to the Congress. It is not, however, a very powerful argument and, in the end, it still leaves broad discretion with the President. It can also be argued that the delegation was meant to be tied to the events of September 11 and that the President's authority therefore does not extend to the use of force when there is no demonstrable connection to those events.

(3) *Pub. L. No. 102–1 (1/14/91).* This provision is interpreted by the Executive as authorizing the use of force against Iraq for an indefinite period of time. Congress, however, wisely tied the authorization to the use of force ''pursuant to United Nations Security Council Resolution 678 (1990).'' The force of argument that this authorization continues to be in effect therefore depends on whether the Security Council Resolution 678 remains effective. That question compels consideration of international law: particularly, Security Council Resolution 687 of 3 April 1991, which established a cease-fire but imposed on Iraq a weapons monitoring regime as to which it is now clearly in violation. It is unclear from the text of Resolution 687 whether this meant to continue, suspend, or terminate Resolution 678. Two considerations are relevant. *One* is that para. 33 of S/Res/687 declares that, on the acceptance of the conditions set by the Council, ''a formal ceasefire is effective'' between Iraq and its opponents and that (para. 34) the council declares itself ''to remain seized of the matter'' and retains for itself the power ''to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.'' This does not seem to authorize states to use force whenever they deem Resolution 687 to have been violated, but, rather, makes such action conditional on specific new Security Council authorization. (Note that, even were such new authorization forthcoming, it would not automatically revive the authority Congress gave the President under Pub. L. No. 102–1.) *The other consideration* is that the Council has never passed a resolution objecting to the many instances in which the U.S. and its allies have acted on their own (for example, by establishing and enforcing ''no-fly zones''). This omission by the Security Council is better understood, however, in terms of the realities of the ''veto'' in the Council, and its deterrent effect, than as evidence of Council acquiescence in such use of force.

In sum:

(1) The war Powers Resolution does not help Congress, and this may further illustrate the need for its repeal.

(2) Congress gave away far too much of its power in enacting Pub. L. No. 107–40 and

should avoid such extremely broad authorizations—*in futuro* and extending to uncertain circumstances—of war-making authority. Nevertheless, it can be argued that the authority must be read to include a ''reasonably justified'' standard for its exercise.

(3) Pub. L. No. 102–1 does not authorize the use of force against Iraq because it is limited to war-making under the aegis of Security Council Resolution 678, which was suspended by Security Council Resolution 687.

I hope this will be of some assistance. With good wishes,

Cordially yours,

THOMAS M. FRANCK,
Professor of Law Emeritus.

[From the Los Angeles Times, May 31, 2002]

BUSH MUST AVOID SHORTCUTS ON ROAD TO WAR

(By Bruce Ackerman)

President Bush has been busy reassuring Europeans that he ''has no war plans'' on his desk for an invasion of Iraq. Such statements can only evoke concern at home. Even when the president receives his plans from the military, he lacks the authority to execute them. The Constitution makes him commander in chief, but only Congress can declare war.

We have been here before.

Two days after the congressional elections of 1990, the first President Bush ordered a massive increase of American troops for an offensive against Iraq. Dick Cheney, then Defense secretary, publicly announced that the president did not ''require any additional authorization from the Congress before committing U.S. forces to achieve our objectives.''

Fifty-four members of Congress responded by going to court and demanding an injunction against military action until both houses gave their explicit approval. The administration was unimpressed by the lawsuit. It told the court to stay out and treat the matter as a ''political question.''

The case speedily came to trial in federal district court, where Judge Harold Greene roundly rejected the president's claims.

While handing Congress a victory on the merits, Greene was more cautious when it came to a remedy. In his view, the time was not yet ripe for decisive judicial intervention. As far as he could tell, a peaceful settlement with Iraq was still possible, and it wasn't clear whether a majority of Congress would oppose the war if negotiations broke down. So why intervene when the whole issue might dissolve and make judicial intrusion unnecessary?

The next move was up to the elder President Bush: He might press on unilaterally and challenge Congress to return to Greene's court for an injunction once war was clearly in the cards. Or he could call a halt to the escalating institutional battle and ask both houses explicitly to authorize the war.

This was an easy choice for the public: Polls showed that more than 70% favored explicit congressional authorization.

After mulling over the matter, the president bowed to the combination of law and public opinion. In January 1991, he dropped his unilateralist claim and formally requested both houses to approve the attack against Saddam Hussein.

The first shot was fired only after Congress gave its consent.

The argument for legislative authorization is more compelling the second time around. In 1991, the country was responding to a clear act of aggression. Nobody could doubt that Iraq had invaded Kuwait. And a lengthy congressional debate might have cost American lives because Hussein's soldiers would have had more time to prepare for the invasion.

The second President Bush can't take advantage of either extenuating factor.

Rather than pointing to a clear boundary-crossing, he will be offering circumstantial evidence of Iraq's atomic and biological weapons program. If this evidence is truly persuasive, he should have no trouble convincing a majority of Congress. But if the president attempts to skirt Congress, it will cast doubt on whether his claims can survive a fair test in the court of public opinion.

Nor is time of the essence. We aren't dealing with a situation where Iraqi troops can dig in while Congress dithers.

A second American invasion would, at most, prevent a future threat to national security. Nobody seriously suggests that a debate of a week or a month would cause permanent damage.

There is no good reason for Bush to deviate from the precedent set by his father in 1991.

But aren't we already embarked on a ''war against terrorism''? In invading Iraq, isn't the president simply opening another front in an ongoing struggle? This might serve as a TV sound bite, but it is nonsense as a matter of law.

Up until now, Congress authorized ''necessary and appropriate force'' only against those who ''aided the terrorist attacks that occurred on Sept. 11.'' The Bush administration has failed to implicate Hussein in those attacks. If a second invasion of Iraq is justified, it is because of a future threat.

The real question is how the administration meets its constitutional responsibilities. The first President Bush did not abandon unilateralism without a fight. Will his son also escalate the institutional confrontation at home as he accelerates war preparations abroad?

This is no time for constitutional brinkmanship. The president should take the first opportunity to say that he respects the constitutional precedents established during the Gulf War. It will be tough enough to confront the prospect of a major war soberly without attempting an end run around the people's representatives.

CENTER FOR POLITICS,
Charlottesville, VA, August 28, 2002.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: Thank you for requesting my views on the U.S. constitutional and political questions surrounding presidential war-making authority, especially as they apply to the current situation with Iraq. I am happy to offer them, for whatever they may be worth, and I will attempt to do so in un-professorial fashion, by being relatively brief.

It is clear that the Founders fully trusted neither the Executive nor the Legislature with war powers, and so they divided them—making the President the commander-in-chief and giving to the Congress the right to declare war. A reasonable inference, then, is that the Founders expected the two elective branches to share war powers, and to check and balance one another in this life-and-death arena, as in so many other areas of governmental authority. Neither the 20th Century history of executive usurpation of congressional war powers, nor the various interpretations and applications of the War Powers Resolution since 1973, can change this fundamental truth. Simply put, the executive usurpation in the last century was constitutionally flawed. Moreover, the unquestioned legislative goal of the War Powers Resolution was to return to the Founders' original intent—that the Congress should be thoroughly involved, and not just informed or 'consulted' after the fact, in this nation's acts of war. Unilateral presidential action in Iraq based on S.J.Res.23 (enacted after September 11, 2001) or the Congress' ''Iraq Resolution'' of 1991 would be a real stretch, a result-oriented rationalization that would be unwise and constitutionally suspect.

Given the constitutional imperatives of war-making, it is difficult to understand how any President could argue that Congress does not have a co-equal role to play in an act of war by this country against another sovereign state. This is especially true in a case such as Iraq, where immediate attack is not required, and where planning and build-up for war will take many weeks. Let's note, too, that these preparations will hardly be a secret, and that they will be reported in some detail to the American people, and indeed the entire world, including the enemy state.

My own academic specially is politics, and here the case for full congressional consultation is overwhelming. A President who undertakes a risky foreign war without the expressed support of the American people is courting disaster. Since (blessedly) we do not have any process for national referendum, and since our system of government is representative democracy, the logical institution to provide both careful, elite review and broad, popular mandate for any proposed war is the Congress. Presidents have often unwisely tried to avoid this step, preferring complete executive branch control. But surely a lingering, invaluable lesson from the United States' tragic involvement in Vietnam is the necessity to bring along the congress, and through it, the American people, in a united commitment to succeed whenever the lives of our soldiers and our national treasure are on the line.

While initially reluctant to seek congressional authorization for the Persian Gulf War in 1990–91, President George H.W. Bush correctly asked for and received the support of the Congress after a healthy, high-toned, and memorable debate. At the time, no one knew for sure that the war with Saddam Hussein could be won so quickly and easily. If the fortunes of war had not been so favorable to our country, and the Persian gulf conflict had taken many months to win, President Bush would have been especially grateful for that congressional vote to proceed. It would have provided a firm basis for sustaining support and prosecuting the war until victory was complete. So it will be in 2002–03 in any new war with Iraq. Saddam Hussein may or may not fall quickly, and the post-war turmoil may or may not engulf the Middle East and entangle the United States for months or years. But come what may, a congressional vote of authorization would provide President George W. Bush with the political support to ask for patience and sacrifice, should they be needed, over a lengthy period of time. Our elected leaders in both representatives branches would have given proper constitutional consent, and as a nation, we would all be in it together, to do what it take to win for as long as it takes to win.

And what if the Congress, in its wisdom, should choose not to authorize a war with Iraq at this time? Then our political system would have worked equally well. For if one or both houses of Congress should choose to say no, it would mean that Congress sees that a war with Iraq has consequences too serious to risk, or that such a war would not have the requisite support of the American people. With the failure of Vietnam as well as the success of the Persian Gulf War in mind, the Congress might decide that this war could be closer to the former than the later. And should Congress so decide, and make this case convincingly to the citizenry, then surely the nation would be grateful

since one Vietnam is enough for all of American history.

Senator, I hope this analysis has been of some assistance to you. Please let me know if I can help in any other way. And please also accept my warm wishes and genuine admiration for your work on our behalf.

Yours sincerely,

LARRY J. SABATO,
Director, U. VA. Center for Politics & University Professor of Politics.

Mrs. FEINSTEIN. Mr. President, I rise to address the fact that by the end of the year more than 2 million Americans will have exhausted their unemployment insurance.

There is no more pressing issue facing our Nation's workforce, and yet Congress has chosen to put partisanship ahead of what nearly everyone agrees is smart policy.

By passing widely divergent bills, the House and the Senate have virtually ensured that on December 28 of this year thousands of workers will be in the impossible position of trying to feed, clothe, and house their families with no work and no benefits.

I strongly support the Emergency Unemployment Compensation Act of 2002, a bipartisan compromise bill which was introduced in the Senate in late September.

This bill, introduced by Senators Wellstone, CLINTON, and KENNEDY, with the support of 33 Senators, extends unemployment benefits nationwide for 13 weeks, and provides 20 weeks of extended benefits for California and other high unemployment States.

It provides crucial temporary assistance to those who have been hardest hit by the current economic downturn, and provides them a chance to support themselves and their families while they look for work.

Although the compromise bill passed by the Senate does not include the 20-week extension that is vital to States such as California, which suffer from a higher unemployment rate than the national average, it provides a meaningful extension that could help American families, especially during the Christmas holiday.

Let me stress that this bill is the product of bipartisan compromise, and is supported by Senator NICKLES and other Republicans who have been vocal on this issue.

At the moment, millions of Americans have lost their job and are unable to find another, despite their efforts to reenter the labor force. The number of Americans unable to find employment has increased from 5.7 million at the end of 2000 to more than 8.2 million today.

Even more disturbing, due to continued economic weakness, the number of Americans who have been out of work for over 6 months has almost doubled from 900,000 to 1.5 million in the past year.

Between May and July of this year, approximately 900,000 workers exhausted the benefits made available through the extension that was passed in March.

By the end of this year, that number will increase to 2.1 million individuals. Those are the individuals at greatest risk for falling through the social safety net we have provided for them.

This illustrates the critical need for an extension of unemployment insurance that makes sense.

When the national economy was booming 2 years ago, California was particularly blessed. California's economy grew at double-digit rates, and California become the fifth-largest economy in the world.

Billions of dollars of investment flowed into our State, and thousands of talented workers moved to California to take advantages of opportunities in Silicon Valley and other growth engines of the New Economy. Now that picture is dramatically different.

A recent report by a group of economists at UCLA predicted that California's unemployment rate will rise to 6.5 percent next year, and that nonfarm jobs in the San Francisco Bay area contracted by an annual rate of 4.6 percent between April and June of this year. After dropping to a decade-long low of 4.7 percent in December of 2000, the unemployment rate is back up to 6.4 percent as of the end of October. The number of Californians receiving unemployment benefits has increased to 470,000 from 430,000 1 year ago.

During this period of great economic hardship, we have a duty to give people the chance to get back onto their feet. This is an obligation that we have met in the past, most recently when faced with an economic downturn during the first Bush administration.

The Senate voted in 1991 to extend temporary unemployment insurance on five separate occasions. Each time such extensions were approved by overwhelming bipartisan majorities.

Therefore, I call on the House and Senate leadership to ensure that an extension of unemployment benefits for a full 13 weeks be the first item considered during the 108th Congress. Although that will not prevent the expiration of benefits for many Americans, it will provide a fairly rapid restoration of benefits to those who will be cut off at the end of the year.

With that goal in mind, I have sent a letter to Speaker HASTERT and Senator LOTT with the signatures of more than 40 of my colleagues in the Senate, asking them to bring up an extension of unemployment insurance immediately upon reconvening next year.

Let me be clear: by ducking this issue we seem to be hoping that this problem will disappear.

It will not, and if we do not address it now, we will not be living up to our obligation to the families of this Nation.

RECOGNIZING STAFF INVOLVED IN HOMELAND SECURITY

Mr. LOTT. Mr. President, putting the homeland security bill together has been a difficult almost herculean task. Many Senators have played important roles in this legislation, but it could not have been done without the contributions of our staff. Without the aid of these individuals, the work of this institution would be impossible to accomplish. I would like to recognize the hard work and dedication of those staff members whose contributions to this legislation have been critical and without whom we would not have been able to pass this bill.

On the Democrat side of the aisle, I want to recognize the contributions of Senator LIEBERMAN'S staff—especially his staff director, Joyce Rechtschaffen, as well as Laurie Rubenstein, Mike Alexander, Kiersten Coon, Holly Idelson, Kevin Landy, Larry Novey, and Susan Propper. I would also like to acknowledge the contributions of Sarah Walter of Senator BREAUX'S staff, David Culver of Senator BEN NELSON'S staff, and Alex Albert of Senator MILLER'S staff.

On the Republican side, I would especially like to thank Richard Hertling, Senator THOMPSON'S Staff Director who, along with Rohit Kumar of my staff, was integral in the drafting of the bill that we are sending to the President. I would also like to compliment the rest of Senator THOMPSON'S staff—Libby Wood Jarvis, Ellen Brown, Bill Outhier, Mason Alinger, Alison Bean, John Daggett, Johanna Hardy, Stephanie Henning, Morgan Muchnick, Jayson Roehl, Jana Sinclair, Elizabeth VanDersarl and Allen Lomax—all of whom played an important role in crafting this legislation. Senator GRAMM'S Legislative Director, Mike Solon, and David Morgenstern of Senator CHAFEE'S staff also played very important roles in the process.

Finally, I would like to acknowledge the efforts of those individuals from the other body and from the White House, all of whom dedicated significant time and effort to this bill. From the House of Representatives, the efforts of the House Select Committee staff—in particular Hugh Halpern, Paul Morrell and especially Margaret Peterlin—were absolutely essential to drafting the compromise language.

From the White House, I would like to thank Ziad Ojakli, Christine Ciconne, Heather Wingate of the Legislative Affairs Office, Wendy Grubbs, Michael Allen, Richard Falkenrath, Sally Canfield and especially Lucy Clark from Governor Ridge's Office of Homeland Security, Christine Burgeson from the Office of Management and Budget, Brad Berenson from the White House Counsel's office, and Joel Kaplan from Chief of Staff Andy Card's office for their assistance in putting together this legislation. Without their efforts and cooperation, this bill could not have come to pass.

These staff members have worked diligently and largely in anonymity. Given all that they have done in service to their country, I think it is appropriate to recognize their work publicly, so that the rest of the country knows,

as we all know, how well we are served by our staff.

TRIBUTE TO DEPARTING SENATORS

Mr. REID. Mr. President, I rise to pay tribute to our colleagues who are leaving the Senate. What many Americans do not realize is that the Senate is a place where many of us become friends. It is true that the 100 men and women who serve in this wonderful body arrive here with different backgrounds, experiences, and perspectives. We hold different philosophies and ideas, represent states with different and at times competing interests and needs, and we pursue different goals. But we all share a lot in common by virtue of being here, and in the course of working together on matters of national importance, we develop respect and admiration for our colleagues, and often genuine friendships are established. And so it is with the remarkable group of Senators who are completing their service as the 107th Congress draws to a close.

JEAN CARNAHAN

I want to speak first about JEAN CARNAHAN, who has accomplished many firsts in her lifetime, including being the first woman to represent Missouri in the United States Senate. She was also the first person in her family to graduate from college, in fact the first to graduate from high school.

Senator CARNAHAN has served the people of Missouri so well over so many years, including her outstanding work during her time here in the Senate. We rightfully identify her with Missouri, but actually she grew up in Washington, DC, attending Anacostia High School and then George Washington University.

Her return to Washington 2 years ago should have been a happy homecoming, but instead followed a calamity. JEAN CARNAHAN arrived in the Senate having suffered a seemingly unbearable tragedy, the death of her husband Mel and her oldest son Randy in a plane crash. She not only had little time to grieve but also was immediately thrust into the public arena.

Mel Carnahan had a distinguished 40-year career in Missouri politics serving as a judge, state representative, state treasurer, lieutenant governor, and for 8 years as a popular and respected governor and was a strong candidate for the United States Senate at the time of his death.

Just days after the funerals for her husband and son, she was asked if she would serve in the Senate in Mel's place. It was a difficult decision, and one she had to make amid shock and sorrow. JEAN CARNAHAN was not a politician, but she was her husband's political partner and trusted adviser for many years, starting soon after their marriage. She card-catalogued the names of every potential supporter and donor during her husband's career, wrote many of his speeches and wrote and delivered many of her own.

Fortunately for Missouri and for us, she volunteered to serve, motivated by a desire to further the work that Mel and she had done together to help the people of Missouri.

Talk about severe stress! Loss of her beloved husband, her high school sweetheart, lifelong companion, loss of her son, moving to a new home, changing jobs . . . all with people watching closely, openly questioning her abilities and wondering if she would succeed.

Senator CARNAHAN has demonstrated remarkable composure and grace while proving that she was indeed up to the challenges of the Senate. She had to learn the intricacies of legislation and policy quickly, and I am sure she would have been even more effective if given the opportunity to serve longer.

But she succeeded by seeking commonsense solutions to complex problems and helping to forge compromises. She didn't seek attention or credit for her accomplishments but worked hard and made a difference.

Senator CARNAHAN's accomplishments include helping protect the jobs of more than 12,000 airline employees during the merger negotiations between TWA and American Airlines. She also worked hard to help local school districts hire teaching specialists and deal with disruptive students. Her Quality Classrooms provisions were included in the landmark education bill we passed last year.

Senator CARNAHAN supported efforts to bolster our national security and win the war on terrorism. She was a member of the first bipartisan congressional delegation to travel to Afghanistan to visit the troops and meet with regional leaders.

And I am especially grateful for her strong opposition to the Administration's plan to ship nuclear waste across the country to Yucca Mountain. Many people thought this plan would harm only Nevada, but she understood that storing nuclear waste in Nevada would require tens of thousands of shipments of highly dangerous substances across highways and railroads in Missouri and almost every other state. And she could not accept this risk of potential harm to the children and families and environment of our great country.

So JEAN CARNAHAN deserves our admiration, respect and gratitude for all she has done. She has occupied Harry Truman's seat in the United States Senate and worked at his old desk. Missouri should be proud of how she has continued Harry Truman's legacy and her husband's legacy and been an advocate for the working families of Missouri.

By a narrow margin she was unable to overcome a well-funded opponent whose campaign benefitted from the popularity of the President this year. She might have come up short in this election, but she understands that a political defeat is not the most significant loss one can suffer.

Her time here has been all too brief, but Senator JEAN CARNAHAN has made a difference and I will miss her very much.

JEAN will enjoy spending time on her family farm in Rolla, Missouri, visiting with her children and grandchildren. And I expect her to continue writing books, giving speeches and advice. She has much to say, and we would do well to hear and read her words.

MAX CLELAND

I also wish to pay tribute to MAX CLELAND, Georgia's senior senator and a true American hero.

While his story is familiar to those of us fortunate enough to know him and have served with him, I encourage Americans looking for inspiration to read his book Strong at the Broken Places, which describes his experiences overcoming tremendous adversity and reveals his remarkable character.

He is a native Georgian who is proud of his state and has served it so well for so long, but MAX CLELAND personifies qualities that the people of Nevada and all Americans appreciate: patriotism, courage, and fortitude.

MAX CLELAND was awarded the Bronze Star and a Silver Star for meritorious service in Vietnam.

During college he joined the Army ROTC program and after graduation he took a Second Lieutenant's commission in the Army. MAX CLELAND volunteered for duty in Vietnam in 1967 and the following year he was promoted to the rank of Captain.

Just one month prior to the end of his tour of duty, he was seriously wounded in a grenade explosion. As a result he lost both legs and his right arm.

His body broken, he spent the next year and a half recovering from his injuries in various Army and Veterans Administration hospitals. Despite his enormous sacrifice, he refused to let his injuries break his spirit. And he did not dwell on his own experiences but rather sought to help others.

He described the difficulties veterans were experiencing returning home from Vietnam in testimony before the United States Senate Veterans Affairs Committee in 1969.

The next year, he was elected to the Georgia State Senate, thus beginning a career in public service that has continued for more than 30 years. As the youngest member of the Georgia Senate at the age of 28, he wrote the state law making public facilities in the state accessible to the disabled.

MAX was hired to work for the Senate Veterans Affairs Committee in 1975 and two years later, President Jimmy Carter appointed him to head the U.S. Veterans Administration. He became the youngest VA administrator in history and the first Vietnam veteran to head the agency. In this position, he instituted the revolutionary ''Vets Center program'' which for the first time offered psychological counseling to combat veterans in order to heal their emotional wounds as well as their physical wounds. There are now more than 200 Vets Centers across the country offering support to combat and

non-combat veterans and their families.

Continuing to set precedents, he became the youngest Secretary of State in Georgia's history when he won election in 1982. He was so effective and so popular that he won reelection by large margins three times. He resigned as Secretary of State in 1995 to run for the U.S. Senate seat being vacated by Sam Nunn. Although he was outspent three to one, MAX CLELAND overcame this obstacle as he has done throughout his life, and he won.

Over the past 6 years, Senator CLELAND has made important contributions to the people of Georgia, the people of Nevada and all Americans, helping to safeguard our homeland, keep our military strong and treat our veterans fairly.

As the Chairman of the Personnel Subcommittee of the Armed Services Committee, Senator CLELAND has fought to improve the quality of life of our nation's active duty, reserve and retired military personnel. He has lobbied to improve health care, education and retirement benefits.

While MAX CLELAND will be leaving the Senate, I know that he will continue serving the people of this country he loves so much. He also will marry his fiancee Nancy, and I wish them much happiness.

ROBERT TORRICELLI

ROBERT TORRICELLI has devoted his entire adult life to public service, including the past 20 years in Congress. He was elected at the age of 31 to the House of Representatives in 1982, the same year I was, and I enjoyed serving with him in the House and more recently in the Senate.

BOB TORRICELLI has served his constituents in New Jersey so well as a tough fighter, an articulate debater and an effective legislator.

He has also been so good to Nevada as a great friend and advocate for the gaming industry, an important part of our state's economy. And he joined with us in opposing the Administration's plan to transport the nation's nuclear waste for storage at Yucca Mountain.

BOB also was highly successful as the chairman of the Democratic Senate Campaign Committee during the 1999–2000 election cycle, recruiting strong candidates and raising money to allow them to get their message out and be competitive. He targeted weak opponents and helped Democratic candidates defeat the largest number of Republican incumbents in many years. These surprising results enabled our party to reach a 50–50 split in the Senate and positioned us to become the majority party subsequently.

There has been no finer advocate in the Senate than Senator TORRICELLI. He has been articulate, knowledgeable and experienced.

Senator TORRICELLI's departure from this body is a sad time. I know how passionately he cares about politics and how devoted he has been to public service.

I will miss BOB. Nevada will miss BOB. Our country will miss BOB. But one thing I will not miss is his friendship; we have bonded, and our friendship is forever.

STROM THURMOND

Mr. President, I join my colleagues today in recognizing the distinguished Senator from South Carolina and his years of service in the United States Senate.

STROM THURMOND has lived almost one century, his 100th birthday will be December 5th, and he has been a Senator for almost half of that time. He is now finishing his eighth full term, making him the longest-serving Senator and the oldest member of Congress.

But Senator THURMOND is known, and will long be remembered, for much more than his longevity.

He has had a remarkable life and career of service to South Carolina and the United States, having served as a school superintendent, state senator, judge and as the Palmetto State's Governor.

He entered the nation's military when he was 21 years old and almost 20 years later volunteered to serve in World War II. He was among the brave American troops who landed in Normandy on D-day with 82nd Airborne Division, and he received numerous awards for his military service including the Bronze Star for Valor and a Purple Heart.

Senator THURMOND has fought no less fiercely in the political arena. He has used his gifts, experience, the power and respect he has earned and knowledge of Senate rules and procedures to advocate on behalf of his causes.

Although he has switched political parties during his career, serving first as a Democrat, running for President as a ''States Rights'' third party candidate in 1948, and becoming a Republican in 1964, he has consistently adhered to his political ideology.

I am glad that we have an opportunity to acknowledge his contributions and to reflect on the considerable impact he has had on this body, his party, and the nation.

Senator THURMOND is a living monument, but just to make sure his service is recognized, the people of South Carolina, whom he has represented for so long, have honored him by erecting a monument for him and naming dozens of facilities for him.

Senator THURMOND will certainly be missed around here. I bid him farewell and extend my best wishes to him and his family.

JESSE HELMS

JESSE HELMS is retiring after serving five terms in the Senate. During this time, he has become a legend. He has been a powerful legislator and wielded significant influence on issues within the Senate and events around the world.

While he and I do not share the same philosophy of government and have not always agreed on policies, I have no doubt that he believes sincerely in his causes, and I admire the passion with which he has fought for what he believes is right.

As I have noted previously, the Senate is a place where many friendships are forged, even among people who seem unlikely to get along. But what many people don't understand is that it is possible to disagree without being disagreeable.

Senator HELMS has succeeded in charming and befriending many people, ranging from fellow Senators to internationally known rock stars, who strongly disagree with much of what he advocates.

Certainly, the Senate will be different without JESSE HELMS, and I wish him the best.

FRANK MURKOWSKI

As the people of Nevada know all too well, FRANK MURKOWSKI can be a tough opponent. He has led the effort in the Senate to push through the Administration's plan to transport tens of thousands of tons of nuclear waste through most of the Lower 48 for storage at Yucca Mountain, and therefore he and I have often been on opposing sides.

But I recognize that his motives are not personal; he has a different vision of what our priorities should be and what policy is the best course of action. He has been a forceful advocate for Alaska here in the Senate since 1980, and he will continue to be one after he leaves to serve as Alaska's next Governor.

PHIL GRAMM

PHIL GRAMM has been an influential politician and has had an interesting life. Although he flunked third, seventh and ninth grades, he received a Ph.D. in economics. This education instilled in him a strong belief in free markets, and he brought that understanding to Washington, along with his speeches about a Texas print shop owner named Dicky Flatt who has been cited as a representative American resistant to government spending.

PHIL was elected to the House of Representatives first as a Democrat and then again after he became a Republican. He was elected to the Senate in 1984 and has authored major pieces of legislation during his career, perhaps most notably the Gramm-Rudman-Hollings effort to reduce the federal budget deficit.

On this issue, as on so many others, Senator GRAMM has been relentless. You always knew where he stood and always heard what he said. He will be missed.

BOB SMITH

I have the greatest affection for the departing Senator from New Hampshire BOB SMITH. He and I worked together for one difficult year when he was the co-chairman of the MIA/POW Committee along with Senator KERRY. They led us as we completed that most important study, and I learned a lot about Senator SMITH in the process.

He served in the Navy in the Gulf of Tonkin during the Vietnam War, so he was very interested in the issue of missing soldiers. And he is a real patriot, committed to making sure America's military is strong. BOB SMITH loves this country.

Our friendship was cemented when we were asked to lead the Ethics Committee and had to resolve very difficult issues. He impressed me with his institutional awareness, intelligence and historical knowledge, and I found him to be a true gentleman. In addressing the issues before the Ethics Committee he was firm and strict but fair, which is what leadership of that group requires.

Senator SMITH and I also served together on the Environment and Public Works Committee, including a time when he was Chairman and I was Ranking Member. He might have surprised a lot of people with his concern for the environment, but I am proud that we were able to work together to protect this nation's air and water, to defend wildlife and preserve the environment.

BOB SMITH is a friend. I was disappointed with the results of the elections in the Granite State, and I am going to miss him.

FRED THOMPSON

FRED THOMPSON leaves the Senate after 8 years of service. It seems like he has been here much longer perhaps because he has been so highly visible both in public service and as an entertainer.

FRED THOMPSON not only has been a Senator; he also has played one on TV. His other acting roles include leader of the CIA, the FBI, and White House Chief of Staff.

Many Americans first noticed FRED THOMPSON during the Watergate crisis. He was a young lawyer serving as minority counsel to the Senate Watergate Committee in 1973, and he played a role in the public disclosure of the tapes President Nixon recorded in the Oval Office. Of course the scandal led to the President's resignation.

And since that introduction, we have come to know FRED THOMPSON well and know we can rely on his intelligence, judgment, wit, and insight.

He has been a skillful negotiator in the Senate, a popular colleague and someone people look up to.

While he will be missed around here, I take comfort knowing I will be able to see him frequently on TV and in the movies.

TIM HUTCHINSON

Senator TIM HUTCHINSON grew up on a farm in rural Arkansas and graduated from Bob Jones University. So he and I have had different experiences and are guided by different beliefs. Not surprisingly, we have often voted differently. But I do not question how dearly he holds his convictions, and I recognize that he has been a dedicated advocate for the people of Arkansas throughout his 10 years in Washington—4 years in the House of Representatives and 6 here in the Senate.

TIM HUTCHINSON is part of a family that has had a significant impact on politics in the state of Arkansas: when TIM ran for the Senate, his brother Asa ran for and won the seat TIM had held in the House. Asa has since gone on to become the Administrator of the Drug Enforcement Agency. I have worked with both TIM and Asa, and I understand TIM's son is now a state legislator so I might have the opportunity one day to work with him too.

Before he leaves, let me extend my appreciation to Senator HUTCHINSON for all his kind deeds toward me. Despite our differences, we have had a good relationship. We have worked together on my concurrent receipt legislation to secure retirement benefits for disabled military retirees and on a number of other issues. He and his brother are both considerate, thoughtful gentlemen. I wish him well in whatever comes next.

DEAN BARKLEY

In contrast to longest-serving Senator in history, DEAN BARKLEY wraps up one of the shortest terms ever, having taken his oath of office just last week. Of course, we all recognize the sad and special circumstances which led to his being here: the tragic death of our dear friend and colleague Paul Wellstone. I have already spoken of Paul Wellstone, how much he accomplished here in the Senate, what his role was and his legacy will be, and what I remember of our personal interaction. I said that Paul Wellstone is irreplaceable. Nobody, whether they serve 2 weeks or 2 decades, will fill his shoes. To his credit, DEAN BARKLEY understood that and he realized what his role during his brief time in the Senate should be. I spoke with him shortly after his appointment. He had a lot of pressure on him to align with one side or the other and he could have created a lot of problems. Fortunately, he decided it would be best for the people of Minnesota not to change the balance in the Senate, and he stuck to the independence streak for which he is known. DEAN BARKLEY was not here long, but he has taken his position seriously, and I am sure he has had an unforgettable experience. I thank him for his service and wish him well.

BOB SMITH

Mr. GREGG. Mr. President, BOB SMITH loved serving the people of New Hampshire. I have witnessed BOB's high regard for the office he has held here in the U.S. Senate; he has taken his job seriously, both in Washington and at home. He is a man of strong family values and hearty resolve, two fundamental characteristics of our State. BOB is not a programmed politician. In fact, he is the opposite. He has always been driven by his independence and conservative ideas.

When BOB and Mary Jo Smith first moved to New Hampshire, they did not waste any time getting involved in the Lakes Region community. BOB became a high school history and government teacher and helped coach the football and baseball teams. He also got involved in local politics by joining the school board. Fourteen years after settling in New Hampshire, BOB was elected into the U.S. House of Representatives, where he served until he was elected to the Senate.

Here in the Senate, BOB has been an advocate and representative for the interests of New Hampshire, taking strong stands on the issues he cares about. Regardless of political bias, it can never be said that BOB SMITH did not stand up for what he believed in, a fact that is known and respected in New Hampshire.

He became chairman of the Environment and Public Works Committee, providing leadership and a voice for New Hampshire on environmental issues. He has continued to speak out for the concerns of States like New Hampshire.

On the Armed Services Committee, BOB has championed the cause of accounting for American prisoners of war and those service men and women who are reported missing in action. As a veteran of the Navy and the Vietnam War, BOB has long advocated for a strong military and understands the importance of government support and assistance for brave members of our armed services.

During the past 18 years, BOB has shown grace and strength. He has served New Hampshire with honor and I admire his courage in standing up for what he believes in time and time again. BOB, his wife Mary Jo, and their three children have spent the past eighteen years achieving well the difficult balance of raising a family while simultaneously handling the constant demands of public office. I want to take this opportunity to congratulate my colleague on his distinguished career and thank him for his service to New Hampshire.

FRED THOMPSON

Ms. COLLINS. Mr. President, at the conclusion of this year, we will bid farewell to a Senator who is larger than life, both literally and figuratively.

FRED THOMPSON, may chairman of the Governmental Affairs Committee, and my food friend, will be leaving the Senate after 8 years of distinguished service.

While there is no question that the people of Tennessee would have returned him to the Senate for another term had he chosen to seek it, FRED decided that there is life after the Senate—and if the past is prologue, we can be sure that it will be an interesting life.

FRED came to this body after a varied and distinguished career. He had been a prominent public servant—most notably as an assistant U.S. attorney and as the Republican counsel to the Watergate committee—as well as a skilled lawyer and a gifted actor. From his days with Senators Howard Baker and Sam Ervin in the Watergate hearings, to his role in exposing the sale of pardons in the State of Tennessee, to his

acting in 18 films, FRED brought a keen intellect, a great sense of humor, and an exceptional capacity for hard work to every task. And those are the very characteristics that have marked his Senate service.

FRED has been a leader in the Senate on a wide variety of critical issues, including intelligence reform and oversight, reducing the threat posed by the proliferation of weapons of mass destruction, and reducing the tax burden on American families. He was among the first to join Senators MCCAIN and FEINGOLD in the quest for campaign finance reform and fairly and effectively chaired extensive hearings to expose the abuses in the financing of the 1996 Presidential campaign.

As chairman and later ranking Republican on the Governmental Affairs Committee, his efforts have led to management and regulatory reforms as well as the passage of the legislation to create the new Department of Homeland Security.

In the 6 years that I have worked closely with FRED, I have never known him to be unprepared. I have never known him to be undisciplined. And I have never known him to be anything less than eloquent—although, as a Yankee, I may not always appreciate the subtlety of his colloquial expressions. Two examples that I recall with special fondness are: ''Don't load up the wagon unless you're willing to pay the freight,''—which is, I believe, a reference to spending proclivities—and then, my personal favorite: ''It's like teaching a pig to dance. It wastes your time, and it irritates the pig.

Of course, FRED is much more than just quotable. FRED is a truly courageous leader. He actually relishes being in the minority, even a tiny minority, when one of his basic principles, such as States rights and the 10th amendment, is at issue. He always votes his convictions—even when the current polls suggest that public sentiment is on the other side. His good judgment and his careful consideration of every issue are a model for all of us. FRED's fearless leadership is one of many reasons why his constituents, even those who may disagree with him, hold him in such high regard. They know that FRED THOMPSON will speak the truth and do with it right, that he will make the hard choices, and that the well being of his constituents and our country guides his every decision.

No one can be certain what the future will hold for FRED. We know that he has already drawn on two of his previous careers—the law and acting—by signing on to play the avuncular district attorney on the popular television show, ''Law and Order.'' It also seems very likely that he will have future responsibilities in Government, since I anticipate that this President will seek to use his extraordinary talents.

But no matter what FRED THOMPSON's post-Senate career may entail, one conclusion can be stated with confidence. He has graced this institution and served his Nation well. I feel so fortunate to have served with him during these past 6 years, and I shall miss him.

Godspeed, my friend.

TIM HUTCHINSON

Mr. President, I rise this morning to pay tribute to my colleague and good friend from Arkansas, Senator TIM HUTCHINSON.

I have particularly enjoyed working with TIM on the Senate HELP Committee. We have literally worked ''shoulder to shoulder'' both in committee and on the Senate floor on many issues of tremendous importance to the health and well-being of all Americans—the Patients' Bill of Rights, legislation to increase access to more affordable prescription drugs, home health care, increased funding for diabetes research, and legislation to increase access to health care in the rural and underserved areas of our country.

TIM demonstrated his ability to reach across the aisle and work on a bipartisan basis when he joined with Senator MIKULSKI in developing legislation to address our Nation's growing shortage of registered nurses. I was pleased to join as an original cosponsor of the Nurse Reinvestment Act, which has been signed into law, and which will address this problem by providing incentives for individuals to enter the nursing profession, providing continuing education and opportunities for advancement within the profession, and increasing the number of nurse faculty to teach at our nursing schools.

Senator HUTCHINSON has also been a leader and an advocate for our men and women in uniform, and I have been honored to serve with him on the Senate Armed Forces Committee. As the ranking member on the personnel subcommittee, he has seen to the needs of the soldiers, sailors, airmen, and marines time and time again. He has fought to ensure that the men and women serving our country receive adequate pay and compensation, and this year he went to the mat to support our military retirees on concurrent receipt/special compensation.

In January 2000, I traveled with Senator HUTCHINSON to Japan, South Korea, and Taiwan where we got an update on the region and had an opportunity to meet with many troops there. In particular, Senator HUTCHINSON spent a lot of time speaking with our troops who were serving proudly on the front line of the DMZ. In Korea, it was the dead of winter, and the meeting rooms in South Korea actually straddled the DMZ line.

On that trip we also visited the U.S.S. *Kitty Hawk* in Japan, where I found that Senator HUTCHINSON had a special place in his heart for our naval forces. We also made history when we met with the first democratic president of Taiwan—President Lee.

Senator HUTCHINSON has always taken the time to listen to our troops and military leaders, as he was always looking for ways that he could make a positive difference for these young men and women proudly serving our country. Senator HUTCHINSON will be greatly missed, but his legacy and accomplishments will remain in our history forever.

FRED THOMPSON

Mr. DOMENICI. Mr. President, I rise today to pay tribute to a friend and colleague who is retiring from the Senate after eight years of principled and distinguished service. The Senate will lose an extremely dedicated public servant and also a good bit of star power when FRED THOMPSON leaves us at the end of the 107th Congress.

I had the pleasure of serving on the Governmental Affairs Committee headed by Senator THOMPSON from 1997 until June 2001. I appreciate Senator THOMPSON's determination in pursuing fiscal accountability and relentlessly seeking a smaller and more efficient Federal Government. Senator THOMPSON's leadership on issues such as the proliferation of weapons of mass destruction and missile technologies has made an enduring contribution to our national security, and I have enjoyed working closely with him on matters related to our national laboratories. I would like to thank Senator THOMPSON for his tireless work more recently on the monumental task of creating a Department of Homeland Security. I submit that his industry and integrity in this historic undertaking will leave him a legacy of which he should be proud.

The people of Tennessee first elected Senator THOMPSON to the Senate in 1994, to fill an unexpired two-year term. When he was reelected in 1996, he made history by garnering more votes than any previous candidate for any office in Tennessee. A native of Lawrenceburg, TN, THOMPSON worked his way through school to earn an undergraduate degree in philosophy and political science from Memphis State University, and a law degree from Vanderbilt University. Only two years after law school, THOMPSON was named an Assistant United States Attorney. THOMPSON was then appointed at the age of 30 as minority counsel to the Senate Watergate Committee, where he served in 1973 and 1974. Before he was elected to the Senate, FRED THOMPSON operated successful law practices in Nashville and Washington and served as Special Counsel to the Senate Select Committee on Intelligence and the Senate Committee on Foreign Relations.

While many know that Senator THOMPSON is embarking on a new role as district attorney in the television series Law & Order, his talents for law and acting first came together in the film Marie, in which he portrayed himself after taking on a case in 1977 that uncovered a cash-for-clemency scandal that unseated Tennessee's Governor. FRED THOMPSON has subsequently acted in 18 motion pictures, including In the Line of Fire, Die Hard II and The Hunt

for Red October, as well as four television series.

Some might characterize FRED THOMPSON's uncommonly successful career in show business as a natural complement to the daily business of the Senate. What I know is that whether on the big screen or on the floor of the Senate, FRED THOMPSON's larger-than-life presence has touched the lives of a great many Americans, and he will be sorely missed by his colleagues in the Senate. I thank my colleague for his eight years of distinguished service in which he has enlivened the Senate and served his country with uncommon resolve. I wish Senator THOMPSON the very best in his retirement and all his future endeavors.

FRANK MURKOWSKI

Mr. President, I rise today to pay tribute to one of my distinguished colleagues, a Senator from the class of 1980. From our seats on the same side of the aisle, I have been able to serve 22 years with my long-time friend, and colleague, Senator MURKOWSKI.

I want to take this opportunity to thank Senator MURKOWSKI for his distinguished career of service both to our Nation and his home State of Alaska, and to congratulate him. Senator MURKOWSKI has been a great advocate of his State, which has been demonstrated by his winning 75 percent of the vote in 1998, and the gubernatorial race in this last election. As the Senator moves onto a new challenge, I wish him well with his efforts to continually serve the people of Alaska.

As I look at the past seven years, and all that the Senator has accomplished during his time as chairman of the Energy Committee, I know that these will be big shoes to fill. Throughout his career, the Senator has held steadfast to his ideals, while fighting for improved veterans' health care, and the search for American POW/MIAs, as Chairman of the Veterans' Affairs Committee. While on the Finance Committee, the Senator from Alaska played a pivotal role in passing the Balanced Budget Act of 1997.

Senator MURKOWSKI, his professional manner, and his willingness to work have made him an asset to our Senate. We, in the Senate, will be at a loss without his unrelenting will-power, and determination.

Senator MURKOWSKI has been a friend and servant to the citizens of Alaska, earning a reputation for unbeatable service to his constituents. We have always had a lot in common, fighting for the interest of our predominantly rural States. I have always been impressed with his capability to keep the diversified interests of his State in mind, while developing bills to improve and preserve the tradition, and way of life, for Alaskan citizens. Alaska will be lucky to have him as their Governor.

Today I join my colleagues in offering a goodbye, and good luck, to Senator MURKOWSKI, a tenacious man of high-integrity, for his years of dedicated service. I will certainly miss my friend, and wish him the best as he enters his new career as Governor of Alaska.

PHIL GRAMM AND FRED THOMPSON

Mr. FRIST. Mr. President, the time has come—as it does at the conclusion of every Congress—to honor those members who will be departing from this body. This is a task not easily done. The Senate is one of the highest pinnacles in public service to our nation. Those who serve here have often dedicated their lives—and with great success—to changing America for better.

Today I wish to honor two Senators who have indeed changed America for the better—PHIL GRAMM and my fellow Tennessean and partner in the Senate for the last eight years, FRED THOMPSON.

Senator GRAMM began his service in Congress as a House Democrat in 1978. Five years later he switched parties. But rather than serve out his term as a Republican, he resigned his seat and let the people of his district choose whether they wanted to be represented by a Republican. Well, they did, and PHIL GRAMM became not only the first Republican in history to represent the 6th district of Texas, but the only member of Congress in the 20th century to resign and then win re-election as a member of another party.

PHIL and I share the same commitment to being a citizen legislator . . . to bringing professional expertise to public service. In PHIL's case, he's an economist, a college professor, and a public health expert, and his legislative accomplishments reflect that experience. He's been a staunch proponent of tax relief, economic growth, and a balanced budget. And the Gramm-Rudman Act stands as one of the most groundbreaking pieces of budget legislation in the second half of the 20th century.

FRED THOMPSON has been a dear friend for many years and great partner with whom to work on behalf of the people of Tennessee in the United States Senate. FRED was elected in 1994 to fill 2 years of an unexpired term. He was then reelected in 1996. And just as he did in Hollywood, he rapidly rose to become a star in the Senate.

In 1997, FRED was elected chairman of the Governmental Affairs Committee, making him one of the most junior Senators in history to serve as chairman of a major Senate committee. As chairman, he held hearings on issues such as improving the federal regulatory process; reforming the IRS; exploring ways to eliminate waste, fraud, and abuse in government; and a number of national security issues, including the proliferation of weapons of mass destruction and missile technologies.

Senator THOMPSON has also been a member of the Finance Committee—one of the most influential committees in the Senate. From that position, he has focused on reducing taxes, reforming the tax code to make it simpler and fairer, and restoring the Social Security and Medicare programs to long-term solvency. Though FRED has served eight years in the Senate, the scale and number of his accomplishments would lead one think he has spent an entire career in this chamber.

PHIL GRAMM and FRED THOMPSON will be missed by each and every one of their Senate colleagues. For me it has been an honor, a privilege and a pleasure to work with them both. They have brought to the Senate a rare combination of intellect, charisma, political skill and, above all, a steadfast commitment to principle. And for that they will also be missed by the American people.

Mr. LIEBERMAN. Mr. President, I rise to honor the Members of the Senate who will be leaving us at the end of this Congress. They will not be here in this Chamber next year, but each will leave an indelible imprint on this body, and on the lives of the American people.

First, I wish to say a few words about my colleague, my compatriot on the Senate Governmental Affairs Committee, and my friend, FRED THOMPSON, who has served the people of Tennessee and the people of America ably and nobly for the past 8 years.

The man the Screen Actors Guild knows as Fred Dalton Thompson acts—and acts quite well, I should add—but the man we know as Senator FRED THOMPSON has never read off of anyone's script. Again and again, he has done what he in his heart believed was right for the nation. I will always admire his clarity, integrity, and intellectual curiosity.

Since his joining the Senate in 1994, I have known Senator THOMPSON as a dogged investigator who is always willing to go wherever the evidence may lead, and as an independent-minded legislator who sticks to and stands on principle. Senator THOMPSON was the first Republican after JOHN MCCAIN to support campaign finance reform—an act that speaks volumes about who he is and for what he stands.

On the Governmental Affairs Committee, Senator THOMPSON and I worked closely together on probing the evidence and then issuing a report on the government's highly suspect investigation into the alleged wrongdoing of Wen Ho Lee. Senator THOMPSON brought a singular focus to dissecting and fixing the government's computer security problems. And he has and spared no energy working to ferret out waste, mismanagement, corruption, and abuse in the federal government. Senator THOMPSON understands that the people's Government must do justice to the people's values—not just in the pronouncements it makes, but in the way it does business every day.

Every Member of this body respects the quality of Senator THOMPSON's reasoning and the strength of his voice. Whether it's on defense, intelligence,

free trade, or a wide range of other issues, Senator THOMPSON's words are cogent and clear, and his deeds are consistent with those words.

In addition to his career as a Senator, he has practiced law, written a book, acted in 18 motion pictures and a television show, posted his mother's recipe for fresh coconut cake on his website, and—in the midst of it all—managed to find a lovely women to marry. I am in awe of his energy and vitality.

We know each other as colleagues, as partners, and often as intellectual opponents. But we also know each other as human beings. And at every point and in every context, Senator THOMPSON has brought wisdom, decency, and a great sense of humor to this Congress. When he served as chairman of the Governmental Affairs Committee, he treated me with great consideration and respect, and I hope in my time as Chairman I have afforded him the same courtesies.

I am disappointed to see him go, but look forward to watching him on television on Wednesday nights.

Mr. President, I also wish to honor Senator STROM THURMOND.

We all know that the 20th century was the American Century. It was also the century in which, primarily in his service in the U.S. Senate, STROM THURMOND left his indelible mark on the history of this nation.

There are not many Members of this body today who bring the breadth of his experience to the floor. Senator THURMOND began his career as a farmer, teacher, and athletic coach. He was Superintendent of Education in his home county. He was town and county attorney. He was state senator in his great state of South Carolina. He was a judge. He served in the Second World War, and was part of the Normandy invasion with the 82nd Airborne. He was governor of South Carolina. Then, in 1954, he was elected to the United States Senate.

The long list of these accomplishments would take most Americans 300 years to accumulate. Senator THURMOND has gotten them all under his belt in a mere 100. And he has raised a family, to boot.

Through it all, Senator THURMOND has grown not only as a legislator but as a human being. When we honor him, we pay tribute to human beings' capacity for growth. After running for President, as I mentioned, as a state's rights candidate, he later supported the renewal of the Voting Rights Act and observance of the Martin Luther King, Jr. Holiday on behalf of his state. That transformation sent a powerful message that all of us could become better Americans and better individuals—and that the United States of America, for all its blessings, can always become a better nation.

I also wish to honor another Member the Senate will miss, my good friend from Texas, Senator PHIL GRAMM. Senator GRAMM has only served since 1984, not since 1954 like Senator THURMOND, but his achievements have been remarkable indeed.

Senator GRAMM, who came to the Senate with a Ph.D. in economics and a distinguished career in teaching, has become one of this Chamber's foremost experts on fiscal policy, one of its clearest voices on defense and foreign policy, and one of the most stalwart defenders of individual liberties.

He has a wonderful intuitive understanding of the value of basic research and other technological innovation, and I have been proud to work with him to increase both the Government's total funding commitment to science and the effectiveness of the money we spend.

Senator GRAMM is an ideologue—and I mean that in the best sense of the word. He fervently defends his beliefs against all challenges. Senator GRAMM relishes debate. Here on the floor, you can see it in his eyes and hear it in his voice. And let me add—and I say this reluctantly, having been at the receiving end of more than a few of his missives—that he is quite good at it. In that way, he has continued and advanced one of the great traditions of this body. Yes, compromise is what makes governments great and marriages happy; we all know that. But without firm principles and intellectual passion to guide us, without ideals we are not willing to sacrifice, we would never know what is worth compromising. And Senator GRAMM has never forgotten why he is here or what he is fighting for.

I wish him luck in the private sector, where he will continue to serve the nation and will, much to his liking, make much more money in the process.

The Senate is losing many giants at the end of this term. Let me now say a few words about JESSE HELMS of North Carolina—a Navy veteran in the Second World War, a respected journalist, a businessman, a city councilman, and since 1973, a legendary legislator in the Senate.

As a Member of this body, Senator HELMS has done too much to mention here today. But he is most respected for his leadership of the Senate Foreign Relations Committee.

There, he has proven to be a tireless defender of the interests of America—and an advocate of the inalienable rights of people all over the world to the basic freedoms and opportunities we enjoy. I have always admired his steadfastness and his strength. And I have always known that the goals we seek—a strong America that advances democracy and increases prosperity around the world—are the same.

And we have at least one other thing in common. Senator HELMS' name was placed in nomination for Vice President of the United States—this was at the GOP convention in Kansas City in 1976. Although he asked the convention to withdraw his name, he nevertheless received 99 delegate votes. A few years later, I could have used those votes.

Another Senator retiring after a distinguished career—in his case because he is trading the U.S. Capitol for the Governor's mansion in his great home state of Alaska—is Senator FRANK MURKOWSKI. Hopefully his new challenge will afford him more opportunities to enjoy life with his lovely wife Nancy, his six children and his 11 grandchildren.

For four terms of office, Senator MURKOWSKI has served the people of his state with vigorous energy and rigorous attention to detail since being elected to the Senate in 1980. He delivers for the people of Alaska—and they appreciate it. I am confident he will continue to lead with distinction as governor.

My friend and colleague Senator MAX CLELAND gave elegant departing remarks yesterday on this floor. Those remarks reminded me how much the Senate will miss his buoyant personality, his eloquent words, his principled service to the people of Georgia, and his transcendent faith.

I was privileged to serve alongside Senator CLELAND on the Senate Governmental Affairs Committee, where he was always courageous, independent, and tenacious. I also had the good fortune of working with him on the Armed Services Committee and the Small Business Committee. I could not have wished for a kinder or more decent man to call my colleague.

Senator CLELAND also was an early supporter of and essential contributor to the bill establishing a Department of Homeland Security that we reported out of committee in May. Therefore, the historic bill we passed yesterday, and the Department it will create to protect the American people from terrorism here at home, is due in no small measure to his efforts.

But Senator CLELAND will be remembered for the spirit he brought to this Senate as much as for the many things he accomplished here. His grit, His wit. His honesty. His willingness to take risks. His never-failing sense of humor. I wish MAX the best of luck.

Mr. President, let me also take a moment to honor my friend and colleague Senator JEAN CARNAHAN who has added to a long and storied career by serving the people of Missouri with care, skill, and devotion over the last 2 years.

Senator CARNAHAN was not only the proud occupant of Harry Truman's seat, but was an able custodian of Harry Truman's legacy. She legislated with an independent mind and a pragmatic personal philosophy, always putting the well-being of Missouri's working families first.

I have been fortunate enough to serve alongside Senator CARNAHAN not only on the Governmental Affairs Committee, where she quickly proved to be an invaluable asset, but on the Senate Armed Services Committee. Senator CARNAHAN doesn't only talk about bipartisanship. She practices it. I'm proud to call her a fellow New Democrat, and even more proud to call her a friend.

We are losing many women and men of principle from this body; I hope an equal number replace them. I will fondly remember Senator BOB SMITH for his unwavering adherence to the values of his faith and his family. And I admired Senator SMITH's hard work on the Environmental and Public Works Committee in defense of New Hampshire's environment and this nation's. BOB is a man of honor and I was proud to serve with him.

Many of us strive for eloquence here on the floor. But few of us are as consistently passionate and persuasive as another departing colleagues, ROBERT TORRICELLI, who served seven terms in the House of Representatives and then here in the Senate since 1996. As a fellow northeastern and fellow member of the Senate Governmental Affairs Committee, I will miss his wisdom and great sense of purpose. He is extremely gifted and gave great service for New Jersey and America.

Finally, Mr. President, a special word for our dear departed colleague Senator Paul Wellstone—who I want to describe in the best way I know how, as a mensch—a man, a very good man. He radiated decency and kindness and commitment to make the world a better place. That was so not just in what he said and did on camera, but in what he said and did in quiet moments, small moments, private moments.

Much has been made of the fact that Paul was a teacher. And it is fitting. I think about all the lessons that Paul Wellstone the political scientist taught to his students, and how every one must have come alive when he ran for office—and won—in 1990. That inspiration will last for generations.

Paul Wellstone taught his students, by example, that Americans who want change can do much more than carp or complain. They can and should enter and shape the system. They can and should be a part of the government of the people, by the people, and for the people.

Senator Wellstone uplifted the Senate and uplifted our democracy, and he did it with the clarity of his conscience and the power of his principles and passions.

It's no wonder Paul titled his book The Conscience of a Liberal, after Barry Goldwater's book The Conscience of a Conservative. Paul had read Senator Goldwater's book as a boy, and though he found himself at the opposite end of the political spectrum, Paul admired Goldwater's decency, his honesty, and his conviction.

The name ''Paul'' comes from the Roman family name ''Paulus,'' which meant ''small'' or ''humble'' in Latin. And Paul was physically small. He was spiritually humble. But the scope of his ideals and of his service was monumental.

In The Ethics of the Fathers, a tome of Jewish law, it is written: ''It is not your obligation to complete the task [of perfecting the world], but neither are you free to desist [from doing all you can].''

Paula Wellstone, as a Senator, a father, a husband, and a man, lived these words and lived them well. May he rest alongside his wife and daughter in peace.

I thank the Chair and yield the floor.

LONG-TERM CARE OMBUDSMAN PROGRAM

Mr. BREAUX. Mr. President, I would like to engage the distinguished Chairman of the Appropriations Committee's Subcommittee on Labor, Health and Human Services, and Education in a brief colloquy on an issue that is very important to frail older persons and individuals with disabilities who reside in nursing homes and other long-term care facilities.

My colleague should be congratulated for the additional funds that his subcommittee has provided in recent years for the Long-Term Care Ombudsman Program, under the Older Americans Act. Our colleagues, Senator KOHL, and Senator SPECTER, should also be recognized for their support of the ombudsman program. The Labor, Health and Human Services, and Education Appropriations bill that you introduced for Fiscal Year 2003 proposes a much needed $3 million increase to provide more ombusdmen to help address the growing quality problems in nursing homes and assisted living facilities.

I would like to discuss with the chairman and my distinguished colleague and ranking minority member of the Finance Committee our strong support for this program and the National Long-Term Care Ombudsman Resource Center that so effectively serves State and local ombudsmen across the Nation.

Mr. HARKIN. Mr. President, the distinguished chairman of the Special Committee on Aging is correct in describing our efforts to steadily increase the capacity of State Long-Term Care Ombudsman Programs. This very effective program is available to the 2.8 million residents of over 60,000 facilities including licensed assisted living. It makes a big difference in the quality of life for residents by resolving their complaints 231,889 about resident care and residents' rights, visiting facilities on a regular basis, and by advising residents, their families, and facility staff. We have also supported funding for the very effective Ombudsman Resource Center, which has been housed at the National Citizens' Coalition for Nursing Home Reform since 1993. I would like to see an increase for this important Center.

Mr. GRASSLEY. Mr. President, I rise in support of my two colleagues' viewpoints on the value of the Long-Term Care Ombudsman Program and its national resource center. The hearings that my colleague from Louisiana and I have conducted over the years have provided significant evidence that the ombudsman program is critical in protecting the rights of older and disabled individuals living in long-term care facilities.

Training and technical assistance are among the critical variables in determining the quality of services that ombudsmen are able to provide. Additional funds appropriated for the National Long-Term Care Ombudsman Resource Center would be used to increase the capacity of the Center to develop and coordinate training systems and other skills-building opportunities for State, local and volunteer ombudsmen. The Center has an exemplary track record and this will improve program consistency among states and enhance program effectiveness.

Mr. BREAUX. Mr. President, I agree with my colleague. The Center's work is critical to millions of residents of long-term care facilities and their families. I am hopeful that when we finally pass a fiscal year 2003 Labor, HHS, Education appropriations bill that we will provide appropriate support for the Center and report language that ensures the continued quality training and assistance for omsbudmen that has been so ably provided through the Center.

It is my view that the Center must continue to be housed in an independent nonprofit citizens-based organization that has the improvement of care in long-term care facilities as its primary purpose. Such an organization should include long-term care ombudsmen and consumers in its governance and have a minimum of 5 years of experience on a national basis of providing long-term care ombudsmen with technical assistance, training, and information.

Mr. GRASSLEY. Mr. President, I concur with that assessment. We know that there is a growing demand for ombudsman services and too few ombudsmen and volunteers to regularly visit all of the nursing homes and assisted living facilities. And we know that training and resources care essential. The Center provides individualized support to State and local ombudsmen on specific, complicated long-term care questions and provides training at state and regional conferences. The need to expand these supportive services is growing rapidly.

Mr. HARKIN. Mr. President, I believe that we must put our energies toward ensuring that we protect the rights of nursing home residents and help them to resolve problems with the quality of the care that they receive. I am committed to working with my colleagues on this goal for fiscal year 2003 and beyond. I am also supportive of the notion that we need to ensure that the resource center continues to be housed in an organization as described by my colleague.

I thank my colleagues for their support of the work of our subcommittee. I look forward to working with my distinguished colleagues to ensure that these programs continue to serve older adults and disabled individuals.

CONFIRMATION OF JOHN ROGERS

Mr. McCONNELL. Mr. President, the Senate last week confirmed Professor John Rogers to one of the seven vacant seats on the Sixth Circuit Court of Appeals. Professor Rogers' career has been marked by excellence and achievement, and he will be a fine addition to the Sixth Circuit.

He was elected to Phi Beta Kappa at Stanford. At the University of Michigan law school, he was a member of the prestigious Order of the Coif. He has twice served in the Appellate Section of the Civil Division of the Department of Justice, earning a Special Commendation for Outstanding Service. He has been on the faculty of the University of Kentucky College of Law since 1978, where he is the Thomas P. Lewis Professor of Law. Professor Rogers has also twice served as a Fulbright Professor in China. Finally, it is worth noting that Professor Rogers has dedicated a good part of his life to the service of his country as a member of the field artillery in the United States Army Reserves. He is retired with the rank of Lieutenant Colonel.

Professor Rogers, in addition to having the enthusiastic support of both Senator BUNNING and myself, has earned a unanimous rating of qualified by the American Bar Association. I am confident that he will make the citizens of the Commonwealth proud, and that he will provide badly-needed relief to the woefully understaffed Sixth Circuit Court of Appeals.

As I have said repeatedly, I appreciate the fair manner in which Chairman Leahy treated Kentucky judicial nominees, particularly nominees to the district courts in Kentucky. However, some of his statements on the floor Monday evidence a serious misunderstanding of the genesis of the Sixth Circuit vacancy crisis and of Professor Rogers' judicial record and philosophy.

As many people know, the Sixth Circuit has been in dire straits, and although some of my Democrat colleagues have tried mightily to do so, the blame for this sorry situation cannot be laid at the feet of a Republican-controlled Senate.

At the beginning of this year, half of the sixteen seats on the Sixth Circuit were vacant. But contrary to the assertions of my friend from Vermont, half of those vacancies arose in the first year of President Bush's presidency. Judges Gilbert F. Merritt, Alan E. Norris, Richard F. Suhrheinrich, and Eugene F. Siler all took senior status in 2001—after President Bush came into office.

With respect to another vacancy on the Sixth Circuit, my friend from Vermont notes that the Senate did not act on President Clinton's nomination of Mr. Kent Markus. Mr. Markus was nominated to fill the vacancy that arose from Judge David A. Nelson taking senior status. The Senate was unable to act on this vacancy, however, because President Clinton did not nominate Mr. Markus until his final year in office, when only nine months remained until the presidential election.

As to a sixth vacancy, that created by the retirement of Judge James L. Ryan, President Clinton did not even submit a nomination.

As to the remaining two vacancies, it is my understanding that the Republican Senate could not confirm the nominees to these seats, Ms. Helene White and Ms. Katherine McCree Lewis, because the Clinton Administration did not properly consult on their nominations. As a result, these nominations faced home-state opposition that prevented the Senate from moving them forward.

I ask unanimous consent that an article from the Wall Street Journal on the subject of these nominations be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit I)

Mr. McCONNELL. Mr. President, the situation with Ms. White and Ms. Lewis is obviously quite different from the situation of Mr. Jeffrey Sutton and Justice Deborah Cook, whom President Bush has nominated to fill two of the six remaining vacancies on the Sixth Circuit. Both Mr. Sutton and Justice Cook have strong home-state support. Furthermore, they are part of the President's first group of judicial nominees that he submitted to the Senate in May of last year. Nevertheless, neither has been able to obtain a hearing. I am confident that in the next Congress the Judiciary Committee will promptly act on their nominations.

Far from treating President Clinton poorly with respect to his judicial nominees, the Republican Senate treated him quite well, particularly on nominations to the Sixth Circuit. President Clinton got three hundred and seventy-seven of his judicial nominees confirmed, only five shy of President Reagan's all-time record. This is quite impressive in and of itself. It is even more impressive when one considers that President Clinton got these nominees confirmed when Republicans controlled the Senate for seventy-five percent of his term. By contrast, President Reagan got his judicial nominations confirmed when his own party controlled the Senate for seventy-five percent of his term. Thus, a Republican Senate treated Presidents Reagan and Clinton equally well.

As part of his near-record total, President Clinton got five Sixth Circuit nominees confirmed. Judges Martha Craig Daughtery, R. Guy Cole, Jr., Karen Nelson Moore, Ronald Lee Gilman, and Eric L. Clay were all Clinton nominees who were confirmed to the Sixth Circuit. This is also a fairly impressive statistic, particularly when compared to President Bush, who has only gotten two of his Sixth Circuit nominees confirmed, including Professor Rogers. But President Clinton's Sixth Circuit accomplishment is even more impressive when one considers that a Republican Senate confirmed four out of the five, or eighty percent, of those nominations. Only Judge Daughtery was confirmed by a Democrat Senate.

Indeed, because the Republican Senate confirmed so many nominees to the Sixth Circuit, Democrat appointees outnumbered Republican appointees by a ratio of three to one at the beginning of this year: there were six Democrat-appointed judges on the Sixth Circuit and only two Republican-appointed judges. President Clinton might have had even more judicial nominees confirmed to the Sixth Circuit if his administration had consulted properly on the White and Lewis nominations.

With respect to the Rogers' nomination, Professor Rogers has not been a judicial activist, as the Chairman claims. The law review article on which my friend from Vermont relies for this sweeping assertion was a theoretical piece discussing an esoteric subject that scholars have debated since the great Learned Hand. It was Professor Rogers' lone foray into the topic.

Far from arguing that inferior courts should somehow try to overrule higher court precedent—if that were even possible—Professor Rogers argues just the opposite: that lower courts have a duty to follow all precedent, including precedents with which they disagree. My friend from Vermont may want to read page 185 of the article where Professor Rogers writes that our legal system ''would not work well if lower courts persisted in their own sincere legal analyses regardless of the decisions of higher courts.'' Professor Rogers goes on to write that it ''follows that judges may, indeed should, follow the law as appellate courts determine it, in order to apply—per their oaths—the law of the system that set up their courts.''

Over the course of his long and distinguished career, Professor Rogers has consistently demonstrated a strong and abiding fidelity to precedent. A judicial activist, by contrast, would be a label more appropriately applied to someone like Clinton appointee William Sessions, a district court judge from Vermont, who recently declared that the federal death penalty statute is unconstitutional in all its applications, which would preclude using it against mass murderers and serial killers. Or it could apply to Clinton appointee Jed Rakoff, a district court judge who also ruled the federal death penalty unconstitutional, which prompted even the Washington Post to complain about such judicial activism in a piece entitled ''Right Answer, Wrong Branch.''

Or that label might apply to Clinton appointee Shira Scheindlin. According to the Wall Street Journal, in an article entitled ''Osama's Favorite Judge,'' a Jordanian named Osama Awadallah knew two of the 9/11 hijackers and met with one at least forty times. His name

was found in the car parked at Dulles Airport by one of the hijackers of American Airlines Flight 77. Photos of his better-known namesake—Osama bin Laden—were found in Mr. Awadallah's apartment. Under the law, a material witness may be detained if he has relevant information and is a flight risk.

Federal prosecutors thought that Osama Awadallah easily met both parts of that test and therefore detained him. While detained Mr. Awadallah was indicted for perjury. But Judge Scheindlin dismissed the perjury charges and released Mr. Awadallah. She reasoned that the convening of a federal grand jury investigating a crime was not a ''criminal proceeding'' and therefore it was unconstitutional to detain Mr. Awadallah. This was quite a surprise to federal prosecutors who for decades had used the material witness law in the context of grand jury proceedings for everyone from mobsters to mass murderer Timothy McVeigh.

Or that label might apply to Clinton appointees Tashima, Hawkins, Paez, and Berzon, all of whom discovered in the Constitution the right of prisoners serving life sentences to procreate via artificial insemination. Fortunately, there were enough judges on the Ninth Circuit to conclude that the Constitution does not include a ''right to procreate from prison via FedEx.''

There are other Clinton nominees to whom one could apply the label ''judicial activist.'' That label cannot, however, fairly be applied to Professor Rogers.

The Chairman also implies that Professor Rogers is an activist because of his views on the Supreme Court's opinion in Roe v. Wade. But Professor Rogers has never ruled on that subject. In fact, he has never even written on it, except for his one assignment as a line attorney in the Justice Department in helping draft an amicus brief. If daring to note some of the flawed analytical underpinnings of Roe makes one a judicial activist, then Justice Ruth Bader Ginsburg must be one. In a 1985 article, she noted that ''Roe sparked public opposition and academic criticism, in part, I believe, because the Court ventured too far in the change it ordered and presented an incomplete justification for its action.'' She also recognized that in Roe ''heavy-handed judicial intervention was difficult to justify and appears to have provoked, not resolved, conflict.'' Other liberal scholars have also recognized serious flaws in Roe's analysis.

In conclusion, Professor Rogers possesses the intellect, integrity, and commitment to public service that will make him a fine addition to the Sixth Circuit. His confirmation will provide some badly-needed relief to my constituents and other citizens in the Sixth Circuit, and I am confident that he will make Kentucky and his country proud. And while I believe my friend from Vermont misapprehends the cause of the vacancy crisis on the Sixth Circuit and Professor Rogers' judicial philosophy and record, I appreciate him moving the Rogers' nomination and other Kentucky nominees through the process. He correctly notes that there are now no judicial vacancies in Kentucky, and I thank him again for helping the Commonwealth in that respect.

EXHIBIT 1

[From the Wall Street Journal, Dec. 4, 2001]

JUDGES AND GRUDGES

MICHIGAN'S DEMOCRATIC SENATORS SEEK PAYBACK

(By Thomas J. Bray)

On Thursday, the Sixth U.S. Circuit Court of Appeals, which handles federal appeals from Kentucky, Michigan, Ohio and Tennessee, will meet en banc to hear oral arguments on whether the University of Michigan's use of racial preferences in administrations is constitutional. Such a hearing, in which all of the court's active judges, rather than the usual three-judge panel, hear the case, is highly unusual.

But then the number of judges on the Sixth Circuit is bit unusual, too. Though there are normally 16 active judges assigned to the appeals court, only nine of the seats are currently filled. Moreover, the number will fall to eight at the end of the year when one judge retires.

Nominations to fill seats in the Sixth Circuit have are being stymied by bitter partisan wangling in the Senate. And there appears to be little prospect of breaking the deadlock. Michigan's two Democratic senators, Carl Levin and Deborah Stabenow, have put a hold on three of President Bush's nominees from that state. (Mr. Bush hasn't yet named a candidate for a fourth seat traditionally held by a Michiganian.) Judiciary Committee Chairman Patrick Leahy has refused even to hold hearings on the nominations.

Echoing their party's rationale for foot-dragging on judicial nominations from all across the country, Sens. Levin and Stabenow complain that when Republicans controlled the Judiciary Committee in the warning days of the Clinton administration, they arbitrarily refused to act on the nominations of state appellate judge Helen White and Detroit lawyer Kathleen McCree Lewis. ''This was despite the fact that no concerns were raised about either woman's qualifications,'' the two senators wrote in a letter last weekend to the Detroit News.

That leaves the implication that the White and Lewis nominations were stalled because of sheer partisanship, thus justifying retaliation now that the Senate is in Democratic hands. But the story is a bit more complicated.

Helene White happens to be the wife of Carl Legion's cousin Charles Levin, a former member of the Michigan Supreme Court. In 1996, Judge White was threatening to run as an independent for the state Supreme Court. This horrified Michigan Democrats, who feared that she might draw off a big chunk of the liberal vote. The White House, according to state political sources, was persuaded to forestall that possibility by nominating her for a seat on the Sixth Circuit. (The Democratic candidate went on the lose anyway.)

But her nomination outraged then-Sen. Spencer Abraham, a Michigan Republican who is now secretary of energy. Mr. Abraham traded his help for getting three Michigan nominees to the federal courts approved by the GOP Senate in exchange for Clinton-judge pickers holding off on further nominations.

When the White House was ahead with the White nomination anyway, sen. Abraham made no secret of his feeling that he had been double-crossed. He then placed his hold on the White nomination and later the Lewis nomination.

All of this came well into the Clinton tenure. Newly elected presidents, including Mr. Clinton, have generally received speedy accommodation for their initial nominees. Blocking nominees so early makes it appear the Democrats are motivated by little more than partisanship stemming from disappointment at the outcome of the 2000 election and the desire to impose an ideological litmus test on judicial nominees.

Sen. Charles Schumer of New York, a member of the Judiciary Committee, let the cat out of the bag shortly after the Democrats took over the Senate. The committee, he announced, would be justified in opposing nominees ''whose views fall outside the mainstream''—in other words, anybody with whom he and his Democratic colleagues disagreed.

The three blocked Bush nominees to the Sixth Circuit include a highly qualified federal district judged from western Michigan, a female state trial judge and a state appeals-court judge of Arab descent. At a time when Democrats are loudly complaining about insensitivity toward Arab and Muslim visa-holders, the last nomination might seem particularly timely. A federal district judge in Detroit is now hearing charges against three Arab aliens charged with visa violations who authorities say may have connections to al Qaeda.

There currently are 110 vacancies among the nation's 862 district and appeals courts judgeships. The gap has so far been filled by semiretired senior judges, through they aren't allowed to join in en banc court proceedings.

An indignant Sen. Leahy is hauling Attorney General John Ashcroft before his committee this week to answer questions about the constitutionality of his investigative techniques as well as the use of military commissions to conduct speedy trials of captured foreign terrorists. If Mr. Leahy and his colleagues are so keen on having the regular courts do this job, maybe they should be asked why they are still sitting on so many of the president's nominations.

OPPOSING THE LONG-TERM CONTINUING RESOLUTION

Mrs. LINCOLN. Mr. President, I rise in opposition to the continuing resolution because I believe it is irresponsible for Congress to adjourn without fulfilling our constitutional obligations. I have in the past allowed short-term continuing resolutions to fund our Government in order to give my colleagues time to complete the appropriations process. But I cannot support the long-term continuing resolution which will simply allow Congress to go home for the rest of the year before our job is complete.

As our Nation stands on the verge of going to war, it is beyond me how we can simply pass a bill to keep government spending at last year's levels. Yesterday's Washington Post reports that fire crews, police officers, emergency workers and others who would be the first on the scene in the event of a new terrorist attack haven't received any of the money that the President's budget promised them. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 19, 2002]

SPENDING BILL DELAYS CRIMP WAR ON TERROR

CONGRESS'S INACTION SLOWS DOMESTIC PLANS

(By Jonathan Weisman)

With their political attention focused on establishing a Department of Homeland Security, Congress and the White House have given up funding many of the department's proposed functions, at least in the short run. As a result, programs such as trucking security, bioterrorism defense and customs operations are strapped for cash, perhaps well into next year.

Congress's decision to fund the government at 2002 levels until Jan. 11 could mean federal, state and local agencies expecting large increases for emergency response, new equipment and other needs will not see additional money until spring, halfway through the fiscal year that began Oct. 1. Budget experts say Congress is unlikely to pass any 2003 nondefense spending bills until February at the earliest.

''After the attacks of September 11, many of us anticipated with urgency what should have been recognized by Congress—that all this money would have been passed by October 1,'' said Matthew R. Bettenhausen, director of homeland security for Illinois. ''Now, it's not going to be until calendar year '03 that they even consider the president's proposals.''

Spokesmen for various Federal agencies say their departments are functioning fine under the temporary funding measures, known as continuing resolutions. White House budget officials say they can shore up programs as needed by shifting funds from where they are not needed, or tapping unspent money from the last fiscal year.

But Federal officials speaking on condition of anonymity say the stalemate will have serious consequences. The director of the National Institutes of Health told Congress in October that if his agency did not receive requested funding increases soon, he would have to scale back bioterrorism research grants scheduled to be awarded in December and January. Biodefense ''is one program that was slated to markedly increase in 2003, so a continuing resolution there for any length of time will greatly impair that program,'' Director Elias A. Zerhouni warned.

Congress has provided the entire Federal Government's bioterrorism program with $1.5 billion, a fraction of the president's $4.3 billion request, said G. William Hoagland, Republican staff director of the Senate Budget Committee.

The Customs Service has reached agreements with nine countries to inspect massive shipping containers heading to the United States from 15 of the world's 20 largest ports, but it will likely have to postpone the deployment of agents that had been scheduled for January.

The Department of Energy's National Nuclear Security Administration has frozen hiring, even as it tries to ramp up security at the nation's nuclear weapons plants and laboratories. In a Nov. 15 memo, the agency's acting administrator, Linton F. Brooks, told agency chiefs that Congress's actions had presented ''a serious management challenge'' that forced him to impose the freeze to avoid large reductions in force later in the fiscal year.

Major computer purchases to bolster the president's border security initiative are on hold. And the newly established Transportation Security Administration, operating on $466 million less than it expected for the next two months, has had to withhold $20 million in truck security grants, a senior Transportation Department official said.

The agency also has deferred reimbursements to the airlines for cockpit door retrofits. TSA employees scattered around 429 airports are without computers or administrative support. And if Congress does not act quickly in January, when TSA employees must receive a mandatory 3.1 percent pay raise, the agency will have to furlough hundreds of its workers.

''There are a lot of agencies that are going to be in the soup on this thing,'' said one administration official, who refused to be identified. ''But the biggest problems are at TSA. They're going to be clobbered.''

Rep. David R. Obey (Wis.), the ranking Democrat on the House Appropriations Committee, called the performance ''a disgrace'' and ''a spectacular abdication of responsibility.'' House Appropriations Committee Chairman C.W. Bill Young (R–Fla.) was less forceful but conceded that Congress's action was ''not the best way to fund the government.''

Homeland security is just one area that fell victim to Congress's failure to pass new appropriations bills. House Republicans were bitterly divided all year between moderates, who wanted to spend more on nondefense domestic programs, and conservatives, who wanted to stick to the president's austere spending limits. In the end, the House passed only two of the 11 annual nondefense appropriations bills.

Democrats on the Senate Appropriations Committee pushed through all 13 of their spending bills at levels well above House levels, but they managed to get only one nondefense spending bill through the full Senate.

To be sure, some homeland defense functions are moving forward. The temporary spending resolution funds the government at 2002 levels, but it also carries forward emergency spending approved shortly after Sept. 11, 2001. For example, the $151 million fund that Congress provided the Food and Drug Administration for an emergency food safety program will remain flush. The stopgap spending resolution, expected to pass the Senate this week, also allows the president to redirect $640 million from other programs to the newly created Homeland Security Department.

And in some cases, more money would do little good for agencies still struggling to come to grips with their new security responsibilities. Congress has failed to provide the U.S. Border Patrol with funds it would need to hire 570 agents that lawmakers have requested. But, said patrol spokesman Mario Villarreal, the agency's recruiting efforts could not reach last year's goal of 10,551 Border Patrol agents, in part because about 750 agents quit to become air marshals for the TSA.

Still, Congress's failures have left bitter feelings, especially with organizations that backed politicians in exchange for promises they fear will be broken.

''It's going to be my members, wherever the next [terrorist] event is, God forbid, that are the first on the scene, and we have a federal government that has been unable to put any money on the ground to help them,'' said Harold A. Schaitberger, president of the International Association of Fire Fighters.

And for state governments facing severe fiscal crises, the failure of Congress to provide federal help has been particularly ill-timed, said Philip G. Cabaud Jr., Delaware's homeland security adviser.

President Bush and Congress can claim great success in establishing the framework for the nation's eventual response to terrorist threats. Before lawmakers officially close the 107th Congress, they will likely have established a Department of Homeland Security and approved port security, border security and bioterrorism measures. But none has been fully funded.

The president's budget promised that $3.5 billion would begin flowing in October to ''first responders,'' but fire crews, police officers and emergency workers are still waiting for even a penny.

One executive of the American College of Emergency Physicians recalled an invitation to the White House in June to watch Bush sign the Bioterrorism Preparedness Act, which authorized Congress to send $520 million to hospital emergency rooms. So far, though, only about $135 million has been made available, and the official said her organization has seen none of it.

Two years ago, Congress began providing $360 million for federal grants to local firehouses. The House promised to increase that number to $400 million this year. The Senate promised $900 million. So far, firefighters have gotten nothing.

''There has been a tremendous amount of rhetoric and a tremendous amount of utilization [by politicians] of fire services whose new status was purchased at such a high cost,'' said Garry L. Briese, executive director of the International Association of Fire Chiefs. ''But their actions do not reflect the words.'' End of story

Mr. President, it's not just our counter terrorism operations that need to be funded. Our domestic priorities are also hurting. For example, the Administration has boasted about the education bill, the No Child Left Behind Act, which the president signed in 2002. Yet we haven't come close to funding the programs authorized in the bill. Leaving town without funding these and other priorities is irresponsible.

We have also failed to act on the Medicare give-back bill (S. 3018), leaving physicians, rural hospitals, nursing homes, ambulance providers and pathologists without adequate reimbursements from the federal government. Adjourning without ensuring proper Medicare reimbursements to these providers means they will have to choose between helping patients while operating at a financial loss or discontinuing services. What an unfair choice to leave those who help our senior citizens!

Adjourning now will also leave states like Arkansas in the lurch. The Senate Finance Committee passed a three-year reauthorization of welfare, but we didn't complete this bill on the Senate floor. Arkansas has one of the six state legislatures that meet biennially and is one of the 19 states that must pass two-year budgets. Our legislature meets early next year. How will they be able to plan their budget if they don't know what federal money they will be getting for their TANF (Temporary Assistance for Needy Families) program? TANF is one of the major federal programs designed to help needy families with children. An estimated 5.5 million parents and children depend on welfare benefits for a monthly cash check. An additional 1 million families do not receive a cash payment, but depend on TANF for child care and/or transportation subsidies which are essential to enable parents to work and move toward self-sufficiency. How can we leave 6.5 million people in the lurch?

Lastly Mr. President, it took headlines and plummeting stock shares to alert the nation to the vast fraud and greed which had inflated the Wall-Street stock bubble. The government and the Congress had no clue what was going on and the public suffered. In order to remedy this problem the Congress overwhelmingly approved the Sarbanes-Oxley Act. This new law authorized a 77 percent increase in SEC funding to $776 million.

The increase was included in both the Sarbanes bill here in the Senate and in the House-passed H.R. 3764. But now we are learning that the White House doesn't want to fund the full authorization and is ready to propose nearly a third less than that. That is outrageous and I think the public should pay attention to this issue. Unless the authorization is funded it is meaningless. Meaningless, Mr. President, a hollow position crafted for an age of thirty second sound bites. The public should not allow this to go on.

Congress should fund the priorities we have authorized. That is why I oppose the long-term continuing resolution.

CYPRUS' MEMBERSHIP TO THE EUROPEAN UNION

Ms. SNOWE. Mr. President, the Senate has recently passed by unanimous consent a resolution, S. Con. Res. 122, that I, along with Senators BIDEN and SARBANES introduced expressing support for Cyprus' membership in the European Union, EU. This is a timely and significant statement of support for the Senate to make on the cusp of Cyprus' membership and I would like to thank Senators BIDEN and SARBANES for their efforts toward achieving the passage of S. Con. Res. 122.

Just this past month, Cyprus moved yet another step closer to its goal of EU membership. At the end of October, the 15 European nations met in Brussels and endorsed the recommendations of the European Commission that Cyprus and nine other countries become EU members in 2004. It was agreed that Cyprus had fulfilled the political criteria for accession and will be able to meet the economic criteria and assume the obligations of membership. It is expected that an official invitation for membership will be expanded this December, with accession in 2004.

The EU countries did reaffirm the call for continuing efforts by President Clerides and Turkish-Cypriots to work toward a solution to the Cyprus problem by the end of the year. However, as was stated at the Helsinki Summit in 1999, such a solution is not a precondition for Cyprus' membership.

After 27 years Cyprus remains a divided nation. However, as an EU member, the entire island of Cyprus will see economic benefits. All Cypriots will have access to new markets, a freer exchange of goods and services, balanced and sustainable development as well as the free movement of persons, goods and services, and capital.

But EU membership is not only about economic prosperity it is also about human rights. The EU guarantees citizens of its members human, legal and civil rights as well as the means and legal recourse necessary to secure the full application of these fundamental individual rights.

Moreover, Cyprus' EU membership will be, and has been, a catalyst for the solution to the Cyprus problem as the mere prospect of membership has already yielded progress. That Cypriot President Clerides and Turkish-Cypriot leader Denktash have been meeting since January in direct talks to seek a resolution of the division of Cyprus is seen as evidence of the positive leverage exacted by expected EU accession.

As a result of these continuous meetings, other international efforts have occurred such as the recent submission by the U.N. Secretary General of a comprehensive proposal for the solution of the Cyprus problem. If it were not for Turkey's desire to also be an EU member knowing that other EU members could block this goal it is questionable whether these talks would even be taking place. That, along with improved economic prosperity and guaranteed human rights, is why it was vital that the Senate go on record as supporting Cyprus' EU membership.

INDIAN TRUST FUNDS MANAGEMENT

Mr. MCCAIN. Mr. President, I would like to make a brief statement for the RECORD regarding an issue of significant importance to me, and that is the fiduciary and trust responsibility of the United States toward Native Americans for management of trust assets and trust funds.

Earlier this year, I introduced S. 2212, the Indian Trust Asset and Trust Fund Management and Reform Act of 2002. This legislation would have amended the 1994 American Indian Trust Fund Management Reform Act to initiate further reform of the administration and management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual Indians. I was pleased to be joined in this effort by my distinguished colleagues, the two Senators from South Dakota, Mr. DASCHLE and Mr. JOHNSON, and I appreciate the time and effort they have expended as we have tried to move the bill toward enactment.

I also thank the chairman of the Committee on Indian Affairs, Senator INOUYE, for holding a hearing on S. 2212 in July. As a result of the testimony received in the hearing and the comments from many of the Indian tribes that would be affected by this legislation, we developed an amendment in the nature of a substitute which significantly improved the original bill. Many tribal leaders shared comments and offered recommendations to us in the process and were grateful for their efforts.

By sponsoring this legislation, Senators DASCHLE, JOHNSON, and I intended to express congressional support and provide direction for reform of the Federal Government's management of Indian trust funds and assets, which has for some time been subject to intense criticism and scrutiny by the Federal courts. High-level Government officials have been held in civil contempt twice by the U.S. District Court here in Washington, DC, for their abject breach of fiduciary duties as well as the continuing failure to comply with statutory mandates and court orders.

S. 2212 focused on two primary changes to the 1994 American Indian Trust Fund Management Reform Act, the underlying law governing Indian trust funds management. First, it would have created a single line of authority in the Interior Department by establishing a Deputy Secretary for Trust Management and Reform; and second, the bill would have strengthened provisions for Indian tribes and beneficiaries to directly manage or comanage with the Interior Secretary trust funds and assets, based on successful self-determination policies.

Based on comments received from tribes, we amended S. 2212 to affirm the fiduciary standards to be applied to the management of Indian trust funds and assets, as well as to abolish the Office of Special Trustee and establish the Office of Trust Reform under the new Deputy Secretary. The Advisory Committee to the Special Trustee would have been replaced with a task force composed of representatives of the tribes and the Department who would work with the new Deputy Secretary to develop recommendations for further necessary changes to the laws governing the management of trust assets and trust funds.

The changes represented in S. 2212 were modest, but important. It could have formed the basis for a stronger partnership between the tribal beneficiaries and the Interior Department, instituting congressional requirements for development of consensus policies governing trust standards and additional management reforms. Such a partnership would have set the Department and the tribes on a course toward resolution of the problems that have plagued the management of the trust funds and assets for more than a century.

Unfortunately, we are at the end of the 107th Congress and no further action will be taken on S. 2212. A sufficient consensus could not be reached among the tribes as well as between the tribes and the Department of the Interior to allow us to move forward to enact the bill. By failing to enact legislation like S. 2212 this year, the Congress is not fulfilling its responsibility to the Indian tribes and individuals who have suffered from decades of Federal mismanagement.

For most of this year, tribal representatives have been working on a range of possible reforms through a special task force established by Secretary Norton after the tribes resoundingly rejected her administrative reform proposal during 2001. Despite the efforts of the tribes, the discussions with the Interior Department culminated in an impasse and an end to the Department's participation in the task force.

The Department's latest action is unfortunate, but it is certainly not the first time the tribes and the Department have been unable to agree. It should not pose an insurmountable hurdle for the Congress to act. In fact,

it merely adds impetus to the need for amendments to the 1994 act, particularly to ensure through legislative language that the Interior Department would be required to consult and work with the affected beneficiaries on any reforms or changes to its management. Court requirements may now compel the Interior Department to once again develop its own management reforms without the consultation or agreement of the affected beneficiaries.

The sponsors of S. 2212 were told that we shouldn't act on this legislation in this session because of the lack of agreement between the tribes and the Department of the Interior. At the same time, several efforts ensued by the Department and some tribal representatives to add legislative riders to appropriations bills or other must-pass legislation. These were efforts I could not support as I continue to abide by the principle of legislating through the open processes of the Congress.

It is certainly true that no one fully agreed with everything in S. 2212. That fact suggests to me that the bill deserved our full and fair consideration because it represented a balanced approach. S. 2212 was intended to foster a process of further reform in the years ahead and not to impose some sort of ''quick fix'' or ''final remedy'' that is not fully embraced by all interested and affected parties.

Senators DASCHLE, JOHNSON, and I worked very hard to achieve consensus on S. 2212 and while we garnered significant tribal support for this legislative remedy, we abided by the wishes of the tribal task force leadership to withhold from further action on the bill. Without legislative reform this year, I am very much concerned that trust duties will effectively be redefined and reassigned by the courts and the Department without the input or approval of the Congress and the affected beneficiaries.

I have no doubt that the Congress will be urged to act again in the 108th Congress as the matter of trust fund management will continue to require legislative review and reform. I believe a significant opportunity may have been lost by not enacting S. 2212, but I remain committed to ensure that the Federal Government's responsibility to the individual and tribal beneficiaries will be fulfilled.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 16, 2002 in Atlanta, GA. According to police, Michael Keith Bargeron intentionally hit Keishuna Young, 15, with his car because she is black. Bargeron yelled racial slurs at Keishuna and her friend as he drove by in his car. Seconds later, he turned around and tried to ram her with his car. Keishuna sustained multiple injuries when she rolled off the car onto the pavement.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO SENATOR PAUL WELLSTONE

Mr. AKAKA. Mr. President, as the 107th Congress nears its conclusion, I rise to join my colleagues in remembering our beloved colleague, Senator Paul Wellstone. Our thoughts and prayers are with the Wellstone family, Paul's staff, and the people of Minnesota. We are all saddened by the tragic deaths of Paul and Sheila Wellstone, their daughter, Marcia Wellstone Markuson, and the Wellstone staffers and pilots.

America will sorely miss Paul Wellstone and his passionate advocacy on behalf of those in our communities and our country who too often feel that no one in Washington hears their voice. Paul Wellstone was their voice, he was their champion, driven by his unwavering conviction that government can and should be a force for good in people's lives. Paul was a caring, persistent, and passionate advocate for veterans, children, the mentally ill, and working families. He was committed to ensuring that all Americans had the opportunity to make a better life for themselves and their families, and that wherever possible, government act as a positive instrument to advance opportunity and equality for all Americans in education, job training, access to health care, and the availability of quality health care. He was driven by his commitment to civil rights and equal justice. Whether speaking on the Senate floor or to a workers' rally, retracing Robert F. Kennedy's tour of America's poorest communities, or visiting veterans hospitalized in Minnesota, Paul lived his convictions and values. Whether you agreed or disagreed with Paul Wellstone on an issue, there was never any doubt about his integrity, the passion and commitment he brought to his work, and the deep pride he felt in serving the people of Minnesota in the Senate.

Paul and I were both first elected to the Senate in November 1990. I had been appointed to the Senate a few months earlier, but we were both the new kids on the block. From the outset, with his incandescent personality, exacting integrity, commitment to the values he espoused and the ability to speak passionately and eloquently about the issues he cared so deeply about Paul distinguished himself as an exceptional Senator and an extraordinary human being.

Over the course of his tenure in the Senate, Paul became a dear friend. Because of the chronic discomfort he experienced as a consequence of his lifetime love of the sport of wrestling, he was interested in my experiences with hip replacement surgery. At the start of the 107th Congress, our offices were next to one another. His boundless energy, enthusiasm, and good spirits were always welcome and brightened the day for everyone he greeted on his way to and from his office. I remember one conversation on a long bus ride back from a Democratic retreat in Pennsylvania. My eldest son, Danny, had joined Millie and me for the weekend, and he struck up a quick friendship with Paul and Sheila. Over the course of ride back to Washington, we discussed philosophy and politics, the upcoming midterm elections, destiny, and the power of living in consonance with your values and beliefs. I listened as Paul and my son agreed on the importance of living life to the fullest and living every day as if it is your last. That day stays with me because that is precisely the way Paul Wellstone lived his life. He celebrated life. He loved his job and his constituents. He adored Sheila and his children and grandchildren. He always made the time to greet, talk to, or offer words of encouragement to everyone he encountered as he went about his day. To me, this is Paul's greatest legacy, the lives he touched, the people he inspired, the spirits he lifted with his message of hope and justice.

Paul had hoped to visit Hawaii after the November election and had spoken to my son Danny about bringing his entire family for some well-deserved rest and relaxation. Paul and Sheila never had the opportunity to visit Hawaii with their children and grandchildren as we talked about, but they truly lived aloha. For aloha is love. And love is the spirit that brings people together in harmony. In its true sense, aloha has to be transmitted to others, especially to each other, and aloha really is in the giving, not the taking. When you give, you are sharing aloha. This is how Paul and Sheila Wellstone lived their lives and it is why we in the Senate family miss Paul and Sheila terribly. I want to bid Paul and Sheila Wellstone a fond aloha. May God bless them and the Wellstone family. Na Iehowa 'oe e ho'omaika'i mai, a e malama mai—The Lord bless you and keep you.

Mrs. LINCOLN. Mr. President, I appreciate this opportunity to add my voice to those who have spoken in honor of our late colleague Senator Paul Wellstone.

In the 4 years we served together, Paul and I didn't always vote the same way. But we shared the most important value of all: We wanted to do best for the people who sent us to the Senate to represent them. On a full range

of issues, from education to health care to veterans affairs, Paul fought tirelessly for what he believed was best for the people of Minnesota and the United States.

I admired Paul's conviction and passion in presenting his viewpoints and arguing his case. I admired his honesty and conscientiousness in standing up for what he believed. Most of all, I admired the goodwill and sense of fairness that he brought to this body. I hope that even though we won't always agree in our debates here, we can always keep alive that same spirit of goodwill, fairness, and openness.

Paul Wellstone wasn't from the South, but he possessed all the qualities of a Southern gentleman. He was never rude or mean-spirited toward those who disagreed with him, and he was unfailingly civil to both his allies and his adversaries. I feel fortunate to have had him as a colleague and blessed to have had him as a friend. He will be sorely missed.

I would like to pay tribute also to the two members of Paul's family—his wife Sheila and his daughter Marcia—who perished with him on October 25. Furthermore, three members of Paul's campaign staff—Will McLaughlin, Tom Lapic, and Mary McEvoy—and two pilots—Richard Conroy and Michael Guess—lost their lives in that accident. My deepest sympathies and my prayers go out to their families and friends in this time of loss.

ENHANCED PROTECTION OF OUR CULTURAL HERITAGE ACT

Mr. LEAHY. I am pleased that the Senate late last night passed S. 2598, the Enhanced Protection of Our Cultural Heritage, EPOCH, Act of 2002, which I introduced earlier this year with Senators INOUYE, CLINTON, BINGAMAN, and BOXER. This legislation increases the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, particularly Native Americans. The U.S. Sentencing Commission recommended the statutory changes contained in this bill, which would complement the Commission's strengthening of Federal sentencing guidelines to ensure more stringent penalties for criminals who steal from our public lands.

This bill increases the maximum penalities for the Archaeological Resources Protection Act, ARPA, 16 U.S.C. §470ee, the Native American Graves Protection and Repatriation Act, NAGPRA, 18 U.S.C. §1170, and for 18 U.S.C. §1163, which prohibits theft from Indian tribal organizations. All three statutes currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. The bill would create a 10-year maximum sentence for each statute, while eliminating the lower maximums under ARPA and NAGPRA for first offenses.

Such maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carriers a 10-year maximum sentence, as do the general statutes punishing theft and the destruction of Government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will also enable the Sentencing Commission's recent sentencing guidelines to be fully implemented. The Commission has increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. Those new guidelines have the enthusiastic support of the Justice and Interior Departments, the Society for American Archaeology, the National Trust for Historic Preservation, numerous Native American nations, and many others.

Two of the three laws this legislation amends protect Native American lands and property. The third, ARPA, protects both public and Indian lands, and provides significant protection to my State of Vermont. For example, ARPA can be used to prosecute those who would steal artifacts from the wrecked military vessels at the bottom of Lake Champlain that date to the Revolutionary War and the War of 1812. U.S. attorneys can also use ARPA to prosecute criminals who take items that are at least 100 years old from a protected site on Vermont State property without a permit, and then transport those goods into another State. In addition, ARPA protects artifacts found on the approximately 5 percent of Vermont land that is Federal property, land that includes many ''ghost towns'' that have long been abandoned but are an important part of our history.

Those who would pillage the rich cultural heritage of this Nation and its people are committing serious crimes. These artifacts are the legacy of all Americans and should not be degraded as garage sale commodities or as fodder for private enrichment.

ACCURACY IN STATISTICS AND THE DEBATE OVER BIPARTISAN TAX RELIEF

Mr. GRASSLEY. Mr. President, I rise today to discuss the importance of accuracy in the debate over bipartisan tax relief.

I was very pleased to work with over one-fourth of the Senate Democratic Caucus in passing the largest tax cut in a generation. That legislation has been the subject of a coordinated attack by the Democratic leadership and some of its allies in the media. For almost a year and a half, I have responded to these attacks in committee, on the Senate floor, and in the media.

The basic premise of my responses has been that participants ought to be intellectually honest in the data used in the debate. Reasonable folks can differ on whether bipartisan tax relief is a good idea or not. We ought to conduct that debate in a fair and open manner.

Apparently, my responses caught the eye of a key opinion maker, Mr. Paul Krugman of the New York Times. Mr. Krugman is a regular columnist and focuses mainly on economic policy. Mr. Krugman took aim at me and my statements in a column, dated October 18, 2002. I ask unanimous consent that a copy of that op-ed be included in the RECORD.

Mr. Krugman defended the oftenmentioned but seldom-sourced statistic on distribution of the benefits of the tax relief package. It's the statistic we hear over and over again. The statistic claims that 40 percent of the benefits of the tax relief package go to the top 1 percent of taxpayers.

Mr. Krugman claims that I did not have an alternative answer to the 40 percent statistics.

I responded in a letter to the editor, dated October 24, 2002.

My letter sources data from the unbiased, official scorekeeper of tax policy for Congress, the Joint Committee on Taxation. This data had been placed in the record in the statements Mr. Krugman criticized. That data, updated for the last year the tax cut is distributed, 2006, shows that the top 1 percent of taxpayers will receive a lower share of the benefits of the tax cut, 27 percent, than their burden, 33 percent. The remaining difference of 6 percent is distributed to taxpayers within comes below $100,000. That's why Joint Tax concludes that the bipartisan tax relief makes the Tax Code more progressive.

By the way, this fact is not incidental. It reveals a key ingredient to our bipartisan success in 2001.

My Democratic partners in the bipartisan bill insisted that we make the Tax Code more progressive as a condition for their support. That was a condition that I shared with them. We would not have produced the bill in the Senate without their support.

Mr. Krugman struck back at me again in a column dated October 29, 2002. He claimed my letter was ''misleading'' because I did not include the benefits of death tax relief in the analysis. I ask unanimous consent that a copy of that op-ed be included in the RECORD.

I prepared a response to Mr. Krugman and submitted it to the New York Times editor. Unfortunately, the Times policy only permits two responses per person per year. So, Mr. Krugman can attack me every week if he wants to and my responses are limited. So, Mr. Krugman and the Times policy left me with the recourse of responding on the Senate floor. Otherwise, his charge would stand unanswered. That would be wrong.

Joint Tax does not distribute the death tax benefit because the analysis

requires a conceptual leap. Economists have attempted to distribute the death tax benefit.

For instance, the Clinton Treasury performed an analysis at about the same time the former President was readying a veto on a tax bill that contained death tax relief. Joint Tax attempted to distribute the same kind of analysis in the early 1990s, but abandoned it after finding problems with it.

If you only read Mr. Krugman's columns, you would think that this analysis is straight forward. It is not. Basically, to get to where Mr. Krugman and his allies want to go, you have to make a conceptual leap. You have to assume that heirs of an estate have the same income tax profile as the dead person. So, you need to ignore the reality that, for instance, tax-exempt organizations, can be heirs of an estate. You need to ignore the reality that, as a general matter, no two sets of heirs look the same for income tax purposes. For these reasons, an unbiased official source, like Joint Tax, does not distribute the death tax. That was the point I was not permitted to make in a response.

For the sake of argument, however, let's give Mr. Krugman the benefit of the doubt. Let's stack the deck further in his favor by assuming that all of the death tax relief provided in 2006 inures to the benefit of the top 1 percent. Let's perform this calculation even though it is analytically unsound. If you add that revenue loss, about $4.6 billion for 2006, into Joint Tax's distribution table, you will find that the top 1 percent receive 29 percent of the benefits of the tax relief package. This compares with the 27 percent official Joint Tax figure. Recall that the top 1 percent bear 33 percent of the income tax burden. In this case, the 4 percent difference, once again, though to a smaller degree, increases the progressivity of the Federal tax system.

Mr. Krugman also cites an alternative tax burden, total Federal taxes, as the appropriate measure. Joint Tax's distribution analysis includes the Federal tax burden and as the projection for the last year shows the total Federal tax system was made more progressive.

Mr. President, I agree with Mr. Krugman on some things. We need to change the tone in Washington. If the tone is to change, all participants, including public servants, like myself, and opinion makers, like Mr. Krugman, must participate in the change.

Several things must happen if the tone in Washington is to change. The first thing that needs to happen is everyone must debate in an intellectually honest manner. This means when a statistic is used, the source should be referenced. Mr. Krugman's op-ed is the rare exception when the source of the 40 percent figure has been revealed. Over the last 18 months, in countless Congressional debates, in press reports, and other venues, the 40 percent figure has been used without attribution. At every point when I have debated the other side of this issue, I have provided the source of my statistics.

The source of the data is important because, in an honest debate, any biases should be revealed. The source of Mr. Krugman's statistic is Bob McIntyre of the Citizens for Tax Justice. I respect Mr. McIntyre as a spirited liberal advocate of his version of tax reform. Mr. McIntyre's organization has an agenda. It is a tax policy agenda that tends to be on the left side of the political spectrum. There are competing organizations on the right side of the political spectrum such as the Heritage Foundation. These organizations also produce data on tax legislation. I doubt Mr. Krugman would ever use alternative analyses. If he did use these analyses, I would expect him to cite the source.

There are also unbiased sources of data. an honest debate ought to bring out that data and distinguish it from data produced from biased sources. The Joint Committee on Taxation, established in 1926, is an unbiased source of data on tax policy. By definition, Congress' official tax policy scorekeeper, Joint Tax works for the House and Senate. Joint Tax works for both sides of the aisle. Senator MAX BAUCUS, a Democrat from Montana, is the current Chairman of Joint Tax. Last year, Congressman BILL THOMAS, a Republican from California, was Chairman.

Opponents of the bipartisan tax relief package, like Mr. Krugman, do not use this objective source of data.

If we are to change the tone in Washington, not only do we need to be honest about statistics, but we should put statistics in the proper context. Mr. Krugman uses the tax benefit figure in isolation. Mr. Krugman ignores the context of tax burden. Joint Tax's distribution analysis for 2006, shows that taxpayers who received the greatest reduction in their tax burden were those with incomes between $10,000 and $40,000. For instance, taxpayers with incomes between $10,000 and $20,000 will enjoy a reduction in their tax burden of 13.6 percent. Taxpayers with incomes over $200,000 will see their tax burden reduced by 6.1 percent. This example, drawn from Joint Tax, not a conservative think tank, puts the benefits of the tax cut in context.

I agree with Mr. Krugman's objective. I also agree with many of his sentiments about my late friend, Senator Paul Wellstone. Senator Wellstone liked a good and vigorous debate. He did so in an intellectually honest manner. Let's change the tone in Washington. Mr. Krugman has a role as an opinion maker who opposes last year's bipartisan tax relief package. I welcome a lively exchange with him and others of his view. All I ask is that we have that exchange in intellectually honest terms.

So I describe a real difference in the approach of midwestern transparent Iowans and that of an ivory tower easterner.

I ask unanimous consent to print the aforementioned materials in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC.
October 30, 2002.

Re "For the People," by Paul Krugman (column, Oct. 29): I continue to call for unbiased tax data in policy debates.

To the EDITOR,
The New York Times.
New York, NY.

MAYBE YOU CAN TAKE IT WITH YOU

I share many of Mr. Krugman's sentiments about my late neighbor and friend, Senator Paul Wellstone. As the Senate's only working farmer, I was a ready partner of Senator Wellstone in efforts to help family farmers.

Mr. Krugman described the data in my letter as "misleading." His dispute lies not with me, but with Congress' official, unbiased, tax policy scorekeeper, the Joint Committee on Taxation. Joint Tax says "estate and gift taxes are not included due to uncertainty concerning the incidence of those taxes."

The uncertainty arises, in part, because estate tax relief goes to the estate's heirs, not the dead person. For income tax purposes, generally the person earning income is alive to enjoy it. Attempts to distribute the estate tax benefit are, at best, a very rough calculation. In effect, those who take Mr. Krugman's view, believe the dead person benefits from estate tax relief. Only those in the ivory towers of academia believe you can take tax relief to the grave.

Sincerely,
Senator CHUCK GRASSLEY,
Ranking Member, Finance Committee.

[From the New York Times, Oct. 29, 2002]

FOR THE PEOPLE

(By Paul Krugman)

Ghoulish but true: as Minnesota mourns the death of Senator Paul Wellstone, many of the state's residents have been receiving fliers bearing a picture of a tombstone. The flier, sent out by a conservative business group, denounce the late senator's support for maintaining the estate tax. Under the tombstone, the text reads in part: "Paul Wellstone not only wants to tax you and your business to death . . . he wants to tax you in the hereafter."

To be fair, the people who mailed out those fliers—which are carefully worded so that the cost of the mailing doesn't officially count as a campaign contribution—didn't know how tasteless they would now appear. Yet in a sense the mass mailing is a fitting epitaph; it reminds us what Paul Wellstone stood for, and how brave he was to take that stand. Sometimes it seems as if Americans have forgotten what courage means. Here's a hint: talking tough doesn't make you a hero; you have to take personal risks. And I'm not just taking about physical risks—though it's striking how few of our biggest flag wavers have ever put themselves in harm's way. What we should demand of our representatives in Washington is the willingness to take political risks—to make a stand on principle, even if it means taking on powerful interest groups.

Paul Wellstone took risks. He was, everyone acknowledges, a political who truly voted his convictions, who supported what he thought was right, not what he thought would help him get re-elected. He took risky stands on many issues: agree or disagree, you have to admit that his vote against authorization for an Iraq war was a singularly brave act. Yet the most consistent theme in

his record was economic—his courageous support for the interests of ordinary Americans against the growing power of our emerging plutocracy.

In our money-dominated politics, that's a dangerous position to take. When Mr. Wellstone first ran for the Senate, his opponent outspent him seven to one. According to one of his advisers, the success of that ramshackle campaign, run from a rickety green school bus, ''made politics safe for populists again.''

If only. Almost every politician in modern American pretends to be a populist; indeed, it's a general rule that the more slavishly a politician supports the interests of wealthy individuals and big corporations, the folksier his manner. But being a genuine populist, someone who really tries to stand up against what Mr. Wellstone called ''Robin Hood in reverse'' policies, isn't easy: you must face the power not just of money, but of sustained and shameless hypocrisy.

And that's why those fliers are a perfect illustration of what Paul Wellstone was fighting.

On one side, the inclusion of estate tax repeal in last year's federal tax cut is the most striking example to date of how our political system serves the interests of the wealthy. After all, the estate tax affects only a small minority of families; the bulk of the tax is paid by a tiny elite. In fact, estate tax repeal favors the wealthy to such an extent that defenders of last year's tax cut—like Senator Charles Grassley, who published a misleading letter in Friday's Times—always carefully omit it from calculations of who benefits. (The letter talked only about the income tax; had he included the effects of estate tax repeal, he would have been forced to admit that more than 40 percent of the benefits of that tax cut go to the wealthiest 1 percent of the population.) To eliminate the estate tax in the face of budget deficits means making the rich richer even as we slash essential services for the middle class and the poor.

On the other side, the estate tax debate illustrates the pervasive hypocrisy of our politics. For repeal of the ''death tax'' has been cast, incredibly, as a populist issue. Thanks to sustained, lavishly financed propaganda—of which that anti-Wellstone flier was a classic example—millions of Americans imagine, wrongly, that the estate tax mainly affects small businesses and farms, and that its repeal will help ordinary people. And who pays for the propaganda? Guess. It's amazing what money can buy.

In an age of fake populists, Paul Wellstone was the real thing. Now he's gone. Will others have the courage to carry on?

[From the New York Times, Oct. 25, 2002]

A TAX CUT FOR WHOM?

TO THE EDITOR: Re ''Springtime for Hitler,'' by Paul Krugman (column, Oct. 18): I stand by my call for unbiased tax data in policy debates. Some observers claim that 40 percent of last year's tax cuts went to the top 1 percent of taxpayers. The Joint Committee on Taxation, Congress's official, unbiased source, says the top 1 percent will receive 27 percent of the income tax cuts in 2006, the latest projection available. Taxpayers with incomes of $200,000 and less will receive the majority of the tax-cut benefits, with 67 percent.

The real story is that despite those cuts, the top 1 percent of taxpayers will still pay 33 percent of federal income taxes. They will receive a lower share of the income tax cut, 27 percent, than their burden, 33 percent.

The joint committee says the taxpayers who will receive the greatest reduction in their tax burden have incomes between $10,000 and $40,000. Those with incomes between $10,000 and $20,000 will enjoy a reduction of 13.6 percent. Those with incomes of more than $200,000 will see their burden reduced by 6.1 percent. Intellectual honesty demands putting tax data in context.

CHUCK GRASSLEY.

[From the New York Times, Oct. 18, 2002]

(By Paul Krugman)

SPRINGTIME FOR HITLER

You may recall that George W. Bush promised, among other things, to change the tone in Washington. He made good on that promise: the tone has certainly changed.

As far as I know, in the past it wasn't considered appropriate for the occupant of the White House to declare that members of the opposition party weren't interested in the nation's security. And it certainly wasn't usual to compare anyone who wants to tax the rich—or even anyone who estimates the share of last year's tax cut that went to the wealthy—to Adolf Hitler.

O.K., maybe we should discount remarks by Senator Phil Gramm. When Mr. Gramm declared that a proposal to impose a one-time capital gains levy on people who renounce U.S. citizenship in order to avoid paying taxes was ''right out of Nazi Germany,'' even the ranking Republican on the Senate Finance committee, Charles Grassley, objected to the comparison.

But Mr. Grassley must have thought better of his objection, since just a few weeks later he decided to use the Hitler analogy himself: ''I am sure voters will get their fill of statistics claiming that the Bush tax cut hands out 40 percent of its benefits to the top 1 percent of taxpayers. This is not merely misleading, it is outright false. Some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how Adolf Hitler got to the top.''

For the record, Robert McIntyre of Citizens for Tax Justice—the original source of that 40 percent estimate—is no Adolf Hitler. The amazing thing is that Mr. Grassley is sometimes described as a moderate. his remarks as just one more indicator that we have entered an era of extreme partisanship—one that leaves no room for the acknowledgment of politically inconvenient facts. For the claim that Mr. Grassley describes as ''outright false'' is, in fact, almost certainly true; in a rational world it wouldn't even be a matter for argument.

You might imagine that Mr. Grassley has in hand an alternative answer to the question ''How much of the tax cut will go to the top 1 percent?''—that the administration has, at some point, produced a number showing that the wealthy aren't getting a big share of the benefits. In fact, however, administration officials have never answered that question. When pressed, they have always insisted on answering some other question.

But last year the Treasury Department did release a table showing, somewhat inadvertently, that more than 25 percent of the income tax cut will go to people making more than $200,000 per year. This number doesn't include the effects of estate tax repeal; in 1999 only 2 percent of estates paid any tax, and half of that tax was paid by only 0.16 percent of estates. The number also probably doesn't take account of the alternative minimum tax, which will snatch away most of the income tax cut for upper-middle-class families, but won't affect the rich.

Put all this together and it becomes clear that, such enough, something like 40 percent of the tax cut—it could be a bit less, but probably it's considerably more—will go to 1 percent of the population. And the administration's systematic evasiveness on the question of who benefits from the tax cut amounts to a plea of nolo contendere.

Which brings us back to the new tone in Washington.

When Ronald Reagan cut taxes on rich people, he didn't deny that that was what he was doing. You could agree or disagree with the supply-side economic theory he used to justify his actions, but he didn't pretend that he was increasing the progressivity of the tax system.

The strategy used to sell the Bush tax cut was simply to deny the facts—and to lash out at anyone who tried to point them out. And it's a strategy that, having worked there, is now being applied across the board.

Michael Kinsley recently wrote that ''The Bush campaign for was against Iraq has been insulting to American citizens, not just because it has been dishonest, but because it has been unserious. A lie is insulting; an obvious lie is doubly insulting.'' All I can say is, now he notices? It's been like that all along on economic policy.

You see, some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how George W. Bush got to the top.

BASELINE FOR FISCAL YEAR 2003 SPENDING FOR TEA–21

Mr. INHOFE. Mr. President, as we wrap up business for the 107th Congress, I would like to engage in a brief colloquy with my Environment and Public Works Committee and budget Committee colleagues regarding an issue that will set the groundwork for reauthorization of the surface transportation program next Congress. Specifically, what the baseline figure will be for the program. Will it reflect the fiscal year 2003 enacted spending level or the pending CR level.

As my colleagues know, although Section 137 of Public Law 107–240, Making Further Continuing Appropriations for fiscal year 2003, provides that the highway program be funded at the fiscal year 2002 level of $31.8 billion, section 137 limits total annual obligations for the program to not more than $27.7 billion. Given that the fiscal year 2003 enacted level for surface transportation may not be known until after the President's fiscal year 2004 budget proposal is submitted, I have a concern that we could be faced with an artificially low baseline figure. I hope we can reach agreement now that it would be the intention of the Budget Committee to use the highest possible figure as the baseline for fiscal year 2003 when developing their fiscal year 2004 resolution. Ideally I would like to see a baseline of $31.8 billion.

At a minimum I hope that next year's Budget Resolution will ensure that all revenues into the highway account of the Highway Trust Fund will be available to the EPW Committee for authorization with the existing budgetary protections.

I know we can all agree that a strong surface transportation program creates and preserves jobs, and thereby boosts the economy. Beginning reauthorization discussions with a low baseline figure stunts the value of the economic

activity that we can realize with a robust program.

If my colleagues would care to comment, I will be happy to yield.

Mr. JEFFORDS. I thank the Senator for yielding for my comments. I agree with my colleague Senator INHOFE and I look forward to working with him on this major transportation reauthorization bill. He is correct that beginning reauthorization discussions with a low baseline will hinder our efforts in crafting a truly robust national program which will provide strong economic and transportation benefits for all regions. I would be happy to yield back to my colleague Senator REID.

Mr. REID. I agree with my colleagues. The transportation bill will be one of the most important pieces of legislation taken up by the next Congress. The series of reauthorization hearings we held this past year made clear the importance of a well-functioning transportation system to our nation's economy and quality of life. These hearings also laid out the challenges our transportation system faces due to increasing congestion, safety concerns, the deterioration of our infrastructure, and the rapid projected growth in freight movements. Finding the necessary funds to address these problems will be our toughest reauthorization challenge and I hope that we can work closely with the Budget Committee to ensure that we devote the maximum resources possible to maintaining and improving our transportation infrastructure.

Mr. BOND. Senator INHOFE accurately states that transportation dollars have a direct effect on jobs and the economy in this country. For example, earlier this year there was a proposed $8.6 billion reduction in fiscal year 2003 proposed spending from fiscal year 2002 enacted level for highways. This would cost an estimated 6,600 jobs in Missouri alone. Fortunately, the Environment and Public Works Committee in working with our colleagues on the Senate Transportation Appropriation Subcommittee have proposed full funding for fiscal year 2003.

More importantly, we need to recognize that our nation's transportation infrastructure is also an issue of safety. There is no question that increased investment in our nation's transportation system saves lives. For these reasons and more, I stand with my colleagues on Environment and Public Works in doing everything in our power to maintain a robust highway program as we go into reauthorization.

Mr. NICKLES. I appreciate my colleagues comments and agree with them that the revenues collected through the federal gas tax should be used to maintain and improve our transportation infrastructure. I will work with my colleagues to ensure this is the case.

CONGRATULATIONS TO JUDGE SERGIO GUTIERREZ

Mr. CRAIG. Mr. President, today I congratulate and honor a man whose contributions are an example to all of us. Idaho's Judge Sergio Gutierrez was recently recognized by Hispanic Business magazine as one the 100 most influential Hispanics.

Judge Gutierrez holds the distinction of being the first Hispanic judge in Idaho. A judge since 1993, he was appointed to the Idaho Court of Appeals in January of this year by Gov. Dirk Kempthorne. Sergio Gutierrez does a tremendous job as a judge, but his contributions go far beyond those he has made in his official capacity. Judge Gutierrez has worked to fight drugs, register voters, curb gang violence, and promote education, and he sits on the Governor's Coordinating Council for Families and Children. I am also honored that he serves as a member of my Hispanic advisory group in Idaho. His wisdom and advice have been invaluable assets as we have worked together to meet the needs of Idaho's Hispanic population.

It is hard to believe Judge Gutierrez was once a ninth grade dropout. However, with perseverance, he attained his GED, worked his way through college, and went on to graduate cum laude from Boise State University, later earning a law degree from Hastings Law School.

Judge Gutierrez believes in people, and he goes out of his way to help others overcome unfortunate circumstances that otherwise would limit their success. As a judge, he takes the opportunity to counsel with those who come into his court room. He often invites defendants into his chambers to discuss their futures, including drug rehabilitation, job training, and education. This is not a common practice among judges, but it has proven to be effective in the lives of the individuals whom Judge Gutierrez has touched.

I am proud to know Judge Sergio Gutierrez, and I would like to thank Hispanic Business magazine and its readers for recognizing this talented man. I would also like to thank Judge Gutierrez on behalf of the people of Idaho for the contributions he has made to our State and its people. He is truly an inspiring example for all of us.

A REMARKABLE AMERICAN: ROBERT INGRAM

Mr. HELMS. Mr. President, as my father always said, there are two types of people, talkers and doers. Anyone who knows Robert Ingram will agree with me that he is a ''doer extraordinaire.'' Bob, of course, is the distinguished Chief Operating Officer and President, Pharmaceutical Operations of GlaxoSmithKline, GSK.

A few weeks ago, October 15, Bob announced his intention to retire at year's end from his daily responsibilities as the second-highest executive officer at GSK, the world's premier pharmaceutical company. Through the years, GSK and more importantly, countless people around the world have benefitted immeasurably from Bob Ingram's compassion, energy, vision and intelligence.

In recent years, many politicians have engaged in a virtual sport, unjustifiably criticizing pharmaceutical companies and the senior executives who lead them. Thankfully, the American people have seen though many of these attacks for what they are, political expediency.

Americans are sophisticated enough to know that politicians do not develop life-saving and life-improving medications. Rather, it is the research-based pharmaceutical and biotech industries that invest billions of dollars each year to develop products that both extend our lives and improve the quality of life for billions of citizens around the world.

Bob Ingram has served as a beacon, consistently, respectfully and thoughtfully explaining the public health tradeoffs involved in implementing proposed new pharmaceutical regulations. It would be impossible to overstate his enormous contribution to reasoned discourse on this critical subject.

Bob Ingram has long understood that the ultimate victims of an inefficient and unproductive industry are the patients who will lack a safe and effective pharmaceutical therapy for the ailment that afflicts them not the pharmaceutical companies or their stockholders as some would have you believe.

Compassion requires that one stand up in support of what is proper. The measure of a leader is that he is willing to do so when that view is not popular. Bob Ingram has worked tirelessly as such a leader.

Fortunately, Bob's retirement from his day to day responsibilities at GSK will not mean that he is retiring from his role as an effective and outspoken advocate for the industry. Softening the blow somewhat is the knowledge that Bob will continue to fight for the well-being of patients as GSK's representative to the board of the Pharmaceutical Research and Manufacturer's Association.

Bob, his dear wife Jeannie, and GSK employees have long been involved in promoting service to others. Together with GSK's Chief Executive Officer, JP Garnier, Bob Ingram has done much to ensure that GSK serves as a global leader, launching effective medical programs that benefit millions of people throughout the world. The Orange Card discount program is a prime example of GSK's responsiveness and industry leadership in the United States.

Through GSK's Global Community Partnership programs, the Global Alliance to Eliminate Lymphatic Filariasis, a 20-year initiative to contribute hundreds of millions of doses of medication to rid the world of LF, the world's most disfiguring and disabling

disease, contributions of HIV/AIDS and anti-malarial medications as well as numerous other global, national, state and local initiatives, GSK employees have contributed greatly to the improvement of the human condition and human spirit.

Bob's life is a testament to the importance of setting the right priorities. He is a success professionally because his actions have demonstrated an extraordinary sense of personal responsibility to the improvement of the lives of others less fortunate.

Raised in rural Illinois, Bob Ingram is highly respected as one of North Carolina's leading citizens. He has devoted countless thousands of hours to worthy civic, community and professional organizations. For example, Bob led GSK's effort to provide a founders grant to the Emily Krzyzewski Durham family community center, he supported the Durham hill learning center and has helped numerous other local civic organizations around North Carolina.

The list of worthy national causes Bob has generously helped is so extensive that I will not attempt to recite them all. Bob's role as Chair of the CEO Roundtable on Cancer, his Presidency of the American Cancer Society Foundation, and his leadership in the fight to find a cure for cystic fibrosis, CF, merit particular note.

These past several years, Dot Helms and I have considered ourselves fortunate to call Bob and Jeannie Ingram our friends.

I am grateful for the positive contributions Bob has made during his tenure at GSK. His advice and support have been invaluable. His dedication to ensuring that people everywhere can benefit from advanced pharmaceutical therapies and his commitment to innovative programs that expand access to pharmaceuticals will continue to pay dividends to literally billions of people throughout the world for many years to come. Bob has achieved a remarkable, and I hope unfinished, legacy.

I ask unanimous consent that a transcript of Bob Ingram's comments at the National Press Club on July 18, 2002 and an article entitled ''A Retirement that hurts RTP'' from the October 16, 2002 edition of the Raleigh News and Observer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS BY BOB INGRAM, NATIONAL PRESS CLUB, WASHINGTON, DC, JULY 18, 2002

Thank you, Mr. (John) Aubuchon, for your kind introduction and for providing me with an opportunity to address this important audience.

I'd also like to thank all of you for joining us this afternoon. I know you've heard a lot of criticism about the pharmaceutical industry and drug pricing. Today, I'd like to set the record straight.

It's hard to predict where the current debate over health care will eventually end up, or what the consequences will be. And I'm inclined not to predict such things unless I end up like Lord Kelvin, an English Scientist and president of the Royal Society, who has gone down in history for saying: ''Radio has no future. Heavier-than-air flying machines are impossible. X-rays will prove to be a hoax. I have not the smallest molecule of faith in aerial navigation other than ballooning.'' Now there's a man of conviction, but you certainly wouldn't want him betting for you at the racetrack.

That said, we Americans have a lot riding on the outcome of society's debate over how to control our healthcare costs—nothing less than the future health of ourselves and our children.

A key question in this current debate is: How much should we be spending on prescription drugs? Drug costs are skyrocketing, and payors are asking, how much is too much? Unfortunately, in focusing the debate almost solely on cost, it's easy to lose sight of the patient. Payors increasingly demand less expensive medicines, but it's easy to forget that a tiny pill often represents a scientific miracle in its ability to save lives and improve quality of life. As patients, we assume the research intensive pharmaceutical industry will find better treatments for cancer, and Alzheimer's and Parkinson's—but we don't recognize that paying for that research also means paying at the pharmacy counter. Do we spend more on pharmaceuticals today than we did years ago? Yes. In fact, our critics would say that we are spending too much on branded drugs.

But I would argue that rather than spending less, we should be investing more as a society on pharmaceuticals, because medicines actually represent the best value in healthcare today—for patients, and for payors.

Let's look at this issue of cost a little more carefully.

Between 1996 and 2000, national health spending for medicines increased 115 percent while overall health care costs increased 25 percent. Seems outrageous, doesn't it?

But let's put this in perspective. Total health care increased $260 billion during that time to a total of $1.3 trillion. Spending on pharmaceuticals was less than a 10th of that—$122 billion. In fact, of every dollar the government spends on health care, only 9 cents is spent on medicines—compared to 55 cents for doctors and hospitals. And that 9 cents includes the services of your pharmacist, plus current R&D efforts in our science labs. Unfortunately, people often confuse increased spending on drugs with increased prices for medicines.

The truth is that rising pressure on payor budgets is due to increased volume—more people using more and better medicines—not price increases on medicines. Pharmaceutical sales increased 19 percent in 2001 over 2000, but over 14% of that increase was volume growth. Less than 5 percent was due to price. So what accounts for the growth in volume? In great part, the very success of medicines in improving health and quality of life.

Those of you who are 45 or 50 . . . back at the turn of the last century, you'd be at the end of your life. But today, the majority of us can expect to blow out the candles on our 80th birthday cake. And we are part of a rapidly expanding group. Thirty-five million Americans are now over age 65; in just 30 years, that number will double to 70 million. Of course, if you're like me, you're tempted to ask why, if medicine has made so much progress in the past 50 years, how come I felt so much better 50 years ago.

Well the truth is, we Americans aren't just living longer; we are generally living healthier lives. Twenty years ago, in 1982, the average age of an elderly person entering a nursing home was 65. Today that age is 83. Many of you have elderly parents, and are perhaps caregivers. How important is it to you, and to your parents, that a few small pills can keep your loved ones living independently in the homes they've raised their families in, for as long as possible? But there's a cost to longer life, better health, and maintained independence—and somebody has to pay.

Industry critics say we can't afford this increased spending on pharmaceuticals. But what we really can't afford is the far greater cost of catastrophic care for heart disease, diabetes, Alzheimer's and other illnesses—costs that will grow substantially as the population grows. Let's consider diabetes.

Right now, we are facing an epidemic of Type II diabetes. Over 16 million Americans have Type II—the 5th leading cause of deaths by disease in the U.S. Another 16 million are estimated to have pre-diabetes, but most are not taking steps to avoid full onset.

We genuinely hope people will adopt preventive lifestyles to avoid the need for medicines. But those patients who do suffer with this chronic and progressive disease have a lot to look forward to Fatigue. Foot ulcers and gangrene leading to amputation. Blindness. Kidney failure. Heart disease. Stroke. Premature death. That's frightening for patients. But what will really frighten those responsible for paying for treatment is the alarming rise in the number of patients—and therefore costs—expected over the next 50 years. By then, at current rates, the number of patients with Type II diabetes will increase by 200 percent—skyrocketing our country's costs for dealing with Type II diabetes.

Today, we pay $100 billion a year to cover the human and economic cost to society from just this one disease—a huge proportion of which is spend for hospital care. When you consider the aging population, the increasing incidence of diabetes, and the huge cost associated with it, unless we come up with better answers, we'll break the bank with just one disease. That's what we can't afford.

But real hope lies in pharmaceuticals. Before 1995, doctors didn't have many options available. They relied primarily on insulin injections or sulfonylureas, as well as prevention. Just 7 years later, there are four new classes of oral diabetes medications on the market that help slow the progression of the disease, and prevent or delay the onset of its more serious and costly complications. Most importantly, these medicines ease patient suffering. And spending on these valuable medicines is only a fraction of the cost of fighting diabetes—just 2 percent in 1997. Can we afford to pay for new and better prescription medicines that fight diabetes? I would argue we can't afford not to. We have proven time and again that paying for medicines is the most cost effective way of fighting disease.

Take AIDS. Remember how, in the early 80's, full-blown AIDS was a death sentence for patients? Many died within two years of diagnosis. By 1996, AIDS had dropped out of the top 10 leading causes of death in the United States. Why?

In 1984, scientists at Burroughs Wellcome brought new hope to patients with AZT—the first treatment to fight HIV/AIDS. In the first 16 months after AZT came to market, hospital inpatient care dropped by nearly half (43%). Today, with a score of medicines on the market, if patients take their combination therapy as prescribed, they don' die of AIDS. Critics say these medicines cost a lot of money. And they do. Combination therapy—using several AIDS medicines at once to fight the disease—costs approximately $11,000 a year per patient. But before such therapies were available, an AIDS patient could account for $100,000 a year in hospital bills—until they died from the disease.

Are we spending more today on AIDS medicines? Yes, but we are saving millions in the overall cost of medical care. And people with AIDS are living—and they are productive members of their communities. Instead of planning for their funerals, they are planning for the rest of their lives.

Then there's stroke.

Breakthrough clot-busting medicines can stop some strokes before permanent brain damage occurs. The end result not only saves lives, but also saves dollars—$1,700 in drug therapy versus over $6,000 per patient in treatment costs. More promising yet, increased drug use may prevent some strokes entirely. A study by the Agency for Health Care Policy and Research says that greater use of a blood-thinning drug would prevent 40,000 strokes a year, saving $600 million per year. Yet stroke remains the 3rd leading cause of death for senior citizens and the first leading cause of disability. Without future breakthroughs from the research intensive pharmaceutical industry, we face huge future human and cost implications from this disease.

Are we spending more money on drugs to prevent and treat strokes? Absolutely. Is it worth it? Absolutely—both in terms of lowered costs and, more importantly, reduced patient suffering. Are we continuing to search for new and better treatment for stroke? Absolutely. But stroke is notoriously one of the most challenging types of pharmaceutical research and development to undertake. The incentives have to be there to justify the huge investment required in such high risk research. But if you're an insurance company, or an employer, or a federal or state government budget officer, you see the money spent on medicines going up and up, and a ballooning senior population in the offing, and you think, we've got to get this spending under control.

Your first response? Find any way you can to cut the pharmacy budget. You can do that a number of ways—price caps, supplementary rebates, formularies, for example—but the result can be unexpected.

Years ago, the state of New Hampshire learned this lesson the hard way. The government capped prescription drug spending, and saved an average $57 a year on drugs for schizophrenia patients. But the law of unintended consequences kicked in, and they added $1,500 a year in costs for visits to mental-health clinics and emergency rooms.

Ladies and gentlemen, that's what my mother called penny-wise and pound-foolish. Pharmaceuticals are actually the best value in health care, and rather than spending less, we should be investing more on medicines. Penny-wise squeezing of pharmaceutical costs only results in pound-foolish expansion of costs for more expensive health care procedures. Do we spend more on pharmaceuticals today than we did years ago? Yes. But we can't afford to forget that the money paid for medicines today fuels investment in R&D for the medicines of tomorrow.

You're all familiar with the floppy disks or CDs you use to load software on your computer. You also probably know that these disks cost less than a dollar to buy at your local office supply store. Why then does your software often cost hundreds of dollars? Well, for the same reason that a little white pill costs so much at the pharmacy. Just as in the case of new medicines that improve your health, hundreds of highly-skilled people took many years to invent and develop that new software for your computer. You're not just buying a bit of plastic. You're buying creativity, and years of research and development that went into developing the software for your computer—and the new medicines that improve your health.

In our case that's an investment of $800 million, 10–12 years of R&D, and the failure of 5,000 to 10,000 compounds along the way—just to bring one new innovative medicine to market. But it's government and academia that discover drugs, right? Not exactly. Of the top 100 most commonly used medicines in the U.S., 93 were discovered and/or developed by research-based pharmaceutical companies. Certainly, government and academia play a vital role in scientific research. They push the frontiers of science, and while we do that in pharmaceutical research companies too, we have the practical expertise to link what we know about disease and the human body to develop medicines that improve human health. For example, the public sector discovered the presence of beta adrenergic receptors in the heart and blood vessels. But it took the pharmaceutical research industry to convert that scientific knowledge into new medicines that treat heart disease, high blood pressure and stroke—the beta-blockers that are keeping a number of us, and our parents, alive today.

GSK alone invests $4 billion a year in research and development. The hope for patients who are or will suffer from diabetes, AIDS, Parkinson's, stroke, Alzheimer's, Cystic Fibrosis and countless other diseases lies in the powerhouse of innovative pharmaceutical industry research—and in the partnerships between industry, government and academia. Recently many of you have read or seen news items about an insurance industry-sponsored study claiming that all this research effort doesn't result in better drugs, but only drugs of minimal value—so-called me-too drugs. Breakthrough medicines are fantastic—when you find them—but they are rare, and very hard to achieve. Believe me, no one sets out to discover or develop a medicine that has no advantage over current therapy.

I sometimes say working in a pharmaceutical company is a lot like playing golf: It costs a lot and takes a long time to play. You will likely never hit a hole in one. And you always feel like you're playing with a handicap. But you can't escape the fact that science is slow and incremental. More often than not, after years of testing, you learn that your medicine isn't a breakthrough; but it may offer fewer side effects, work a little faster, or come in a pill that is easier for patients to swallow. These incremental advances—while not breakthroughs—can and do provide real value for patients. Sometimes we find new uses for old drugs. Take Coreg—a GSK treatment for heart failure. Coreg is a beta-blocker, a class of drugs which at one time was restricted to treating hypertension because it was thought to cause heart failure in patients. But clinical trials showed Coreg actually benefited patients with congestive heart failure.

These trials were so successful that the only ethical thing to do was to stop the trial and give the medicine to all patients, even those who were on placebo. If you work for an insurance company, you might view Coreg as a me-too drug. If you're a patient, you'd likely view it as a lifesaver. Our critics say that we should concentrate only on new chemicals, and forget such incremental gains. But consider this. Merck and GSK both have AIDS vaccines in development. One may work, neither may work, or both may work.

But right now we don't know which could be the miracle vaccine that makes it first to market and which would be the follower—a so-called me-too. Tell me. Which of these research programs should we kill for the purpose of controlling costs? Personally, for those at risk of AIDS, I hope both programs are a success, and that physicians and patients have a choice of two AIDS vaccines competing with one another in the marketplace. Of course, when we do come up with a new idea and patent it, our critics claim that we abuse the patient system for the purpose of keeping generic drugs off the market. Let me set the record straight. There is clearly a place for generics in our health care system.

I have no problem competing with generics in the marketplace—but only after our patent expires. There's a great deal of confusion about patents in the public mind, and that's understandable, because it's complex subject. First off, no innovator pharmaceutical company realizes a full 20 years of patent life on a medicine granted under the law. By the time that medicine makes it through the regulatory process, we only have about 11 years left on our 20 year patent to realize a return on that investment and fund current R&D. Other industries, by contrast, generally enjoy 18 years of patent life on their products.

Second, the Hatch Waxman Act of 1984 basically crated the generic industry by outlining a delicate balance between the need, on the one hand, to bring low cost copies to market after a medicine's patent expires, and on the other hand, to protect incentives for pharmaceutical research and innovation. History has proven one thing—thanks to the Hatch Waxman Act, the modern generic drug industry is healthy and growing. In fact, generics now account for nearly half of all prescriptions filled in the United States. Yet as part of that delicate balance, generic drug companies were given a special treatment unlike any other industry. They have access to patent protected date *before* the patent expires.

So a generic company can copy our scientists' work, develop their plans to manufacture their version of our medicine, and have it ready to ship the day the patent expires. In every other industry, a copier has to wait until the patent expires on a technology before they can even think about planning to copy that product. The problem is, generic companies don't want to wait until the patents expire. They have taken to challenging innovator patents in an attempt to declare those patent invalid so they can come to market sooner.

In the case of our anti-depressant, Paxil, the first generic company challenged our patents just five and a half years into what should have been a 14-year patent term. In the next 3 years, seven other generic companies entered the fray.

Ladies and gentlemen, this kind of abuse of the Hatch-Waxman Act means lots of time and money wasted on litigation, costs that eventually get reflected in the price of medicines. The first generic company to market often gets 6 months of exclusivity to sell their version of our product without competition from other generics—so contesting patents is worth it to those companies.

It's a much simpler and lower risk business strategy for [generic companies to] hire lawyers and challenge patents in the courts than to invest in science and final new innovative medicines.

Speaking for GSK, I'd be willing to consider giving up the defensive litigation provisions available to the research intensive industry under Hatch Waxman if the generic companies agree to drop the special provisions they have to come to market. Current reform efforts threaten to destroy the balance that protects innovation while enabling the generics to operate. In letter to Senator Kennedy, Richard Epstein, the James Parker Hall Distinguished Service Professor of Law at the University of Chicago, said it best: ''The current regime...confess competition with confiscation of property rights.'' It's important to remember that generic companies do not discover new medicines yet it's the innovative pharmaceutical research industry that is at risk. In fact, the patient

with a disease that needs a better treatment is at risk as well.

Let me close with where I started—with the idea that by focusing strictly on costs we are focusing on the wrong thing. Instead, we should be focusing on the patient. We need to be able to discover, develop, and deliver a better medicine that meets patient needs. To the degree we do that, we succeed. To the degree we don't do that, we fail. And when we fail, we fail patients who are suffering from disease. And we fail the society that looks to us for better treatments. I hope I've demonstrated that medicines offer the greatest value for better patient health and quality of life. But we do understand that if you can't afford your medicine, any price is too high. And that's why we at GSK—and at a number of other research-intensive pharmaceutical companies—are looking for ways to improve patient access to medicines, not only in developing countries, but here at home as well.

That's why we offer medicines to the most needy patients through our patient assistance programs. Last year, the innovative pharmaceutical industry helped to fill 6.5 million prescriptions for more than 2.4 million needy patients. That adds up to more than $1 billion worth of medicine provided free of charge. That's also why GlaxoSmithKline led the way in improving access to medicines for low-income seniors in the US.

GSK's Orange Card—the first savings card for seniors in the industry—offers low income seniors savings of 20–40% or more on more their GSK medicines. We now have over 100,000 seniors participating in this savings program. The Together Rx card does the same, but offers saving on more than 150 medicines from 7 different pharmaceutical companies. In less than six weeks after availability, over 1 million patients had requested enrollment forms for this program. Both cards are free, and easy to obtain and use. But such programs are only a stopgap until comprehensive Medicare reform can pass Congress.

Of course skeptics will say that passage of real Medicare reform is a bit like the story of the doctor who went to heaven and met God. God granted him one question, so the physician asked, ''Will health-care reform ever occur?'' ''I have good news and bad news,'' God replied. ''The answer is yes, there will be health care reform. The bad news is, it won't be in my lifetime.'' We in the research intensive industry hope passage of a meaningful benefit does occur, not just in our lifetime, but in this election year.

We understand passing reform of this magnitude in an election year can be a challenge. But we strongly favor adding a drug benefit to Medicare, because we believe patients should have coverage for health care—including prescription drugs. The House has already passed a bill which we supported. We hope that the Senate, in an election year, would put patients first and also pass meaningful reform, like that embodied in the tripartisan bill that Democrats, Republicans and Independents are supporting. That bill provides a meaningful benefit, but allows competition to take place in the free market. That type of arrangement allows real price competition, in the marketplace, but does not stifle innovation and research. That's where we stand now. We must come to grips with the cost side of the value equation if we are to restore balance and realize the true value of the medical innovations we have the opportunity to enjoy.

If we at GSK are ever inclined to forget the value of our medicines, we have to look no further for a reminder than the patients we serve today. I was astonished by an e-mail we received from a woman who takes Advair—our newest asthma medicine. She wrote; ''I started taking Advair approximately August 24th. I really began feeling great—my breathing had improved immensely. On September 11th, I was in 2 World Trade Center when the impossible happened. I really believe that because of this medication I was able to make my way down 59 stories through Manhattan and across the Brooklyn Bridge. Please give my thanks to those who developed this life saving medicine.''

This letter means a lot to me, and to all of us at GSK—particularly our scientists who dedicate their lives to discovering and developing new medicines like Advair.

Just yesterday, a Wall Street Journal editorial cited one of our industry's best critics, Sen. Edward Kennedy, saying that ''something has to be done about the 'soaring cost of prescription drugs' else the 'miracle cures' promised by the biotech revolution will remain priced 'out of the reach of ordinary Americans.' '' The editorial went on to say: ''Miracles they may be, but they don't fall from heaven. They will be developed for a profit, or they won't be developed at all.''

Thank you.

[From Newsobserver.com, Oct. 16, 2002]

A RETIREMENT THAT HURTS RTP

(By David Ranii)

RESEARCH TRIANGLE PARK.—Robert Ingram, the No. 2 executive at giant GlaxoSmithKline and the most visible pharmaceutical industry leader in the Triangle, is retiring at the end of this year.

Ingram, who in December turns 60, mandatory retirement age for GSK executives, is the former chief executive officer of London-based Glaxo Wellcome and was named chief operating officer and president of worldwide pharmaceutical operations after Glaxo merged with SmithKline Beecham nearly two years ago.

David Stout, now president of the U.S. pharmaceuticals business, will replace Ingram as head of worldwide pharmaceuticals.

''I think Bob is one of the most outstanding pharmaceutical executives in the United States,'' said John Plachetka, chief executive of Durham pharmaceutical company Pozen. ''He is so well known and well respected—not just in our industry but in Washington.''

As the highest-ranking former Glaxo executive remaining at GSK, Ingram's imminent retirement can be viewed as reinforcing the complaints of some employees that what was billed as a merger of equals has turned out to be a de facto takeover by SmithKline Beecham. Glaxo's former chairman, Richard Sykes, retired from GSK earlier this year. Ingram will continue to work with the company as part-time vice chairman and special adviser.

Ingram's retirement sets off a domino effect among senior executives at GSK, which is based in London and has twin U.S. headquarters in Research Triangle Park and Philadelphia.

Unlike Ingram, whose office is in RTP, Stout, 48, will move to Philadelphia when he takes charge. Stout hails from the Smithkline Beecham side of the business and was based in Philadelphia before being named to his current post in January 2001.

Ingram said he has ''a high degree of confidence in David's ability.''

Stout's successor as head of the U.S. pharmaceuticals business will be Christopher Viehbacher, 42, president of pharmaceuticals in Europe, who will move from Paris to RTP. Andre Witty, Asia Pacific senior vice president, has been named Viehbacher's successor. Both Viehbacher and Witty were with GSK before the merger.

After Ingram retires, six of the 14 top-tier executives at the company, what the company calls its corporate executive team, will have Glaxo Wellcome pedigrees, while the other eight will share a SmithKline Beecham heritage. Ingram, meanwhile, will continue to participate in executive team meetings even after he retires, said GSK spokeswoman Mary Anne Rhyne.

The chief operating officer position being vacated by Ingram isn't being filled.

Ingram, who began his pharmaceutical career as a sales representative, said that when he left Merck & Co. to join Glaxo in 1990, he realized that the one downside was that Glaxo, like many British companies, had a mandatory retirement age of 60 for top executives. ''Time, unfortunately, marches on, as they say,'' he said.

Ingram said that, although he doesn't have a noncompete clause in his new arrangement with GSK, he isn't interested in being CEO of another pharmaceutical company. ''I will say I have been approached to do that,'' he said. ''It is flattering.''

''There is certainly a possibility,'' he added, ''that I might take on some nonexecutive chairmanships.''

Ingram, who is well known in political circles, also said he has no plans to run for political office. ''I think my wife would shoot me if I even considered it,'' he said.

Ingram has earned kudos for being an effective advocate for GSK and the industry in Washington, and he also has developed a relationship with President Bush and his family. At a black-tie GOP fund-raiser held in Washington in June that netted about $30 million, Ingram was called upon to offer the presidential toast.

In recognition of Ingram's Washington clout, he will remain GSK's representative on the board of the industry trade group, Pharmaceutical Research and Manufacturers' Association, after his retirement.

''Bob Ingram is one of the giants of the pharmaceutical industry, and we are pleased that he will continue to play a major role on the PhRMA Board,'' Alan Homer, the association's president, said in a statement. ''Bob's sensitivity and caring for the needs of others, especially patients, is unparalleled.

Dr. Charles Sanders, a former chairman and chief executive of the U.S. operations of what is now GSK, praised Ingram's leadership. ''Bob has been through two mergers, first with Burroughs Wellcome and then with SmithKline Beecham,'' said Sanders. ''I think he has handled it very well. it is very difficult to merge companies.''

Ingram, who lives in Durham, said he understands that some GSK employees keep score regarding how many former Glaxo Wellcome executives are in leadership positions compared with their counterparts from SmithKline Beecham. But that's not how the corporate executive team looks at things, he said.

''It is one company: GSK,'' he said. ''Our competition isn't internal. The last time I checked, we had plenty of competition [elsewhere].''

FOSTERING DEMOCRATIC PRINCIPLES AND VALUES IN UKRAINE

Mr. SESSIONS. Mr. President. I wish to bring to the attention of my colleagues the Civitas International Civic Education Exchange Program, a cooperative project of civic education organizations in the United States and other nations. The goal of the project is to exchange ideas, experiences, and curricular programs to further the development of civic competence and responsibility among youth in emerging

and established democracies. The program is administered by the Center for Civic Education and funded by the U.S. Department of Education under the Education for Democracy Act approved by the United States Congress.

Recently may office was pleased to meet with a delegation of educators participating in the Civitas exchange program from Ukraine who have spent time in Alabama working on a curriculum for teaching Ukrainian history and civic education. The Ukraine delegation is partnered with the Alabama Center for Law and Civic Education in Birmingham, which has an outstanding reputation for delivering high quality civic education programs under the leadership of Executive Director Jan Cowin and Associate Director Wade Black. The American leaders of the delegation included two other Alabama natives, Louis Smith, Professor, School of Education, University of Western Alabama and his wife Carole Smith, visiting lecturer, Mississippi State University. I wish to commend all four of these Alabama educators for their excellent work in promoting educational excellence in our state.

The Ukraine delegates include Larysa Seredyak, Teacher of History and Civics in Lviv; Anatoliy Kovtonyuk, Teacher of History, Law, and Philosophy in Zhytomyr; Volodymyr Gorbatenko, Professor, Koretskyi State and Law Institute of the National Academy of Sciences of Ukraine and Professor of Politology and Sociology in Kyiv; Grygoriy Freyman, Assistant Professor, World History, Luhansk Pedagogical University and Teacher of History and Law in Luhansk; and Nataliya Yuikhymovych, Translator and Interpreter in Lviv.

I ask unanimous consent to have printed in the RECORD an article in the Montgomery Advertiser about a recent visit by this distinguished Ukrainian delegation to a class of sixth graders at Dalraida Elementary School. It demonstrates how our teachers and students can benefit from these international programs through joint educational projects. Above all, it shows how we can work cooperatively with other nations to promote fundamental democratic principles, understanding and values among our youth.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Montgomery Advertiser, Nov. 9, 2002]

STUDENTS QUIZ UKRAINIAN TEACHERS

(By Ken L. Spear)

The schoolchildren bombarded the visiting Ukrainian classroom teachers with loads of questions:

''Do you have elections for political office?'' ''Do y'all own, like dogs and horses?'' ''Does your school have computers?'' ''What is your grading system?'' ''When kids get in trouble, what does the principal do?''

The inquiries are a part of the Dalraida Elementary sixth-graders' quest to seek a solution to a common problem while crossing international borders.

They are in the early stages of a civic project with their peers from Village School in Synkiv in the Ukraine.

Students here already are talking about how to bridge the digital divide and raising the money necessary to make it happen. There's one computer for the entire Village School.

''They should have better communication with everybody,'' said Dairaida's ilyan Unyhkov, whose parents are Russian natives. ''Plus we need to make allies. If we're not friends, we may still get into war.''

''The may help us,'' classmate J'Darius Powell added.

Designed for grades five through eight, the ''We the People . . . Project Citizen'' curriculum not only teaches students about government, but the tools and skills necessary to solve problems in their communities. That includes learning how to monitor and influence public policy, and crafting an action plan.

Civic participation isn't a foreign concept to the Ukrainian sixth-graders. Two years ago, The Village School joined the ranks of Project Citizen schools. Students there have led projects, such as the restoration of memorials from World Wars I and II that have been neglected by the Soviets and the clean up of community rivers and streams.

The group of educators is visiting Alabama as part of its mission to develop a ''common national definition'' and a curriculum for teaching Ukrainian history and civics education, said Wade Black, associate director of the Alabama Center for Law and Civic Education at Samford University.

A final version of the curriculum is expected to be submitted by next summer to the European Union, which is similar to Samford University's law and civic education center.

Ukraine declared independence in 1991. Under Soviet rule prior to that, citizens weren't taught their history and had no access to a curriculum.

''It parallels with black history,'' Black said. ''They want to write a history that unifies the country and defines what it means to be Ukrainian.''

While Project Citizen is an international program, only 25 Alabama schools, scouting troops and church groups are involved. Proration of the education budget forced some schools to cut the program.

''If they could just see the difference it makes in kids' lives,'' said Teri Gisi, faculty adviser for Dairaida's program. ''They see what a difference they can make.''

Dalraida got its hands-on civics lesson when students revisited a 15-year battle to get a sidewalk down a 1½-mile stretch of Johnstown Drive. The sixth-graders devised a plan, appealed to the City Council and was granted a sidewalk.

THE QUIET EROSION OF OUR FEDERAL LANDS IN ALASKA

Mr. LEAHY. Mr. President, every year we get to this point at the end of a Congress where many bills get packaged together and move through under unanimous consent. Usually this process works well and gives each of us an opportunity to work out concerns we might have about any particular bill. Unfortunately, last night two bills were approved that should have received much greater scrutiny by the full Senate. Instead, they squeaked through because the proponents cleverly bundled them with over 100 other uncontroversial, local-interest bills.

Together, the Cape Fox Land Entitlement Adjustment Act and the University of Alaska lands bill will give away huge chunks of our federal lands in Alaska. Individually, they represent what I fear will be facing us in the near future—the quiet erosion of our federal lands for the benefit of private interests. These bills turn over more than 260,000 acres of federal lands in Alaska without addressing fundamental public concerns about public access, logging, roadless areas and the impact on fish and wildlife.

Both of these bills are opposed by many Alaska and national environmental organizations.

I ask unanimous consent to have printed in the RECORD two letters, dated July 16, 2002 and September 4, 2002, outlining some of their concerns that were not heard as these bills were being rushed to the floor and passed last night.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA COALITION, ALASKA CONSERVATION VOTERS/ALASKA CONSERVATION ALLIANCE, ALASKA RAINFOREST CAMPAIGN, ALASKA WILDERNESS LEAGUE, EARTH JUSTICE, EYAK PRESERVATION COUNCIL, MINERAL POLICY CENTER, NATIONAL AUDUBON SOCIETY, NATIONAL WILDLIFE FEDERATION, NATURAL RESOURCES DEFENSE COUNCIL, LEAGUE OF CONSERVATION VOTERS, SCENIC AMERICA, SIERRA CLUB, SOUTHEAST ALASKA CONSERVATION COUNCIL, THE ENDANGERED SPECIES COALITION, THE WILDERNESS SOCIETY, U.S. PIRG,

July 16, 2002.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN BINGAMAN: We are writing you to urge you to oppose S. 2222, the Cape Fox Entitlement Adjustment Act of 2002. Introduced earlier this year by Senator Frank Murkowski (R–AK), and currently being considered by the Energy and Natural Resources Committee, this bill is an attempt to benefit special interests by giving away valuable Tongass National Forest lands—lands owned by all Americans. Opposed by many Southeast Alaskans, S. 2222 attempts to trade the Tongass for commercial development including clear cutting and mining.

This bill proposes to give Cape Fox and Sealaska Corporations more than 11,000 acres of valuable Tongass National Forest lands in Berners Bay near Juneau in return for 3,000 acres of mostly roaded and clearcut lands near Ketchikan and certain subsurface rights. With the transfer of the publicly owned lands, the Corporations gain the rights to log, subdivide, sell, or develop this swath of land on the northwest side of Berners Bay. Despite the importance of Berners Bay to Alaskan residents, Senator Murkowski has not held a local hearing on the land exchange issue in Juneau. This bill is bad public policy and should not see the light of day.

Berners Bay is one of Juneau's most important recreation areas for kayaking, hunting, camping, bird watching, commercial touring and many other activities. The traded lands could be closed to public access, beautiful views and hunting grounds replaced with stumps and no trespassing signs. The Bay contains abundant wildlife, including four species of salmon, wolves and brown and black bears. It is an important stopover for migratory birds as well as foraging grounds for Steller sea lions.

The Alaska Department of Fish and Game, City and Borough of Juneau, and commercial

fishermen have long supported protection of Berners Bay's high value fisheries and vast recreational opportunities. Additionally, the Auk Kwaan tribe, original settlers of the area, recognizes Berners Bay as an integral part of their traditional territory. These ancestral lands contain village site, burial grounds, and the sacred Spirit Mountain. Berners Bay is a critically important wild area for southeast Alaska residents and visitors alike.

The public lands to be given away include Slate Lake, where the Coeur d'Alene Mines Corporation anticipates dumping mine tailings from its proposed Kensington gold mine. Slates Lake is perched above a productive salmon stream in Berners Bay. Giving away these lands would risk contaminating the land and harming its irreplaceable natural resources.

Again, we urge you to oppose S. 2222. Please do not schedule a mark-up of this bill by the committee. The Tongass National Forest is a national treasure that deserves to be treated with care and in the best interest of the American people.

Sincerely,

Tim Bristol, Executive Director, Alaska Coalition; Tim Atkinson, Executive Director, Alaska Conservation Voters; Michael Finkelstein, Campaign Director,, Alaska Rainforest Campaign; Cindy Shogan, Executive Director, Alaska Wilderness League; Dune Lankard, Executive Director, Eyak Preservation Council; Vawter Parker, Executive Director, Earth Justice; Deb Callahan, President, League of Conservation Voters; Stephen D'Esposito, President, Mineral Policy Center; Bob Perciasepe, Senior Vice President, National Audubon Society; Jamie Rappaport Clark, Senior Vice President, National Wildlife Federation; John Adams, President, Natural Resources Defense Council; Meg Maquire, President, Scenic America; Carl Pope, Executive Director, Sierra Club; Jeremy Anderson, Executive Director, Southeast Alaska Conservation Council; Bill Meadows, President, The Wilderness Society; Brock Evans, Executive Director, The Endangered Species Coalition; Gene Karpinski, Executive Director, U.S. Public Research Group.

ALASKA COALITION, ALASKA RAINFOREST CAMPAIGN, ALASKA WILDERNESS LEAGUE, EARTH JUSTICE, EYAK PRESERVATION COUNCIL, LEAGUE OF CONSERVATION VOTERS, MINERAL POLICY CENTER, NATIONAL WILDLIFE FEDERATION, NATURAL RESOURCES DEFENSE COUNCIL, THE WILDERNESS SOCIETY, US PIRG,

September 4, 2002.

The Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID, We are writing to urge you to keep S. 2222, the Cape Fox Land Entitlement Adjustment Act of 2002, off the floor of the United States Senate. This bill was introduced earlier this year by Senator Frank Murkowski (AK–R), and passed through the Energy and Natural Resources Committee in late July.

Even with the changes in language made during the mark-up process, this bill is an attempt to benefit special interests by giving away valuable Tongass National Forest lands, which are owned by all Americans. Opposed by many Southeast Alaskans, S. 2222 attempts to trade Tongass lands for commercial development including clearcutting and mining.

This bill proposes to give Cape Fox and Sealaska Corporations more than 11,000 acres of valuable Tongass National Forest lands in Berners Bay near Juneau in return for 3,000 acres of mostly roaded and clearcut lands near Ketchikan and certain subsurface rights. With the transfer of the publicly owned lands, the Corporations gain the right to log, subdivide, sell, or develop this swath of land on the northwest side of Berners Bay. Despite the importance of Berners Bay to Alaskan residents, Senator Murkowski has not held a local hearing on the land exchange issue in Juneau, nor had a public appraisal prepared prior to the passage of this legislation through committee. We believe that a public appraisal should be required before this legislation is allowed to proceed. This bill is bad public policy, and is another attempt by Senator Murkowski to appease special interests during his governor's race.

Berners Bay is one of Juneau's most important recreation areas for kayaking, hunting, camping, bird watching, commercial touring and many other activities. The traded lands could be closed to public access, and beautiful views and hunting grounds replaced with stumps and no trespassing signs.

The Bay contains abundant wildlife, including four species of salmon, wolves and brown and black bears. It is an important stopover for migratory birds as well as foraging grounds for Steller sea lions.

The Alaska Department of Fish and Game, City and Borough of Juneau, and commercial fishermen have long supported protection of Berners Bay's high value fisheries and vast recreational opportunities. Additionally, the Auk Kwaan tribe, original settlers of the area, recognizes Berners Bay as an integral part of their traditional territory. These ancestral lands contain a village site, burial grounds, and the sacred Spirit Mountain. Berners Bay is a critically important wild area for southeast Alaska residents and visitors alike.

The public lands to be given away include Slate Lake, where the Coeur d'Alene Mines Corporation anticipates dumping mine tailings from its proposed Kensington gold mine. Slates Lake is perched above a productive salmon stream in Berners Bay. Giving away these lands would risk contaminating the land and harming its irreplaceable natural resources.

Again, we urge you to keep S. 2222 off the floor of the United States Senate. The Tongass National Forest is a national treasure that deserves to be treated with care and in the best interest of the American people.

Sincerely,

Tim Bristol, Executive Director, Alaska Coalition; Michael Finkelstein, Campaign Director, Alaska Rainforest Campaign; Cindy Shogan, Executive Director, Alaska Wilderness League; Dune Lankard, Executive Director, Eyak Preservation Council; Vawter Parker, Executive Director, Earth Justice; Stephen D'Esposito, President, Mineral Policy Center; Carl Pope, Executive Director, Sierra Club; Bill Meadows, President, The Wilderness Society; Gene Karpinski, Executive Director, U.S. Public Research Group; Jamie Rappaport Clark, Senior Vice President, National Wildlife Federation; Deb Callahan, President, League of Conservation Voters; John Adams, President, Natural Resources Defense Council.

Mr. LEAHY. Mr. President, S. 2222 would privatize 12,000 acres of Tongass National Forest land in Berners Bay, a popular recreation area for residents of Juneau, Alaska. The two corporations—Sealaska and Cape Fox Corporations—that would receive title to the National Forest lands have a history of closing public access to their lands and heavily logging them. Most of the logs have been exported directly to Asia without any domestic processing. The provisions for old-growth reserves in the reported version of S. 2222 offer little protection. The vast majority of old-growth forest on the newly privatized National Forest lands could still be heavily logged and the logs shipped straight to Asia with no domestic manufacturing.

Trading land to two Native corporations is not the only reason proponents so desperately wanted this bill to move this year though. The bill will also make it much easier for a mining corporation to open a gold mine adjacent to the national forest land being traded. The proposed Kensington mine is currently permitted to store its mine tailings on its own land. But the mine wants to reduce its operating costs by instead dumping its mine tailings in a pristine lake that conveniently is within the 12,000 acres being traded. EPA and the State of Alaska have written opinions suggesting that dumping tailings in this lake is likely illegal under the Clean Water Act.

The potential environmental impact of the mine tailings dump and logging operation on the land will have long-term effects on an extremely rich salmon producing area. Berners Bay also contains abundant wildlife, such as wolves and brown and black bears that will be impacted by the increased activity in the area and water pollution generated by the mine and logging operations. By privatizing the land, the public will have little knowledge or say in how the mine and logging operations affect the recreational, hunting, fishing and ecological values of the bay.

The fishing and tourism industries, both key to Southeast Alaska, will be largely shut out of any oversight of the operations even though it will likely have a direct impact on their financial well-being.

The environmental and economic concerns about these land exchanges should raise enough red flags to demand much greater scrutiny from this body. On top of that, these bills also raise serious questions about the cost to taxpayers nationally of privatizing our public resources. In return for the 12,000 acres transferred to Cape Fox, taxpayers would get 3,000 acres of largely clearcut private lands and certain subsurface rights. There is no safeguard in the bill allowing the public to actually have a say in whether this is a good, or even fair, deal for taxpayers. The University of Alaska land exchange would turn over at least 250,000 acres of federal lands without a public process for approving or rejecting which lands actually get transferred. Instead, it is solely left to the Secretary of the Interior to decide.

Again, these two bills are troubling enough on their own because of their environmental and economic impacts. However, the idea of trading away public lands with little or no public input

and no economic or environmental analysis is even more troubling. Over the years, our federal agencies and this body have done an admirable job of protecting these lands for the public, not for private interests. We should not start reversing that record now.

ARKANSAS RIVERBED LAND

Mr. INHOFE. Mr. President, I wish to express my thanks to the chairman and vice chairman of the Senate Committee on Indian Affairs who have greatly assisted the effort to bring much needed finality to the uncertainty created by litigation surrounding the ownership of the bed of the Arkansas River. A decision by the United States Supreme Court in 1970 determined that parts of the bed of the Arkansas River were included along with other land that was conveyed to Indian Nations based on 19th century treaties between the United States and the Indian Nations that were relocated from the East Coast of the United States to Oklahoma or ''Indian Territory'' as it was then known.

Based on the Supreme Court's decision that Arkansas riverbed lands were included within the treaties with Indian Nations, the United States is subject to monetary damages for any breaches of its trust obligation with respect to this land. A suit has been brought on behalf of the Indian Nations asserting that such breaches of trust have occurred. The case is presently before the United States Court of Federal Claims.

With respect to such treaty lands, the Non-Intercourse Act of 1790 prevents the transfer of title without Congressional approval. Without action by Congress, claims to legal title on behalf of the Indian Nations can continue to be raised with respect to these lands based on the Federal Government's underlying trust obligation. The threat of such lawsuits is a serious hardship on those people who were simply unaware that they were living on land that was once part of the bed of the Arkansas River. H.R. 3534 would eliminate title problems that are the result of the Supreme Court's decision and resolve breach of trust claims brought by the Indian Nations.

Several months ago, United Keetowah Band of Cherokee Indians, UKB, filed a motion to intervene in the Court of Federal Claims lawsuit. Although this motion was denied, the Department of Justice expressed its reluctance to endorse H.R. 3534 unless it was drafted to precluded the UKB from either bringing quiet title actions or from petitioning the United States to bring such actions. In order to ensure that UKB was not left without a remedy for pursuing its claims, the Justice Department proposed that the bill be amended to allow the UKB to pursue such claims in an action in the Court of Federal Claims. In addition, the Justice Department suggested that H.R. 3534 be amended to reserve some portion of the settlement proceeds until any claims that can be raised by the UKB are fully and finally litigated.

I am pleased to report that a compromise was reached on this issue. Like any compromise, everyone had to give something up in order for us to move forward. In that regard, I would like to express my appreciation to all of those who have worked so hard on this compromise.

Under the proposed amendment to H.R. 3534 that is before the Senate, all tribal claims concerning Arkansas riverbed land are resolved through proceedings in the Court of Federal Claims or through the settlement incorporated in H.R. 3534. This allows the United States Congress to remove the threat of quiet title actions brought by or on behalf of an Indian tribe claiming title to land based on the Supreme Court's decision. In other words, the UKB and each of the other tribes have agreed to allow their claims to the riverbed to be addressed through the process established by H.R. 3534. In return, the UKB has asked that 10% of the settlement fund established by the bill will be aside to satisfy any of the UKB's claims if the tribe is ultimately successful in the Court of Federal Claims. In addition, if this amount is not sufficient to satisfy any judgment awarded to the tribe, the permanent judgment appropriation, section 1304 of title 31, is explicitly made available to satisfy the remainder of any judgment amount awarded to the UKB.

The UKB has also requested one additional consideration. The UKB recognizes that the purpose of the legislation is to preclude the Tribe from bringing or asking the United States to bring a lawsuit making a direct claim that asserts right, title, or an interest in Arkansas riverbed arising out of the Supreme Court's opinion. However, the Tribe wishes to make it clear that nothing in H.R. 3534 is intended or is to be construed to address, resolve, or prejudice the underlying basis of a claim that they would have been able to make if H.R. 3534 was not enacted. In other words, the UKB have asked that the legislation include a provision to make it clear that H.R. 3534 does not alter the character, nature, or basis of any claim or right that the tribe could have made before the effective date of this legislation. We have done so.

I wish to express my appreciation for the assistance of the Chairman of the Committee on Indian Affairs, Senator INOUYE, who has provided important procedural assistance to allow the bill to be moved expeditiously now that we have an agreement between all of the Indian tribes and the Departments of Interior and Justice.

In addition, I wish to acknowledge the good work of Senator CAMPBELL, the vice chairman of the Indian Affairs Committee, who deserves a great deal of the credit for bringing the final compromise on this matter to fruition. With that in mind, I would like to briefly engage in a colloquy with him on this final compromise.

Does the vice chairman agree that section 9 of the proposed amendment ensures that the law will only be construed to preclude claims for title to the Arkansas riverbed lands either by the UKB or on its behalf; or from the UKB requesting that the Federal government bring such claims?

Mr. CAMPBELL. That is correct.

Mr. INHOFE. Based on the Senator's answer to my last question, it is clear that the UKB will no longer be able to make a claim to the riverbed lands. However, the bill still provides a means for the UKB to raise the riverbed claims it might otherwise have brought, but it now directs that they must pursue these claims exclusively in the manner provided in H.R. 3534; isn't that correct?

Mr. CAMPBELL. Yes, that is correct.

Mr. INHOFE. By including section 9, Congress is making it clear that other than this change in forums for riverbed matters, it is not Congress's intent to express any opinion or have any effect on the claims the UKB might bring. Isn't that correct?

Mr. CAMPBELL. That is correct. To my knowledge, Congress has not reviewed or considered these claims. Furthermore, it is not necessary for Congress to do because the bill does not address the individual claims of the UKB, it merely ensures that the Tribe's claims to the riverbed are only pursued in the manner provided in H.R. 3534. Section 9 is included to make it clear that the bill is not to be construed to address the merits of any particular claim by the UKB; instead the bill is only concerned with how those riverbed claims may be pursued.

Mr. INHOFE. I thank the Senator for his assistance in this very important matter.

SMALL WEBCASTER SETTLEMENT ACT OF 2002

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking the important step of passing the Helms-Leahy substitute amendment to H.R. 5469, the ''Small Webcaster Settlement Act of 2002.'' This legislation reflects hard choices made in hard negotiations under hard circumstances. I commend House Judiciary Chairman SENSENBRENNER and Representative CONYERS for bringing this legislation to a successful conclusion and passage in the House of Representatives in a timely fashion to make a difference in the prospects of many small webcasters. I also thank Senator HELMS and his staff for working constructively in the lame duck session of this Congress to get the bill done.

The Internet is an American invention that has become the emblem of the Information Age and an engine for bringing American content into homes and businesses around the globe. I have long been an enthusiast and champion of the Internet and of the creative spirits who are the source of the music, films, books, news, and entertainment

content that enrich our lives, energize our economy and influence our culture. As a citizen, I am impressed by the innovation of new online entrepreneurs, and as a Senator, I want to do everything possible to promote the full realization of the Internet's potential. A flourishing Internet with clear, fair and enforceable rules governing how content may be used will benefit all of us, including the entrepreneurs who want us to become new customers and the artists who create the content we value.

The advent of webcasting, streaming music online rather than broadcasting it over the air as traditional radio stations do, has marked one of the more exciting and quickly growing of the new industries that have sprung up on the Web. Many of the new webcasters, unconstrained by the technological limitations of traditional radio transmission, can and do serve listeners across the country and around the world. They provide music in specialized niches not available over the air. They feature new and fringe artists who do not enjoy the few spots in the Top 40. And they can bring music of all types to listeners who, for whatever reason, are not being catered to by traditional broadcasters.

We have been mindful on the Judiciary Committee that as the Internet is a boon to customers, we must not neglect the artists who create and the businesses which produce the digital works that make the online world so fascinating and worth visiting. With each legislative effort to provide clear, fair and enforceable intellectual property rules for the Internet, a fundamental principle to which we have adhered is that artists and producers of digital works merit compensation for the value derived from the use of their work.

In 1995, we enacted the Digital Performance Right in Sound Recordings Act, which created an intellectual property right in digital sound recordings, giving copyright owners the right to receive royalties when their copyrighted sound recordings were digitally transmitted by others. Therefore when their copyrighted sound recordings are digitally transmitted, royalties are due. In the 1998 Digital Millennium Copyright Act, DMCA, we made clear that this law applied to webcasters and that they would have to pay these royalties. At the same time, we created a compulsory license so that webcasters could be sure of the use of these digital works. We directed that the appropriate royalty rate could be negotiated by the parties or determined by a Copyright Arbitration Royalty Panel, or CARP, at the Library of Congress.

Despite some privately negotiated agreements, no industry-wide agreement on royalty rates was reached and therefore a CARP proceeding was instituted that concluded on February 20, 2002. The CARP decision set the royalty rate to be paid by commercial webcasters, no matter their size, at .14 cents per song per listener, with royalty payments retroactive to October 1998, when the DMCA was passed.

At a Judiciary Committee hearing I convened on this issue on May 15, 2002, nobody seemed happy with the outcome of the arbitration and, in fact, all the parties appealed. The recording industry and artist representatives feel that the royalty rate, which was based on the number of performances and listeners, rather than on a percentage-of-revenue model, was too low to adequately compensate the creative efforts of the artists and the financial investments of the labels. Many webcasters declared that the per-performance approach, and the rate attached to it, would bankrupt small operations and drain the large ones. I said then that such an outcome would be highly unfortunate not only for the webcasters but also for the artists, the labels and the consumers, who all would lose important legitimate channels to connect music and music lovers online.

On appeal, the Librarian in June 2002, cut the rate in half, to .07 cents per song per listener for commercial webcasters. Nevertheless, many webcasters, who had been operating during the four year period between 1998 and 2002, were taken by surprise at the amount of their royalty liability. The retroactive fees were to be paid in full by October 20 and would have resulted in many small webcasters in particular, going out of business.

In order to avoid many webcasting streams going silent on October 20, when retroactive royalty payments were due, I urged all sides to avoid more expense and time and reach a negotiated outcome more satisfactory to all participants than the Librarian's decision. I also monitored closely the progress of negotiations between the RIAA and webcasters. On July 31, I sent a letter with Senator HATCH to Sound Exchange, which was created by the RIAA to act as the agent for copyright holders in negotiating the voluntary licenses with webcasters under the DMCA and to serve as the receiving agent for royalties under the CARP process. The letter posed questions on the status of the reported on-going negotiations between RIAA/Sound Exchange and the smaller webcasters, the terms being proposed and considered, and how likely the outcome of those negotiations would be to produce viable deals for smaller webcasters, while still satisfying the copyright community.

Reports on the progress of these negotiations were disappointing, which makes this legislation all the more important. As a general principle, marketplace negotiations are the appropriate mechanism for determining the allocation of compensation among interested parties under copyright law. Yet, we have made exceptions to this general principle, as reflected in this legislation and the very compulsory license provisions it amends.

The legislation reflects a compromise for all the parties directly affected by this legislation—small webcasters, noncommercial webcasters, and hobbyists that could not survive with the rates set by the Librarian, and copyright owners and performers who under this bill will give certain eligible webcasters an alternative royalty payment scheme. this legislation does not represent a complete victory for any of these stakeholders. Artists and music labels may believe that they are foregoing significant royalties under this legislation and I appreciate that there are those in the webcasting business, who are either not covered or not sufficiently helped by the bill, who believe that this legislation should do more. As one analyst the Radio and Internet Newsletter stated, in the October 11, 2002 issue, ''Clearly, the 'Small Webcaster Amendments Act of 2002' a/k/a H.R. 5469 is an imperfect bill that doesn't fix everything for everybody; Still, overall, does it do more good than harm for more people? My belief is that many are helped one way or the other and virtually no one is assured of being hurt. Thus, the answer, the whole, would be yes.''

I know that most webcasters share my belief that artists and labels should be fairly compensated for the use of their creative works. This legislation provides both compensation to the copyright owners and helps to support the webcasting industry by offering more variable payment options to small webcasters than the one-size-firts-all per performance rate set out in the original CARP and Librarian decisions. The rates, terms and record-keeping provisions are applicable only to the parties that qualify for and elect to be governed by this alternative royalty structure and no broad principles should be extrapolated from the rates, terms and record-keeping provisions contained in the bill. The Copyright Office is presently engaged in a rule-making on record-keeping and this bill does not supplant that ongoing process.

After the House passed H.R. 5469 on October 7, 2002, I have worked with Senator HATCH to clear the bill for passage through the Senate and address concerns raised on both sides of the aisle. While the bill was finally cleared for passage by all the Democratic Senators on October 17, passage of the legislation was blocked before the lame-duck session. I am pleased to have worked with Senator HELMS on a substitute that resolves some of the concerns raised about the original House-passed bill.

The Helms-Leahy substitute makes the following changes in H.R. 5469:

First, it authorizes SoundExchange to enter into agreements with groups representing small webcasters and noncommercial webcasters. Such agreements will be available generally to any party which qualifies under their terms as an option to the rates adopted by the Copyright Office. The rates and terms of such agreements will be binding on all copyright holders once the

agreement has been published in the Federal Register by the Copyright Office. Such deals are authorized to cover the retroactive fees, as well as those going forward.

Second, the substitute amendment imposes a 6 month moratorium on fee collections from noncommercial entities, to allow for negotiations with such entities. This provision is particularly important for noncommercial webcasters, such as those operating at colleges and universities. The Librarian's decision contained an anomaly under which nonprofit entities that held FCC licenses were given a lower per performance rate than were commercial entities, but no such provision was made for noncommercial entities that were not FCC licensees. The bill provides a moratorium on the collection of royalties in order for an alternative agreement to be reached.

It also authorizes Sound Exchange to postpone retroactive royalty collections from small webcasters with whom it is negotiating deals. The original House-passed bill recognized the retroactive burden on many of the small commercial webcasters by allowing them to make their payments based on a percentage of revenue or percentage of expense, but also allows both small commercial and noncommercial webcasters to pay these retroactive fees in three payments over he span of a year.

Third, the substitute amendment adopts language making clear that such deals are not precedent in any judicial proceeding or in future CARPs.

Fourth, the substitute amendment provides for direct payment to artists and deductibility of expenses from the proceeds of the royalties.

Finally, the substitute amendment authorizes a GAO/Copyright Office study on the impact of agreements between third parties and webcasters and the effect that such agreements should have on percentage of expense royalty rates. This authorization does not contain any preliminary findings or sense of the Congress language as to how such study should be resolved.

The agreement to be negotiated between Sound Exchange and small webcasters will likely reflect the rates and terms set forth in the original House-passed bill. These terms provide an option of paying a percentage of revenue and stay in business. As one Vermont webcaster told me, ''Although the percentage of revenue is too high, at least we have the option. A percentage of revenue deal with enable [us] to stay in business moving forward, grow our audience, and compete.''

The Librarian of Congress royalty rate is based on a per performance formula, which has the unfortunate effect of requiring webcasters to pay high fees for their use of music, even before the audience of the webcaster has grown to a sufficient size to attract any appreciable advertising revenues. Without any percentage of revenue option (as the legislation allows), the webcasting industry would be closed to all but those with the substantial resources necessary to subsidize the business until the advertising revenues caught up to the per performance royalty rate.

A number of concerns have been raised that the rate and terms of the agreements authorized under the substitute amendment do not constitute evidence of any rates, rate structure, fees, definitions, conditions or terms that would have been negotiated in the marketplace between a willing buyer and willing seller. The concern stems from the DMCA's statutory license fee standard directing the CARP to establish rates and terms ''that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller,'' rather than a determination of ''reasonable copyright royalty rates'' according to a set of balancing factors. This new webcasting standard may be having the unfortunate and unintended result that webcasters and copyright owners are concerned that the rates and terms of any voluntary licensing agreements will be applied industry-wide. The new webcasting standard appears to be making all sides cautious and reluctant to enter into, rather than facilitating, voluntary licensing agreements.

Passage of this legislation does not mean that our work is done. As this webcasting issue has unfolded, I have heard complaints from all sides about the fairness and completeness of procedures employed in the arbitration. Indeed, the concerns of many small webcasters were never heard, since the cost of participating in the proceedings was prohibitively expensive and their ability to participate for free was barred by procedural rules. One thing is clear: Compulsory licenses are no panacea and their implementation may only invite more congressional intervention. To avoid repeated requests for the Congress or the courts to intercede, we must make sure the procedures and standards used to establish the royalty rates for the webcasting and other compulsory licenses produce fair, workable results. Next year, we should focus attention on reforming the CARP process.

ADDITIONAL STATEMENTS

IN CELEBRATION OF THE TENTH ANNIVERSARY OF CAB CALLOWAY SCHOOL OF THE ARTS IN WILMINGTON, DELAWARE

• Mr. CARPER. Mr. President, I rise today to celebrate the 10th anniversary of the Cab Calloway School of the Arts in Wilmington, the first public arts school in the State of Delaware. Since the late Cab Calloway cut the ribbon for the school's grand opening on November 23, 1992, the school has expanded from a small middle school with vocal detractors to an overwhelmingly successful experiment in public school choice, boasting an enrollment of 760 6th to 12th graders. If their first decade is any indication of what they will offer in the future, we have much to look forward to.

Cab Calloway School of the Arts works to provide young people from diverse backgrounds with intensive training in the arts and a comprehensive academic curriculum that will prepare them for success in higher education and employment. They are succeeding.

The school's halls are filled with talented faculty, skilled supervisors, and dedicated staff. Its students have been awarded numerous accolades and recognition for their art, writing, theatre, academics, vocal and band performances, as well as academics.

Cab Calloway's students continue to defy the odds, meeting or exceeding our State's standards in reading, writing and math. Last year, the school's 10th graders ranked among the very highest in the State in reading and writing comprehension. Mixing academics with freedom of expression and strong parental support has boosted their students' self-confidence and given us all something to feel good about.

When I served as Governor of Delaware, Cab Calloway's students performed, at my request, at the Hotel DuPont for the Governor's National Association. They helped me celebrate my second inauguration as Governor at the Wilmington Grand Opera House and have since been named to the Governor's School of Excellence. They continue to make me proud.

Cab Calloway School of the Arts has represented the State of Delaware at The Kennedy Center in Washington DC, and its students have performed at the Delaware Mentoring Council Celebrations in Wilmington and Dover, attended by GEN. Colin Powell.

These days I work closely with HILLARY CLINTON in the Senate. When I brought her to tour the Cab Calloway School of the Arts in 1996, she was our First Lady, and I made sure that a tour showcasing the best of Delaware included the innovative school. We talked about the importance of school choice and the inroads made possible by a school dedicated to providing a cultural and academic experience that instills character and a greater appreciation of the arts.

As Governor of Delaware, and now as Senator, I have shared with people across America the story of Cab's success. I tell them about teachers such as Marty Lassman, who daily demonstrate unparalleled commitment and patience, the support staff that is there when needed, the students who again and again exceed expectations, and the parents and family members who understand they have an obligation to be full partners in the education of their children. Together, they serve as an inspiration and an example to communities across the country.

Delaware is a small State, but we are building a growing record of achievement in public school education. Statewide, scores have again increased in all grades and across the board in reading and math, as we begin to close the achievement gap.

Much of what we have accomplished in Delaware, and at the Cab Calloway School of the Arts, serves as a model for our Nation.

I thank the staff and students of the school, both past and present, for their efforts to create a more meaningful experience for our students, and I wish Cab Calloway School of the Arts a very happy 10th anniversary.

I rise today to offer my full support to future generations of students and educators at Cab Calloway School of the Arts and congratulate this extraordinary school on a remarkable decade of success.●

HONORING NATHANIEL BANKSTON UPON HIS RETIREMENT

● Mr. DASCHLE. Mr. President, today I want to share with my colleagues the dedication and public service rendered by Nathaniel Bankston, Registrar of Voters in East Baton Rouge Parish. He is retiring from public service today, and as he enters a new phase in his life, I look back and remember his accomplishments.

Mr. Bankston has served as the Registrar of Voters of East Baton Rouge Parish since 1969. His dedication to ''getting the job done'' causes him to reach out to both all parties, regardless of affiliation. He is a respected member of the community, having served as president of the Louisiana Registrars of Voters Associations, member on the Board of Trustees of the Louisiana Registrars of Voters Retirement System, and president of the East Baton Rouge Parish Board of Election Supervisors. He is a lifelong resident of Louisiana, having graduated from southeastern Louisiana University in Hammond, LA, in 1972.

He has spent his entire life striving to make Louisiana a better place, and it is with a heavy heart that I see him retire. Mr. Bankston is an upstanding citizen and it is my hope that his future holds all that he desires.●

HONORING THE LIFE OF ARNI COHEN

● Mr. BAYH. Mr. President, I rise to pay tribute to a fellow Hoosier, whose life embodied American ideals of entrepreneurship, community, and service.

In Indiana, we mourn Arni Cohen's death. Mr. Cohen began a pizza business by purchasing his first Arni's restaurant in 1965. Through a mixture of expansions and franchising, Mr. Cohen embodied the principle of free enterprise by populating 13 different cities in Indiana with nearly two dozen of his restaurants. Mr. Cohen's undying love for his community and baseball prompted him to create a softball league for the community of West Lafayette, where he played with and managed the team. Always a community-minded individual, Arni Cohen also offered his restaurants to upstart musicians and comedians, allowing them to pave their way into show business. Mr. Cohen's years in the Army and his years as a city council member illustrate his commitment to serving his country and community.

Family and friends remember Arni Cohen as a charitable person, always smiling, and eager to offer a kind word to everyone. Mr. Cohen loved his community, honorably serving it for 37 years. His dedication and kindness to his community are a credit to his family and to the State of Indiana.

It is my privilege to pay tribute to Arni Cohen for his commitment and service by honoring him in the official record of the Senate. I send my heartfelt condolences to his family, friends, and the community of West Lafayette.

When I reflect upon the lives of men such as Arni Cohen, who dedicated his life to serving others, I am reminded of the principles of public service.●

RETIREMENT OF RON KING

● Mr. CRAPO. Mr. President, I rise today to acknowledge the upcoming retirement of Ron King, Director of Communications at the Department of Energy's Idaho Operations Office. The DOE Idaho Operations Office oversees manangement of the Idaho National Engineering and Environmental Laboratory, INEEL, and for almost 10 years Ron has served, with distinction, as the director of communications.

Ron's service to his country began with a career in United States Navy, which included various intelligence and administrative positions. After retiring from the U.S. Navy in 1979, Ron continued to work with the Navy as a Government and contractor employee. Ron's public service culminated with his service to the Department of Energy with posting in Montana and Idaho.

As Director of Communications, Ron served as the interface between the DOE and various stakeholders such as State of Idaho officials, the Idaho congressional delegation, tribal governments, community groups, academic institutions and media outlets. In each of these groups, Ron is well-known and respected and the DOE has benefited from Ron's representation.

Public service involves personal sacrifice, commitment to duty and hard work. Ron King exemplified these values during his service in the Idaho Operations Office. Ron will leave big shoes to be filled and his service will not be forgotten.

I want to wish Ron and his wife Cindy all of the best as Ron leaves Government service.●

EFFECTIVE DATE PROVISION OF INVOLUNTARY BANKRUPTCY CLARIFICATION

● Mr. BAUCUS. Mr. President, we are all aware that last Thursday the House failed to pass the conference report on H.R. 333, the bankruptcy reform measure. Further, failing to pass H.R. 333, the version of bankruptcy reform that the House did pass last Friday was not taken up for Senate consideration this past week for several reasons. However there are much needed reforms in the bankruptcy bill and one in particular that I would like to discuss today.

It is my understanding that the final bill passed by the House did contain a number of technical corrections that were agreed to on a bipartisan, bicameral basis after inadvertent drafting errors were discovered following the conclusion of the work of the conference committee on H.R. 333. One such error involved the effective date provision of section 1234. Section 1234 was not a new provision of law but a reiteration of current law. This section made clear that a claim that is in bona fide dispute over the existence of liability, or the amount of that liability, cannot be used as the basis for bringing an involuntary bankruptcy action. This clarification is consistent with the 1984 legislative history of this portion of Section 303 of the Bankruptcy Code. It also tracks the decisions of all five Courts of Appeal that have ruled on the bona fide dispute bar to the bringing of involuntary bankruptcy actions.

Section 1234 restated and strengthened congressional intent that an involuntary bankruptcy action should not be employed by litigants seeking to gain more leverage than they would have if they disputed contract performance in the proper judicial forum. The respondent in a bona fide dispute over liability for a claim or the amount thereof should not be disadvantaged by the stigma and expense of an involuntary bankruptcy proceeding, nor should our overcrowded bankruptcy courts be burdened with such disputes. In as much as section 1234 restated existing law, it was given immediate effect upon enactment—but, due to a drafting error, it would not have applied to cases now pending before the bankruptcy courts. This mistake would have had a particularly perverse effect in the five Federal circuits that have correctly ruled that bona fide dispute standard applies to both liability and the amount thereof; no circuit court has reached a contrary conclusion.

As soon as the conferees became aware of this mistake, they worked to fashion a correction contained in a concurrent resolution to be adopted simultaneously with the conference report. That and other enrolling changes were incorporated in the bankruptcy bill passed by the House last Friday. The involuntary bankruptcy provision was contained in section 1233 of that measure, which stated that ''This section and the amendments made by this

section shall take effect on the date of enactment of this Act and shall apply with respect to cases commenced under Title 11 of the United States Code before, on, and after such a date.''

As the author of both the 1984 amendment that established the bona fide dispute proviso of section 303 of the Code and 2001 Senate amendment that became section 1234 of the conference report and section 1233 of the House-passed bill, I intend to seek to secure the same clarification and reiteration of current law in the 108th Congress.●

TRIBUTE TO DR. LEON Y. SADLER, III

●Mr. SESSIONS. Mr. President, I rise today to express my congratulations to Dr. Leon Y. Sadler, III, originally of Camden, AL, now of Tuscaloosa, Alabama, for his receipt of the Outstanding Commitment to Teaching Award given by the University of Alabama.

Dr. Sadler comes from a well respected Wilcox County family who for generations have provided the area with leadership. His grandfather, Mr. ''Duck'' Sadler was a superb businessman, and farmer. Indeed, my father purchased his International Harvester dealership from him in the late 1950s. Dr. Sadler's father was a brilliant lawyer who did superb legal work for over a half century, operating from his modest office in Camden. Dr. Sadler's brother, Tom, graduated one year ahead of me at Wilcox County High School, obtained his engineering degree from Massachusetts of Technology and, likewise, excelled in engineering.

Leon earned a B.S. in Engineering from Georgia Institute of Technology, and his master's degree and Ph.D. at the University of Alabama. He joined the Department of Chemical Engineering at the University of Alabama in 1978 after working for Olin Chemical Corporation and the United States Bureau of Mines. His publications are numerous and his research has led to his being rewarded three patents. He is also the recipient of numerous awards including Reichold-Shumaker Professorship of Chemical Engineering; Department of Engineering 140th Anniversary Outstanding Fellow Award; Rau Beta Pi Outstanding College of Engineering Faculty Award and Alabama Society of Professional Engineers State of Alabama Engineering Educator of the Year for 2001, to name a few. His excellence as a teacher of chemical engineering is best enunciated by one of his students who said about Leon:

> Not only does he use his great technical skills to educate his students to be better suited for industry, but he also employs his personal skills to illustrate to students how to be better suited for the ''real world.'' He never fails to provide students with the means to learn, as well as the tools to succeed in a competitive field.

I knew Leon as a student in the public schools of Wilcox County. He graduated several years ahead of me. While a terrific student, Leon was also a good basketball player. On one occasion, he undertook to coach a group of us who attended the Methodist Youth Fellowship in a basketball league. In fact, we had an ecumenical Methodist Youth Fellowship, with Presbyterians and other church members attending. We thought he was a wonderful coach and that we would be a successful team. Unfortunately, he had chosen by far the shortest team in the league and though we learned much about the game, a winning season we did not have.

Leon married his high school classmate, Dana McNeil, a wonderful and sparkling person who maintained a successful career in real estate. She has been his loving partner throughout their marriage of many years. They have two wonderful sons, Leon IV and Cobb.

In recent years, I had the chance to reestablish a close relationship with Leon and Dana. Spending time with them has been a most pleasant experience. He and Dana have had me stay with them in their fine home in Tuscaloosa and treated me with genuine hospitality. I have cherished those visits and our talks about friends and family and our roots. In this highly mobile world, it is important that we stay close to our friends and to our heritage.

Everyone has such a great love and affection for Leon. Though brilliant and dedicated, he never lost his humility and humanity. People love him and love being with him. His friends are many and very, very loyal—just as he is to them.

Leon is now suffering an erosion of his physical abilities as the result of the progression of Lou Gehrig's disease. I visited him, Dana and Jim Wilburn recently and enjoyed it greatly. Among other things, we talked of my re-election effort which was just a few weeks off. Leon, now unable to speak, with a smile on his face, wrote on his small erasable board the words, ''You're going to win.'' That was an encouraging comment and, as it turned out, he was correct.

Leon Y. Sadler, III has achieved excellence in a rigorous and demanding specialty, Assistant Professor of Chemical Engineering. He has been a blessing to his fellow man. He has remembered his roots and friends from Wilcox County. He loves his wife and family and is proud of all their accomplishments. To an unusual degree, he loves America, understands her greatness, keeps up with current affairs, and does all he can to keep her on the right path.

Teachers are important people. In addition to their professional excellence, teachers help young people learn how to live—in the words of his student, ''. . . how to be better suited for the 'real world' ''. Indeed. I extend my congratulations to Dr. Sadler for this important teaching award, presented by one of the great universities in the world, the University of Alabama. The presentation of the award on September 18, 2002, brought credit on both Dr. Sadler and the University.●

HONORING REVEREND HAROLD JONES

● Mr. JOHNSON. Mr. President, I am saddened to report the passing of one of South Dakota's most exceptional spiritual leaders, Rev. Harold Jones.

Harold was the first Native American to serve as a bishop in a Christian denomination. He was a widely respected leader, and was greatly admired by his peers for his dedication to the people he served and guided. His tremendous contributions to the community and groundbreaking achievements set him apart from other outstanding spiritual leaders.

Born in 1909 and raised on the Santee Reservation in Nebraska, Harold lost his parents at an early age and was raised by his grandparents, who brought him up as a Christian. He attended school at Seabury-Western Seminary in Illinois. After graduating, Harold spent 13 years at the Pine Ridge Mission and 12 years at Holy Trinity Parish in Wahpeton, ND. He also served at the Cheyenne River Agency, Gettysburg, Dupree, Pine Ridge, and Rapid City, SD and Fort Defiance, AZ. Harold was consecrated as a bishop suffragan of the Episcopal Diocese of South Dakota on January 11, 1972. The ecumenical ceremony was witnessed by 1,000 people in the Catholic Church's St. Joseph Cathedral in Sioux Falls.

As a Native American, Harold's entry into the church did not occur without controversy and prejudice. While at seminary school in Illinois, Harold earned money by giving talks about life on South Dakota Indian reservations to churches in the Chicago area. Outside these churches signs often read, ''Come this Sunday and see a live Indian!'' Never deterred from following his chosen path, Harold overcame the misconceptions and prejudices of others to become one of the most respected and revered bishops in the country.

Harold's dedication to helping others serves as his greatest legacy. His work continues to inspire all those who knew him. Our Nation and South Dakota are far better places because of Harold's life, and while we miss him very much, the best way to honor his life is to emulate the love and support he shared with others.●

THE LIFE OF JANET ADAMS VIGGIANI

● Mr. DODD. Mr. President, I rise today to pay tribute to the late Janet Adams Viggiani—a native of Connecticut. I have known the Viggiani family for many years as residents of our native State, as neighbors in East Haddam, and as friends. Janet became a strong advocate for the public interest, an accomplished attorney, and an educator,

who dedicated her professional life to helping young people and to making our Nation a more just and equitable land.

Born in Middletown, CT, Janet spent her early years in the Nutmeg State. After graduating summa cum laude from Smith College, she began what would become a lifetime of work motivated by a deep desire to serve others, particularly those who struggled mightily to overcome enormous adversity in their lives—such as illness, criminal abuse, and discrimination. She worked for the Nine To Five Organization for Women Workers in Boston and for Brigham and Women's Hospital. She cofounded the Massachusetts Public Interest Research Group, which has done so much to protect the rights and interests of working families. She also cofounded the New England Sexual Assault Network, which provided support for victims of some of society's most heinous crimes. Janet became assistant director of Radcliffe College's Career Services Center, where she provided guidance to students searching for meaningful careers. While working for her doctorate at the Harvard School of Education, Janet was named an assistant dean at Harvard College in 1988. She spent 3 years advising the college administration on sexual harassment, sexual assault, tutor training, and gender equality issues in the classroom.

In 1996, Janet obtained a law degree from Harvard. After working on a variety of employment discrimination cases in the private sector, Janet was able to combine her love of law and education by taking a position at Simmons College, where she served as a legal counsel to the president. In this capacity, Janet dealt with a variety of legal issues, including employment, gender and racial discrimination, intellectual property, and other student affairs.

Janet was taken from us too soon, but she touched the lives of many people throughout her life. Her dedication to making our world a better place inspired many people and serves as an example for all of us to follow. My thoughts and prayers are with Janet's friends and family, particularly with her parents, Carl and Jane of East Haddam, CT, her sister Frances, and her brother Carl. She will be deeply missed by all who knew her.

Mr. President, I would like to submit for the RECORD an article written about Janet that appeared several days ago in the Middletown Press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANET VIGGIANI

Janet Adams Viggiani, a lawyer, educator, human rights advocate and former assistant dean for coeducation at Harvard College, died at her home in Mancos, Colorado on Friday, November 8, after a long illness. She was 48.

A co-founder of Massachusetts PIRG (Public Interest Research Group) and the New England Sexual Assault Network, she was named assistant dean at Harvard College in 1988 while working for her doctorate at the Harvard School of Education. As a dean, she dealt with issues of concern to women, sexual harassment and assault, training of teaching fellows and resident tutors in related matters, and advising the dean of the college and the Harvard administrative board on policy and procedure in these areas.

She was born in Middletown, Conn. October 15 1954, the second child of Jane Mead Viggiani and Carl A. Viggiani, professor of Romance languages and literature at Wesleyan University. She spent her young years in nearby Middle Haddam and attended East Hampton High School, where her career in law was foreshadowed by her passionate public defense of Black students unjustly accused of provoking violence in a racial dispute. She completed high school at the Buxton School in Mass.

After graduating from Smith College summa cum laude in 1978, she worked for the Nine-to-Five Organization for Women Workers in Boston, for Brigham and Women's Hospital and for Radcliffe Career Services as a counselor and then assistant director.

At Harvard, in addition to her deanship, she held the post of Allston Burr Senior Tutor of the college's Adams House, where she was responsible for many aspects of the lives and studies of 420 Harvard undergraduates.

In 1991, she received the degree of doctor education from Harvard. However, the same year marked the onset of a cancer that was to recur. Not knowing what the future held, she bought a car and traveled across America for almost a year.

In the fall of 1993, with the cancer in remission, she began a new career by entering Harvard Law School. She received her law degree in 1996, passed the state bar, and took a job with the Boston law firm of Hill & Barlow, where she specialized in discrimination and employment law.

In 1999, she accepted an invitation from Simmons College President Daniel Cheever to come to Simmons as the college counsel and assistant to the president. In the educational environment she enjoyed, she dealt with a wide range of legal issues ranging from employment, student affairs and intellectual property, to probate and criminal law.

In her year of travel across the country, she had discovered the peace and beauty of the southwest corner of Colorado. When the recurrence of cancer forced her retirement from Simmons in 2001, she returned to that area and rented a house in a pine forest where she spent her last year. She remained active until the final weeks of her life, even hiking at 13,000 feet in the nearby Rockies.

She is survived by her parents, of East Haddam; a sister, Frances A. Viggiani of Brooklyn, New York; and a brother, Carl A. Viggiani, Jr. of White Plains, New York.●

A TRIBUTE TO ARMAND DERFNER

● Mr. HOLLINGS. Mr. President, we have numerous inspirations in our Charleston, SC, community, but finally one unsung hero was heralded in the Post and Courier article this past Saturday. Armand Derfner spent his life fighting for the underdog, dedicated to civil rights. As a child of the Holocaust, his story is particularly inspirational. I ask unanimous consent to print the article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Post and Courier, Nov. 16, 2002]

ATTORNEY'S LIFELONG PASSION TO DEFEND UNDERDOG HAS TAKEN HIM TO THE NATION'S HIGHEST COURT

(By Jennifer Berry Hawes)

It's telling enough that Armand Derfner would win a prestigious national award that honors an attorney who has most contributed to the public interest in a precedent-setting case.

What's just as telling: Derfner missed the fancy, Oscar-like ceremony to get it.

Derfner and his wife, Mary Giles, were sitting on a tarmac in Charleston because their flight was delayed.

Of course, he had a defense for cutting it too close. He couldn't miss cross-examining a witness the day before. Besides, Derfner just isn't a man of pomp.

The honor is called the 2002 Trial Lawyer of the Year Award. It was given the summer by the Trial Lawyers for Public Justice.

Derfner and three other attorneys were honored for this year's huge settlement of their 27-year class-action lawsuit over Mississippi's treatment of the state's black college students and its traditionally black universities.

The state settled for $513 million. Now, even the suit's settlement is being disputed: ''It's still going on!'' Derfner grins.

Such a draining, drawn-out conflict could tax many people. But a good debate of any sort delights Derfner. It's why such an ardent liberal can enjoy life in conservative Charleston. ''Armand always goes against the wind,'' says his longtime friend Martin Gold.

As a Jewish kid growing up in New York, Derfner's friends backed the Brooklyn Dodgers.

Derfner cheered the Giants, the working man's team.

Call it an early showing of a lifelong passion for defending the underdog, a passion he's taken to courtrooms around the nation—namely the South—arguing Civil rights cases, taking several to its highest court.

He's argued before the U.S. Supreme Court five times, and won them all. He's won several more cases that he didn't have to argue before the justices. He's also testified several times before Congress.

But in his hometown Charleston, he's better known for challenging County Council's at-large system of elections, arguing that the system discriminates against black voters. He also defended the Charleston 5 and argued that County Council violated the Constitution by posting the Ten Commandments.

They can be unpopular positions. It's why Derfner needs a sense of humor to work in a place like this.

In his office at Broad and Church streets, his thick legal texts and filing cabinets tower near a pinball machine. And this is no respectable pinball machine. It features The Fonz and a buxom, redheaded Pinky Tuscadero. Get him playing and Derfner, in slacks and a tie, grins like a 12-year-old in an arcade.

''Stuffy, he's not,'' former partner Ray McClain says with a laugh. ''He's not someone with the slightest trace of arrogance or condescension.''

Nor is he shy with his opinions. In 1999, amid the battle flag debate, Derfner wrote this letter to the editor: ''I believe the Confederate flag should keep flying over the state Capitol. It is a useful reminder about the people inside, like a warning label on a hazardous product or a sign at the zoo saying, ''Beware of the Animals.''

While Derfner has a lighter side, talk about his work and he turns intense.

On his office wall hangs a sketch of a white hand uplifting a black one. In Hebrew and English, it reads, ''Thou shalt not stand idly by.''

And stand by he hasn't.

FLEEING HITLER

His Jewish family lived in Poland as Hitler came to power. With the rise of Nazi control in 1936, his parents fled their home with forged Swedish passports. They traveled through Germany and on to France, where they settled in Paris.

In 1938, his mother gave birth to Armand, her first child. During Derfner's first year of life, Hitler's aggression escalated, and his troops expanded their control. The next year, the Nazis invaded Poland.

His parents, foreseeing that Hitler would not stop there, tried to get passports to the United States—but couldn't.

Finally, as the Nazis began to invade France, Derfner's mother got the passports. His father raced to the U.S. Consulate to get American visas. But the consulate was packed up and the workers heading out. One worker still there broke open a locked desk drawer and stamped the visas.

It was June 12, 1940, Derfner's second birthday.

They left Paris by train just hours before the Nazi troops arrived. By June 14, Nazis occupied the city.

The Derfners fled south and stopped in Bordeaux. They crossed by train into Spain and then to Portugal, where they boarded a Greek ship, the Nea Hellas, on its way to New York.

Exactly one month later, on July 12, they landed in New York.

Derfner grew up mostly in New York, surrounded by fellow Jewish immigrants with similar family stories. Many older people he knew had numbers tattooed on their forearms.

Derfner's parents never again saw their families in Poland. ''Everyone was killed in concentration camps,'' he says, turning emotional.

Years later, Derfner would sit with his mother to look at family pictures. On a good day, she could make it through four or five names before breaking down. ''Everyone she'd ever known was gone.

''In my family, there's always been this sense that there is supposed to be justice in the world, and we're supposed to help people get it,'' he says. Even before the Holocaust, his father's family had gone to Palestine in the 1920s to fight the British. ''Maybe it's a family tradition.''

Today, Derfner's younger brother, Larry, is a journalist in Israel who covers the conflict there for U.S. News & World Report and the Jerusalem Post, an English-language newspaper. His sister, Suzanne, is a lawyer for children with disabilities in California.

After growing up, Derfner got his undergraduate degree from Princeton and then graduated from Yale Law School in 1963, Derfner—and the nation—was focused on the civil rights movement.

He was among those who headed into law ''as an engine for social change,'' McClain says.

In college, Derfner clerked for the chief judge of a U.S. court of appeals and then landed a job at Covington & Burling, among the most prestigious firms in Washington, DC. He began traveling to Mississippi for stints to work in civil rights cases.

When a civil rights law group needed a full-time attorney, he packed up and moved south. Soon after, in 1968, he argued his first case before the U.S. Supreme Court, an early Voting Rights Act case.

Derfner was just 29, a young liberal standing before the court's renowned liberals, Earl Warren and Hugo Black, who grilled him good.

''They were giants then,'' he recalls. ''And it was such an exciting experience, so exciting to see the court looking at laws and consulting in a way I though was so good for the country.''

OLD MISSISSIPPI

When he moved to Mississippi, he was joined by his first wife, Mary Frances. They'd met in Washington. She was from an old Charleston family named Legare, he was a New York son of Jewish immigrants.

Different as they could have been, they shared a passion for civil rights. And they were about to become partners in risky work.

When Derfner landed in Mississippi in the late 1960s, a man he didn't know greeted him at the airport. ''Hello, Mr. Derfner.'' He was followed day and night. And he was threatened. His dog was poisoned. He was arrested and jailed for contempt of court.

And while driving down a highway with May Frances one day, a bullet smashed through the passenger window beside her, shattering it, but missing them.

''It was definitely a war zone,'' he says. ''I had a lot of friends who were shot at, so I wasn't surprised.''

Yet he never unlisted his phone number. And Mary Frances remained active in the work with him. They stayed for three years.

''After a while, I could see that the work was so intense and so unrelenting that it has an effect. I began to feel like it was time to take a break.''

They returned to Washington for several years. He was thrilled to work on hot national issues, but at times the work was abstract, less personal than toiling in legal trenches, working hands-on with clients who needed help.

And the couple wanted to start a family.

Yet Mary Frances suffered from juvenile diabetes. As a teenager, her doctor had said that she would die young and couldn't bear children. When they met, she'd already begun to feel the terrible disease's effects but didn't believe the doctor's dire prediction.

''She was active while being sick,'' Derfner smiles. ''Her life was a miracle, too.''

Mary Frances drove, even played baseball. And she wanted to have children.

But they didn't want to raise them in Washington and preferred to move south, closer to family and the civil rights work they loved. Her aunt was lieutenant governor, and her grandfather had been instrumental in restoring what became Charles Towne Landing.

In 1974, they made the move. Their first son, Joel, was a baby then. When Joel was born, doctors warned that he might not live because he was so premature. But he did.

And after they moved to Charleston, the Derfners welcomed their second son, Jeremy. Doctors again warned that the newborn might not live. He also survived.

Today, both sons live in New York. Joel, a Porter-Graud School valdictorian and Harvard summa cum laude graduate, composes musical theater. ''I expect to see his name up in lights one of these days,'' Derfner says, smiling proudly.

Jeremy, named Porter-Gaud's best all-around, graduated from Brown University summa cum laude, wrote for Slate magazine and now is pursuing this Ph.D. at Columbia University.

When he moved to Charleston, Derfner joined a firm here with McCain and Frank Epstein working on civil rights and workers' rights cases. Twice he served as South Carolina's representative to the American Civil Liberties Union's national board.

Despite his liberal views in Charleston, Derfner says he never felt unwelcome. That may be thanks in part to his synagogue involvement and Mary Frances' family roots here.

then in 1981, the Derfners returned to Washington for a third time to pursue a chance to extend the Voting Rights Act.

Derfner toiled from an office near the U.S. Capitol and taught at American University. He worked closely with Massachusetts Sen. Edward Kennedy and clashed with his home state's Sen. Storm Thurmond.

''He could be legitimately called one of the two or three most experienced and most effective attorneys in the area of voting rights in the country,'' McClain says.

But the Derfners returned, again, to Charleston. Soon after, around 1990, Mary Frances's diabetes ravaged her body.

She died in 1992 when she was just 45.

Joel was in college, and Jeremy in high school at Porter-Graud. ''I think they were raising me,'' Derfner says, looking back on the painful time.

McClain recalls the years Derfner cared for his wife.

''He was very devoted,'' McClain says. ''He grieved quite deeply for Mary Frances.''

JOY IN LIFE

But then, in the mid-1990s, Derfner met a woman named Mary Giles. She worked at the S.C. Historical Society, which has archived some of Derfner's papers.

He became intrigued by this warm woman who found a fascinating life behind potentially dry documents. They began to date.

They married in 2000. Today, she works as archivist for the Catholic Diocese of Charleston.

Talking about her, Derfner grins big, like a boy with a giant crush. She's clearly returned joy to his life.

''She's an extraordinarily warm person,'' he says. ''People are bulldozed by how close you feel to her. I know I was.''

MESSAGE FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1010. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.

S. 1226. An act to require the display of the POW/MIA flag at the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1907. An act to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon.

S. 1946. An act to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail.

S. 2239. An act to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

H.J. Res. 124. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

H.R. 727. An act to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.

H.R. 2595. An act to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia.

S. 3044. An act to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

S. 2712. An act to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress.

S. 3156. An act to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

H.R. 3908. An act to reauthorize the North American Wetlands Conservation Act, and for other purposes.

H.R. 5504. An act to provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes.

The following enrolled joint resolutions, previously signed by the Speaker of the House, were signed on today, November 20, 2002, by the President pro tempore (Mr. BYRD).

H.J. Res. 124. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9740. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 2002–70—Cost of Living Adjustments for 2003'' received on November 7, 2002; to the Committee on Finance.

EC–9741. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Unit Livestock Price Method'' (RIN1545–BA25) received on November 7, 2002; to the Committee on Finance.

EC–9742. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2002–72—Clarification of Accounting Period Change Guidance'' received on November 7, 2002; to the Committee on Finance.

EC–9743. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Time for performing certain acts postponed by reason of service in a combat zone or a Presidentially declared disaster'' (Rev. Proc. 2002–71) received on November 7, 2002; to the Committee on Finance.

EC–9744. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''October–December 2002 Bond Factor Amounts'' (Rev. Ruling 2002–72) received on November 12, 2002; to the Committee on Finance.

EC–9745. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–67—Donation of Used Vehicles to Charity'' (Rev. Rul. 2002–67) received on November 12, 2002; to the Committee on Finance.

EC–9746. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 1.856–4; Rents from Real Property'' ((Rev. Rul. 2002–38)(2002–26)) received on November 12, 2002; to the Committee on Finance.

EC–9747. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2002–74) received on November 12, 2002; to the Committee on Finance.

EC–9748. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; End-Stage Renal Disease-Waiver of Condition for Coverage Under a State of Emergency in Houston, TX Area'' (RIN0938–AK98) received on October 21, 2002; to the Committee on Finance.

EC–9749. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Change of Agency Name: Technical Amendments'' (RIN0938–AL02) received on October 21, 2002; to the Committee on Finance.

EC–9750. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Payment for Nursing and Allied Health Education; Final Rule Medicare Program; Payment for Clinical Psychology Training Programs'' (RIN0938–AE79) received on October 21, 2002; to the Committee on Finance.

EC–9751. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Correction of Certain Year 2002 Payment Rates Under the Hospital Outpatient Prospective Payment System and the Pro Rata Reduction on Transitional Pass-Through Payments; Correction of Technical and Typographical Errors (CMS–1159–F4)'' (0938–AK54) received on October 21, 2002; to the Committee on Finance.

EC–9752. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Office of the Inspector General-Health Care; Medicare and Medicaid Programs; Peer Review Organizations: Name and Other Changes—Technical Amendments'' (RIN0938–AL38) recieved on October 21, 2002.

EC–9753. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Fee Schedule for Payment of Ambulance Services and Revisions to the Physician Certification Requirements for Coverage of Non emergency Ambulance Services'' (RIN0938–AK30); to the Committee on Finance.

EC–9754. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Hospital Conditions of Participation; Anesthesia Services''; to the Committee on Finance.

EC–9755. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities with Which They Have Financial Relationships'' (RIN0938–AG80) received on October 21, 2002; to the Committee on Finance.

EC–9756. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Psychiatric Services to Individuals Under Age 21'' received on October 21, 2002; to the Committee on Finance.

EC–9757. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Emergency Recertification for Coverage for Organ Procurement Organizations (OPO)'' (RIN0938–AK81) received on October 21, 2002; to the Committee on Finance.

EC–9758. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program, Part A Premium for 2003 for the Uninsured Aged and for Certain Disabled Individuals Who have Exhausted Other Entitlement'' (RIN0938–AL69) received on October 28, 2002; to the Committee on Finance.

EC–9759. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Negotiated Rule Making; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Services'' (RIN0938–AL03) received on October 21, 2002; to the Committee on Finance.

EC–9760. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 2003 (CMS–8014–87)'' (0938–AL63) received on October 28, 2002; to the Committee on Finance.

EC–9761. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2003 Payment Rates; and Changes to Payment suspension for Unfiled Cost Report (CMS–1206–FC & CMS–1179–F)'' ((RIN0938–AL19)(0938–AK59)) received on November 7, 2002; to the Committee on Finance.

EC–9762. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Sale and Issue of Marketable Book-Entry Treasury Bills, Notes and Bonds; Reporting of Net Long Position and Application of the 35 Percent Limit'' received on November 7, 2002; to the Committee on Finance.

EC–9763. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''General Order Warehouses'' (RIN1515–AC57) received on November 7, 2002; to the Committee on Finance.

EC–9764. A communication from the Commissioner, Social Security Administration, transmitting, a report relative to the Yearly Automatic Pay Increase of Social Security and Supplemental Security Income (SSI) received on November 7, 2002; to the Committee on Finance.

EC–9765. A communication from the Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants: Final Rule to Establish Thirteen Additional Manatee Protection Areas in Florida'' (RIN1018–AH80) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9766. a communication from the Deputy Assistant Secretary, Fish and Wildlife Service, Department of Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Eriodictyon capitatum (Lompoc yerda santa) and Deinandra increases ssp. villosa (Gaviota tarplant)'' (RIN1018–AG88) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9767. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a document entitled ''Enforcement First for Remedial Action at Superfund Sites'' received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9768. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Motor Vehicle Emissions Budgets in Progress, Attainments and Maintenance State Implementation Plans for Ozone, Carbon Monoxide and Nitrogen Dioxide, California'' (FRL 7408–5) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9769. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Kentucky; Approval of Revisions to Jefferson County Portion of the Kentucky State Implementation Plan'' (FRL7409–1) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9770. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''National Emission Standard for Hazardous Air Pollutants: Paper and Other Web Coating'' (FRL 7385–5) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9771. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Georgia: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL 7409–2) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9772. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Guidelines Establishing Test Procedures for the Analysis of Pollutants; Whole Effluent Toxicity Test Methods; Final Rule'' (FRL 7408–6) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9773. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District'' (FRL 7395–8) received on November 12, 2002; to the Committee on Environment and Public Works.

EC–9774. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Environmental Speed Limit Revision; and Voluntary Mobile Emission Reduction Program commitment for the Houston/Galveston (HG) Ozone Nonattainment Area'' (FRL 7407–1) received November 13, 2002; to the Committee on Environment and Public Works.

EC–9775. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans, Pennsylvania; Revisions to Allegheny County Articles XX and XXI'' (FRL 7391–6) received on November 13, 2002; to the Committee on Environment and Public Works.

EC–9776. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Redesignation of Particulate Matter Unclassifiable Areas; Redesignation of Hydrographic Areas 61 for Particulate Matter, Sulfer Dioxide, and Nitrogen Dioxide; State of Nevada'' (FRL 7408–2) received on November 12, 2002 ; to the Committee on Environment and Public Works.

EC–9777. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; South Carolina; Adoption of Revision Governing Credible Evidence and Removal of Standard 3'' (FRL 7406–7) received on November 12, 2002; to the Committee on Environment and Public Works.

EC–9778. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Washington; Yakima Carbon Monoxide Redesignation to Attainment and Designation of Areas for Air Quality Planning Purposes'' (FRL 7267–8) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9779. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Iowa'' (FRL 7403–7) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9780. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Kansas'' (FRL 7401–4) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9781. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Acquisition Regulation: Contractor Performance Evaluation'' (FRL 7402–8) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9782. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting , pursuant to law, the report of a rule entitled ''Determination of Attainment of 1-hour Ozone Standard as of November 15, 1993, for the Birmingham, Alabama, Marginal Ozone Nonattainment Area'' (FRL 7403–5) received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9783. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Implementation Guidance for Radionuclides'' received on November 7, 2002; to the Committee on Environment and Public Works.

EC–9784. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works'' (FRL 7394–7) received on October 28, 2002; to the Committee on Environment and Public Works.

EC–9785. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Idaho; Northern Ada County Carbon Monoxide Redesignation to Attainment and Designation of Areas for Air Quality Planning Purposes'' (FRL 7398–1) received on October 28 , 2002; to the Committee on Environment and Public Works.

EC–9786. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans North Carolina: Approval of Miscellaneous Revisions to Regulation Within the North Carolina State Implementation Plan'' (FRL7395–5) received on October 28, 2002; to the Committee on Environment and Public Works.

EC–9787. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans North Carolina: Approval of Miscellaneous Revisions to Regulations Within the Forsyth County Local Implementation Plan'' (FRL 7395–3) received on October 28, 2002; to the Committee on Environment and Public Works.

EC–9788. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans State of North Carolina: Approval of Miscellaneous Revisions to the Meeklenburg County Air Pollution Control Ordinance'' (FRL7395–7) received on October 28, 2002; to the Committee on Environment and Public Works.

EC–9789. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment of the 1 Hour Ozone Standard for San Diego County, California'' (FRL 7397–5) received on October 28, 2002; to the Committee on Environment and Public Works.

EC–9790. A communication from the Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Finding of Attainment for PM20; Wallula PM10 Nonattainment Area, Washington'' (FRL 7397–1) received on October 28, 2002 ; to the Committee on Environment and Public Works.

EC–9791. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Protection of Human Research Subjects'' (RIN0925–AA14) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9792. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation Revision'' received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9793. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Requirements for Facilities Transferring or Receiving Select Agents'' (RIN0920–AA02) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9794. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Compliance Alternatives for Provision of Uncompensated Services'' (RIN0906–AA52) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9795. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Head Start Program'' (RIN0970–AB24) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9796. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction'' (RIN0910–AA52) received on October 22, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9797. A communication from the Regulations Officer, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Ricky Ray Hemophilia Relief Fund Program'' (RIN0906–AA56) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9798. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Exempt from Certification; Mica-Based Pearlescent Pigments'' (Doc. No. 00C–1321) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9799. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Examination and Investigation Sample Requirements'' (Doc. No. 98N–0417) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9800. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Postmarketing Studies for Approved Human Drug and Licensed Biological Products; Status Reports; Delay of Effective Date'' (RIN99N–1852) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9801. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and not Misbranded'' (RIN0910–AA01) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9802. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Uniform Compliance Date for Food Labeling Regulations'' (Doc. No. 98N–1149) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9803. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Hematology and Pathology Devices; Reclassification; Restricted Devices; OTC Test Sample Collection Systems for Drugs of Abuse Testing; Delay of Effective Date'' (Doc. No. 97N–0135) received on November 13 , 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9804. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adhesives and Components of Coating'' (Doc. No. 92F–0443); to the Committee on Health, Education, Labor, and Pensions.

EC–9805. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Postmarket Surveillance'' (Doc. No. 00N–1367) received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9806. A communication from the Director, Regulations and Policy Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Reclassification and Codification of Uterine Activity Monitor'' (Doc. No. 97P–0350); to the Committee on Health, Education, Labor, and Pensions.

EC–9807. A communication from the Director, Occupational Safety and Health Administration, Department of Labor, transmitting the report of a rule entitled ''Exit Routes, Emergency Action Plans, and Fire Prevention Plans'' (RIN1218–AB82) received on November 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9808. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on November 13, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9809. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting, pursuant to law, the report of rule entitled ''Adjustment of Civil Monetary Penalties for Inflation'' (34 CFR Part 36) received on November 14, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9810. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Community Services Block Grant Program Report to Congress Fiscal Year 1999'' received on November 7, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9811. A communication from the Attorney General of the United States, transmitting, a report relative to deterring, detecting, and punishing unauthorized disclosures of United States national security secrets; to the Select Committee on Intelligence.

EC–9812. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, a report relative to the Federal Managers' Financial Integrity Act and the status of internal audit and investigative activities; to the Committee on Governmental Affairs.

EC–9813. A communication from the Chairman, Appraisal Subcommittee , Federal Financial Institutions Examination Council, transmitting, pursuant to law, a report entitled ''Financial Statements and Independent Auditors' Report''; to the Committee on Governmental Affairs.

EC–9814. A communication from the Secretary, American Battle Monuments Commission, transmitting, pursuant to law, the Annual Report of the American Battle Monuments Commission; to the Committee on Governmental Affairs.

EC–9815. A communication from the Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury, transmitting, pursuant to law, the report on the Fair Act Commercial Activities Inventory for 2002; to the Committee on Governmental Affairs.

EC–9816. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' [67 FR 63271] (Doc. No. FEMA–7793) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9817. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination'' [67 FR 63275] received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9818. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination'' [67 FR 63849](44 CFR Part 67) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9819. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination'' [67 FR 63829](44 CFR part 65) received on November 13, 2002 ; to the Committee on Banking, Housing, and Urban Affairs.

EC–9820. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' [67 FR 63834](Doc. No. FEMA–P7616) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9821. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood

Elevation Determinations'' [67 FR 63837] received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9822. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program; Group Flood Insurance Policy'' [67 FR 61460] (RIN3067–AD31) received on November 12 , 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9823. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Disaster Assistance; Federal Assistance to Individuals and Households'' [67 FR 61446] (RIN3067–AD25) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9824. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Disaster Assistance; Federal Assistance to Individuals and Households; Correction'' [67 FR 62896](RIN 3067–AD25) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9825. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, the report of a rule entitled ''Section 8 Homeownership Program: Downpayment Assistance Grants and Streamlining Amendments'' (RIN2577–AC28) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9826. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, the report of a rule entitled ''Testimony of Employees in Legal Proceedings'' (RIN2501–AC90) received on October 23, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9827. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, the report of a rule entitled ''Clarification of Eligibility of Citizens of Freely Associated States for Housing Assistance'' (RIN2577–AC35) received on November 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9828. A communication from the President of the United States, transmitting, pursuant to law, the periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–9829. A communication from the President of the United States, transmitting, pursuant to law, a report continuing the national emergency with respect to Sudan (Executive Order 13067); to the Committee on Banking, Housing, and Urban Affairs.

EC–9830. A communication from the Vice Chairman, Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Kenya; to the Committee on Banking, Housing, and Urban Affairs.

EC–9831. A communication from the Director, Financial Crimes Enforcement Network, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Financial Institutions'' (RIN1506–AA28) received on November 7, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9832. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Lufkin and Tyler, TX'' (Doc. No. 01–244)(Doc. No. 01–245) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9833. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.606(b). table of Allotments, TV Broadcast Station, New Iberia, LA'' (Doc. No. 02–153) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9834. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Topeka, KS'' (Doc. No. 02–154) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9835. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Lewisburg, WVA'' (Doc. No. 02–178) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9836. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotment, DTV Broadcast Stations, Wiggins, MS'' (Doc. No. 02–152) received November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9837. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Montgomery, AL'' (Doc. No. 02–132) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9838. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Des Moines, IA'' (Doc. No. 02–130) received on November 14, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9839. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Inseason trip limit adjustments'' (I.D. 092602B) received on November 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9840. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off the Exclusive Economic Zone Off Alaska-Closes Offshore Component of Pacific Cod in the Central Regulatory Area, Gulf of Alaska'' received on November 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9841. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Closure for Trawl Gear in the Gulf of Alaska'' received on November 13, 2002; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–361. A Resolution adopted by the House of the General Assembly of the State of North Carolina relative to a Tobacco Quota Buyout Program; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE RESOLUTION 1786

Whereas, the system of growing and marketing burley and flue-cured tobacco currently in place in the United States faces many challenges and changes due to contracting, lawsuits, governmental regulation, and foreign competition; and

Whereas, quota owners, tobacco growers, and the tobacco industry agree that a transition from the current system is needed to ensure continued tobacco production; and

Whereas, a plan of transition that is fair and equitable to all quota owners and tobacco growers is needed to provide stability, uniformity, and certainty for quota owners, growers, and the tobacco industry; and

Whereas, protecting family farmers and minority farmers and preserving the production of tobacco for economic viability in rural communities is an important goal of the State; and

Whereas, a buyout of the quota owners and tobacco growers would provide a significant and needed economic stimulus over a period of time in the State of North Carolina during a time of economic distress: Now, therefore, be it

Resolved by the House of Representatives:

Section 1. The House of Representatives urges the Congress of the United States and the President to support and enact legislation that would establish a fair and equitable transition program for quota owners and tobacco growers and the tobacco industry that would buy out quota owners and tobacco growers.

Section 2. The Principal Clerk shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from North Carolina in the Congress of the United States.

Section 3. This resolution is effective upon adoption.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2945: To authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes. (Rept. No. 107–350).

NOMINATION DISCHARGED

The following nomination was discharged from the Committee on Rules

and Administration pursuant to the order of November 20, 2002:

GOVERNMENT PRINTING OFFICE

Bruce R. James, of Nevada, to be Public Printer.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 12. A bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government; considered and passed.

By Mr. SARBANES (for himself, Mr. BOND, and Ms. MIKULSKI):

S. 13. A bill to extend authorization for the national flood insurance program; considered and passed.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, Mr. MILLER, Mr. WARNER, and Mr. ALLEN):

S. 14. A bill to amend the Agricultural Adjustment Act of 1938 to extend the farm reconstitution provision to the 2003 and 2004 crops; considered and passed.

By Mr. KERRY (for himself, Mr. FRIST, Mr. BIDEN, and Mr. LEVIN):

S. 15. A bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. GRASSLEY, Mr. CHAFEE, Mr. KENNEDY, Mrs. CLINTON, Mr. BAYH, Mrs. HUTCHISON, and Mr. BAUCUS):

S. 3180. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program (SCHIP); to the Committee on Finance.

By Mr. LEAHY (for himself and Ms. LANDRIEU):

S. 3181. A bill to amend the Consolidated Farm and Rural Development Act to ensure that the interest rate for direct loans paid by low income, limited resource borrowers is less than the interest rate for direct loans paid by other borrowers under the Act; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 361. A resolution tendering thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 362. A resolution tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DASCHLE:

S. Res. 363. A resolution to commend the exemplary leadership of the Republican Leader; considered and agreed to.

By Mr. LOTT:

S. Res. 364. A resolution to commend the exemplary leadership of the Majority Leader; considered and agreed to.

By Mr. CHAFEE (for himself and Mr. DODD):

S. Res. 365. A resolution congratulating the people of Brazil on the completion of peaceful, free, and fair elections in Brazil and the election of President da Silva; considered and agreed to.

By Mr. NELSON of Florida (for himself, Mr. SMITH of Oregon, Mrs. CLINTON, Mr. HELMS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. HATCH, Mr. SCHUMER, and Ms. LANDRIEU):

S. Res. 366. A resolution urging the Government of Egypt and other Arab governments not to allow their government-controlled television stations to broadcast any program that lends legitimacy to the Protocols of the Elders of Zion, and for other purposes; considered and agreed to.

By Mr. HATCH (for himself and Mr. BARKLEY):

S. Res. 367. A resolution recognizing the community services of Archie Edwards Blues Heritage Foundation, designating the fortnight beginning November 29, 2002, as the ''Blues Heritage Appreciation Fortnight'', and designating Friday, November 29, 2002, as ''Blues Friday''; considered and agreed to.

By Mr. LEAHY (for himself, Mr. DODD, Mr. SPECTER, and Mrs. FEINSTEIN):

S. Res. 368. A resolution expressing the Sense of the Senate concerning the decline of world coffee prices and its impact on developing nations; considered and agreed to.

By Mr. DASCHLE:

S. Con. Res. 160. A concurrent resolution providing for the sine die adjournment of the One Hundred Seventh Congress, Second Session; considered and agreed to.

ADDITIONAL COSPONSORS

S. 2039

At the request of Mr. DURBIN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2039 , a bill to expand aviation capacity in the Chicago area.

S. 2577

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

S. 2945

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2945, To authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 12. A bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of divers cultures and systems of government; considered and passed.

S. 12

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 ''Peace Corps Charter for the 21st Century Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Peace Corps was established in 1961 to promote world peace and friendship through the service of American volunteers abroad.

(2) The three goals codified in the Peace Corps Act which have guided the Peace Corps and its volunteers over the years, can work in concert to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government.

(3) The Peace Corps has operated in 135 countries with 165,000 Peace Corps volunteers since its establishment.

(4) The Peace Corps has sought to fulfill three goals, as follows: to help people in developing nations meet basic needs, to promote understanding of America's values and ideals abroad, and to promote an understanding of other peoples by Americans.

(5) After more than 40 years of operation, the Peace Corps remains the world's premier international service organization dedicated to promoting grassroots development.

(6) The Peace Corps remains committed to sending well trained and well supported Peace Corps volunteers overseas to promote peace, friendship, and international understanding.

(7) The Peace Corps is an independent agency, and therefore no Peace Corps personnel or volunteers should be used to accomplish any other goal than the goals established by the Peace Corps Act.

(8) The Crisis Corps has been an effective tool in harnessing the skills and talents for returned Peace Corps volunteers and should be expanded to utilize to the maximum extent the talent pool of returned Peace Corps volunteers.

(9) The Peace Corps is currently operating with an annual budget of $275,000,000 in 70 countries with 7,000 Peace Corps volunteers.

(10) There is deep misunderstanding and misinformation about American values and ideals in many parts of the world, particularly those with substantial Muslim populations, and a greater Peace Corps presence in such places could foster greater understanding and tolerance.

(11) Congress has declared that the Peace Corps should be expanded to sponsor a minimum of 10,000 Peace Corps volunteers.

(12) President George W. Bush has called for the doubling of the number of Peace Corps volunteers in service.

(13) Any expansion of the Peace Corps shall not jeopardize the quality of the Peace Corps volunteer experience, and therefore can only be accomplished by an appropriate increase in field and headquarters support staff.

(14) In order to ensure that proposed expansion of the Peace Corps preserves the integrity of the program and the security of volunteers, the integrated Planning and Budget System supported by the Office of Planning and Policy Analysis should continue its focus on strategic planning.

(15) A streamlined, bipartisan National Peace Corps Advisory Council composed of

distinguished returned Peace Corps volunteers and other individuals, with diverse backgrounds and expertise, can be a source of ideas and suggestions that may be useful to the Director of the Peace Corps as he discharges his duties and responsibilities as head of the agency.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DIRECTOR.—The term ''Director'' means the Director of the Peace Corps.

(3) PEACE CORPS VOLUNTEER.—The term ''Peace Corps volunteer'' means a volunteer or a volunteer leader under the Peace Corps Act.

(4) RETURNED PEACE CORPS VOLUNTEER.—The term ''returned Peace Corps volunteer'' means a person who has been certified by the Director as having served satisfactorily as a Peace Corps volunteer.

SEC. 4. RESTATEMENT OF INDEPENDENCE OF THE PEACE CORPS.

(a) IN GENERAL.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by adding at the end the following new sentence: ''As an independent agency, all recruiting of volunteers shall be undertaken primarily by the Peace Corps.''.

(b) DETAILS AND ASSIGNMENTS.—Section 5(g) of the Peace Corps Act (22 U.S.C. 2504(g)) is amended by inserting after ''*Provided*, That'' the following: ''such detail or assignment does not contradict the standing of Peace Corps volunteers as being independent: *Provided further*, That''.

SEC. 5. REPORTS AND CONSULTATIONS.

(a) ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.—Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by striking the section heading and the text of section 11 and inserting the following:

''SEC. 11. ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.

''(a) ANNUAL REPORTS.—The Director shall transmit to Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information—

''(1) describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

''(A) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

''(B) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations;

''(2) describing—

''(A) any major new initiatives that the Peace Corps has under review for the upcoming fiscal year, and any major initiatives that were undertaken in the previous fiscal year that were not included in prior reports to the Congress;

''(B) the rationale for undertaking such new initiatives;

''(C) an estimate of the cost of such initiatives; and

''(D) the impact on the safety of volunteers;

''(3) describing in detail the Peace Corp's plans for doubling the number of volunteers from 2002 levels, including a five-year budget plan for reaching that goal; and

''(4) describing standard security procedures for any country in which the Peace Corps operates programs or is considering doing so, as well as any special security procedures contemplated because of changed circumstances in specific countries, and assessing whether security conditions would be enhanced—

''(A) by colocating volunteers with international or local nongovernmental organizations; or

''(B) with the placement of multiple volunteers in one location.

''(b) CONSULTATIONS ON NEW INITIATIVES.—The Director of the Peace Corps should consult with the appropriate congressional committees with respect to any major new initiatives not previously discussed in the latest annual report submitted to Congress under subsection (a) or in budget presentations. Wherever possible, such consultations should take place prior to the initiation of such initiatives, but in any event as soon as practicable thereafter.''.

(b) ONE TIME REPORT ON STUDENT LOAN FORGIVENESS PROGRAMS.—Not later than 30 days after the date of enactment of this Act, the Director shall submit to the appropriate congressional committees a report—

(1) describing the student loan forgiveness programs currently available to Peace Corps volunteers upon completion of their service; and

(2) comparing such programs with other Government-sponsored student loan forgiveness programs; and

(3) recommending any additional student loan forgiveness programs which could attract more applicants from more low and middle income applicants facing high student loan obligations.

SEC. 6. SPECIAL VOLUNTEER RECRUITMENT AND PLACEMENT FOR COUNTRIES WHOSE GOVERNMENTS ARE SEEKING TO FOSTER GREATER UNDERSTANDING BETWEEN THEIR CITIZENS AND THE UNITED STATES.

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director shall submit a report to the appropriate congressional committees describing the initiatives that the Peace Corps intends to pursue with eligible countries where the presence of Peace Corps volunteers would facilitate a greater understanding that there exists a universe of commonly shared human values and aspirations. Such report shall include—

(1) a description of the recruitment strategies to be employed by the Peace Corps to recruit and train volunteers with the appropriate language skills and interest in serving in such countries; and

(2) a list of the countries that the Director has determined should be priorities for special recruitment and placement of Peace Corps volunteers.

(b) USE OF RETURNED PEACE CORPS VOLUNTEERS.—Notwithstanding any other provision of law, the Director is authorized and strongly urged to utilize the services of returned Peace Corps volunteers having language and cultural expertise, including those returned Peace Corps volunteers who may have served previously in countries with substantial Muslim populations, in order to open or reopen Peace Corps programs in such countries.

SEC. 7. GLOBAL INFECTIOUS DISEASES INITIATIVE.

(a) IN GENERAL.—The Director, in cooperation with international public health experts such as the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization, the Pan American Health Organization, and local public health officials shall develop a program of training for all Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases in order to ensure that all Peace Corps volunteers make a contribution to the global campaign against such diseases.

(b) DEFINITIONS.—In this section:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(4) INFECTIOUS DISEASES.—The term ''infectious diseases'' means HIV/AIDS, tuberculosis, and malaria.

SEC. 8. PEACE CORPS ADVISORY COUNCIL.

Section 12 of the Peace Corps Act (22 U.S.C. 2511; relating to the Peace Corps National Advisory Council) is amended—

(1) by amending subsection (b)(2)(D) to read as follows:

''(D) make recommendations for utilizing the expertise of returned Peace Corps volunteers in fulfilling the goals of the Peace Corps.'';

(2) in subsection (c)—

(A) in paragraph (2)(A)—

(i) in the first sentence, by striking ''fifteen'' and inserting ''seven''; and

(ii) by striking the second sentence and inserting the following: ''Four of the members shall be former Peace Corps volunteers, at least one of whom shall have been a former staff member abroad or in the Washington headquarters, and not more than four shall be members of the same political party.'';

(B) by amending subparagraph (D) to read as follows:

''(D) The members of the Council shall be appointed to 2-year terms.'';

(C) by striking subparagraphs (B) and (H); and

(D) by redesignating subparagraphs (C), (D), (E), (F), (G), and (I) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively;

(3) by amending subsection (g) to read as follows:

''(g) CHAIR.—The President shall designate one of the voting members of the Council as Chair, who shall serve in that capacity for a period not to exceed two years.'';

(4) by amending subsection (h) to read as follows:

''(h) MEETINGS.—The Council shall hold a regular meeting during each calendar quarter at a date and time to be determined by the Chair of the Council.''; and

(5) by amending subsection (i) to read as follows:

''(i) REPORT.—Not later than July 30, 2003, and annually thereafter, the Council shall submit a report to the President and the Director of the Peace Corps describing how the Council has carried out its functions under subsection (b)(2).''.

SEC. 9. READJUSTMENT ALLOWANCES.

The Peace Corps Act is amended—

(1) in section 5(c) (22 U.S.C. 2504(c)), by striking ''$125'' and inserting ''$275''; and

(2) in section 6(1) (22 U.S.C. 2505(1)), by striking ''$125'' and inserting ''$275''.

SEC. 10. PROGRAMS AND PROJECTS OF RETURNED PEACE CORPS VOLUNTEERS TO PROMOTE THE GOALS OF THE PEACE CORPS.

(a) PURPOSE.—The purpose of this section is to provide support for returned Peace Corps volunteers to develop and carry out programs and projects to promote the third purpose of the Peace Corps Act, as set forth in section 2(a) of that Act (22 U.S.C. 2501(a)), by promoting a better understanding of other peoples on the part of the American people.

(b) GRANTS TO CERTAIN NONPROFIT CORPORATIONS.—

(1) GRANT AUTHORITY.—To carry out the purpose of this section, and subject to the availability of appropriations, the Chief Executive Officer of the Corporation for National and Community Service (referred to in this section as the ''Corporation'') shall award grants on a competitive basis to private nonprofit corporations for the purpose of enabling returned Peace Corps volunteers to use their knowledge and expertise to develop and carry out the programs and projects described in subsection (a).

(2) PROGRAMS AND PROJECTS.—Such programs and projects may include—

(A) educational programs designed to enrich the knowledge and interest of elementary school and secondary school students in the geography and cultures of other countries where the volunteers have served;

(B) projects that involve partnerships with local libraries to enhance community knowledge about other peoples and countries; and

(C) audio-visual projects that utilize materials collected by the volunteers during their service that would be of educational value to communities.

(3) ELIGIBILITY FOR GRANTS.—To be eligible to compete for grants under this section, a nonprofit corporation shall have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The nonprofit corporation shall meet all appropriate Corporation management requirements, as determined by the Corporation.

(c) GRANT REQUIREMENTS.—Such grants shall be made pursuant to a grant agreement between the Corporation and the nonprofit corporation that requires that—

(1) the grant funds will only be used to support programs and projects described in subsection (a) pursuant to proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);

(2) the nonprofit corporation will give consideration to funding individual programs or projects by returned Peace Corps volunteers, in amounts of not more than $100,000, under this section;

(3) not more than 20 percent of the grant funds made available to the nonprofit corporation will be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation;

(4) the nonprofit corporation will not receive grant funds for programs or projects under this section for a third or subsequent year unless the nonprofit corporation makes available, to carry out the programs or projects during that year, non-Federal contributions—

(A) in an amount not less than $2 for every $3 of Federal funds provided through the grant; and

(B) provided directly or through donations from private entities, in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(5) the nonprofit corporation shall manage, monitor, and submit reports to the Corporation on each program or project for which the nonprofit corporation receives a grant under this section.

(d) STATUS OF THE FUND.—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the Federal Government or to make the members of the board of directors or any officer or employee of such nonprofit corporation an officer or employee of the United States.

(e) FACTORS IN AWARDING GRANTS.—In determining the number of nonprofit corporations to receive grants under this section for any fiscal year, the Corporation—

(1) shall take into consideration the need to minimize overhead costs that direct resources from the funding of programs and projects; and

(2) shall seek to ensure a broad geographical distribution of grants for programs and projects under this section.

(f) CONGRESSIONAL OVERSIGHT.—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000. Such sum shall be in addition to funds made available to the Corporation under Federal law other than this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting before the period the following: '', $362,000,000 for fiscal year 2004, $404,000,000 for fiscal year 2005, $446,000,000 for fiscal year 2006, and $488,000,000 for fiscal year 2007''.

New bill to provide a Peace Corps Charter for the 21st Century introduced by Senator Dodd:

This bill is identical to S. 2667 which passed the Senate on October 16, 2002 except in section 11 where the President's authorizing requested numbers are substituted for the higher numbers included in S. 2667.

By Mr. SARBANES (for himself, Mr. BOND, and Ms. MIKULSKI):

S. 13. A bill to extend authorization for the national flood insurance program; considered and passed.

S. 13

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

SECTION 1. AUTHORIZATION FOR THE NATIONAL FLOOD INSURANCE PROGRAM.

The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) in section 1309(a)(2) (42 U.S.C. 4016(a)(2)), by striking ''December 31, 2002'' and inserting ''December 31, 2003'';

(2) in section 1319 (42 U.S.C. 4026), by striking ''December 31, 2002'' and inserting ''December 31, 2003'';

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, Mr. MILLER, Mr. WARNER, and Mr. ALLEN):

S. 14. A bill to amend the Agricultural Adjustment Act of 1938 to extend the farm reconstitution provision to the 2003 and 2004 crops; considered and passed.

S. 14

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

SECTION 1. FARM RECONSTITUTIONS.

Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended in the last sentence by striking ''2002 crop'' and inserting ''2002, 2003, and 2004 crops''.

By Mr. ROCKEFELLER (for himself, Mr. GRASSLEY, Mr. CHAFEE, Mr. KENNEDY, Mrs. CLINTON, Mr. BAYH, Mrs. HUTCHISON, and Mr. BAUCUS):

S. 3180. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program (SCHIP); to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a bill that will improve and protect health insurance for out Nation's children. Earlier this year, I worked in a bipartisan manner to develop a comprehensive proposal based on the basic and fundamental philosophy that no child should go without needed health care. I was pleased at that time to be joined by my good friends Senator CHAFEE, Senator KENNEDY, and Senator HATCH to introduce the Children's Health Insurance Improvement and Protection Act of 2002.

Unfortunately, no action has been taken on that proposal and I am left worrying that we will end the 107th session of Congress having forgotten our children. Therefore, I am introducing a proposal that will at least protect the Children's Health Insurance Program for the next 2 years.

The Children's Health Insurance Program, CHIP, has been an unqualified success. Last year, 4.6 million children were enrolled in CHIP and the percentage of children without health insurance has declined in recent years. In my State of West Virginia, the CHIP program provides health coverage to over 20,000 children. Health insurance coverage is key to assuring children's access to appropriate and adequate health care, including preventive services. Research demonstrates that uninsured children are more likely to lack a usual source of care, to go without needed care, and to experience worse health outcomes than children with coverage. Uninsured children who are injured are 30 percent less likely than insured children to receive medical treatment and three times more likely not to get a needed prescription.

However, the continued success of the CHIP program is now in serious jeopardy. On September 30 of this year $1.2 billion in unspent CHIP funds was sent back to the General Treasury. In addition, some $1.5 billion of these funds are projected to revert back to the Treasury next September 30. If we do not act to protect this money for children and send money to the States that can use it, we will have failed our children. A 2-year fix is only a first step. There is more that we need to do. The Bush administration projects that 900,000 children will lose their health coverage between fiscal years 2003 and 2006, if Congress does not take appropriate action. This is because even as State enrollment and spending rapidly increases, Federal CHIP funding dropped by more than $1 billion this year and will be reduced in each of the next 2 years. Known as the ''CHIP Dip,'' this reduction has no underlying health policy justification; it was solely the result of the budget compromises we had to make when enacting the balance budget deal in 1997.

As a result, a number of States will have insufficient Federal funding to sustain their enrollment and they will have no choice but to scale back or limit their CHIP programs. As enrollment is cut, the number of uninsured children will increase, and as a consequence, sick children will get sicker. The biggest problem that will result from enrollment cuts in the CHIP program are the future health problems of adults who as children could have received benefits under CHIP.

The bill I am introducing today is only a first step that we must take this year. We need a comprehensive and reasonable approach to shore up CHIP financing in order to avert the devastating enrollment decline and make sure that our children are protected into the future. We need to put more money into this program. However, this legislation will protect $1.2 billion that should be spent on children's health insurance from being spent on roads and will put money in states that can use it now to cover kids. It is the least we can do.

I urge Congress to enact this legislation and ensure the continued success of the CHIP program and sustain the significant progress CHIP has made in reducing the ranks of uninsured children. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3180

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

SECTION 1. EXTENDING AVAILABILITY OF SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001.

(a) RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEARS 1998 AND 1999.—Paragraphs (2)(A)(i) and (2)(A)(ii) of section 2104(g) of the Social Security Act (42 U.S.C. 1397dd(g)) are each amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2004''.

(b) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2000.—

(1) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2000 ALLOTMENT.—Paragraph (2) of such section 2104(g) is amended—

(A) in the heading, by striking ''AND 1999'' and inserting ''THROUGH 2000''; and

(B) by adding at the end of subparagraph (A) the following:

''(iii) FISCAL YEAR 2000 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.''.

(2) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g) is amended—

(A) in subparagraph (A), by inserting ''or for fiscal year 2000 by the end of fiscal year 2002,'' after ''fiscal year 2001,'';

(B) in subparagraph (A), by striking ''1998 or 1999'' and inserting ''1998, 1999, or 2000'';

(C) in subparagraph (A)(i)—

(i) by striking ''or'' at the end of subclause (I),

(ii) by striking the period at the end of subclause (II) and inserting ''; or''; and

(iii) by adding at the end the following new subclause:

''(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii).'';

(D) in subparagraph (A)(ii), by striking ''or 1999'' and inserting '', 1999, or 2000'';

(E) in subparagraph (B), by striking ''with respect to fiscal year 1998 or 1999'';

(F) in subparagraph (B)(ii)—

(i) by inserting ''with respect to fiscal year 1998, 1999, or 2000,'' after ''subsection (e),''; and

(ii) by striking ''2002'' and inserting ''2004''; and

(G) by adding at the end the following new subparagraph:

''(C) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2000.—For purposes of subparagraph (A)(i)(III)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(iii);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).''.

(3) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(A) in its heading, by striking ''AND 1999'' and inserting '', 1999, AND 2000''; and

(B) in paragraph (3)—

(i) by striking ''or fiscal year 1999'' and inserting '', fiscal year 1999, or fiscal year 2000''; and

(ii) by striking ''or November 30, 2001'' and inserting ''November 30, 2001, or November 30, 2002'', respectively.

(c) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2001.—

(1) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2001 ALLOTMENT.—Paragraph (2) of such section 2104(g), as amended in subsection (b)(1)(B), is further amended—

(A) in the heading, by striking ''2000'' and inserting ''2001''; and

(B) by adding at the end of subparagraph (A) the following:

''(iv) FISCAL YEAR 2001 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.''.

(2) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g), as amended in subsection (b)(2), is further amended—

(A) in subparagraph (A), by inserting ''or for fiscal year 2001 by the end of fiscal year 2003,'' after ''fiscal year 2002,'';

(B) in subparagraph (A), by striking ''1999, or 2000'' and inserting ''1999, 2000, or 2001'';

(C) in subparagraph (A)(i)—

(i) by striking ''or'' at the end of subclause (II),

(ii) by striking the period at the end of subclause (III) and inserting ''; or''; and

(iii) by adding at the end the following new subclause:

''(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).'';

(D) in subparagraph (A)(ii), by striking ''or 2000'' and inserting ''2000, or 2001'';

(E) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) notwithstanding subsection (e), with respect to fiscal year 2001, shall remain available for expenditure by the State through the end of fiscal year 2005; and''; and

(F) by adding at the end the following new subparagraph:

''(D) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2001.—For purposes of subparagraph (A)(i)(IV)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).''.

(3) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(A) in its heading, by striking ''AND 2000'' and inserting ''2000, AND 2001''; and

(B) in paragraph (3)—

(i) by striking ''or fiscal year 2000'' and inserting ''fiscal year 2000, or fiscal year 2001''; and

(ii) by striking ''or November 30, 2002,'' and inserting ''November 30, 2002, or November 30, 2003,'', respectively.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall be effective as if this section had been enacted on September 30, 2002, and amounts under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this section as if this section had been enacted on September 30, 2002.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 361—TENDERING THANKS OF THE SENATE TO THE VICE PRESIDENT FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 361

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Richard B. Cheney, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the One Hundred Seventh Congress.

SENATE RESOLUTION 362—TENDERING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 362

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Robert C. Byrd, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the One Hundred Seventh Congress.

SENATE RESOLUTION 363—TO COMMAND THE EXEMPLARY LEADERSHIP OF THE REPUBLICAN LEADER

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 363

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Republican Leader, the Senator from Mississippi, the Honorable Trent Lott, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the second session of the 107th Congress.

SENATE RESOLUTION 364—TO COMMEND THE EXEMPLARY LEADERSHIP OF THE MAJORITY LEADER

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 364

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Majority Leader, the Senator from South Dakota, the Honorable Thomas A. Daschle, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the second session of the 107th Congress.

SENATE RESOLUTION 365—CONGRATULATING THE PEOPLE OF BRAZIL ON THE COMPLETION OF PEACEFUL, FREE, AND FAIR ELECTIONS IN BRAZIL AND THE ELECTION OF PRESIDENT DA SILVA

Mr. CHAFEE (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 365

Whereas, in October 2002, the people of Brazil completed peaceful, free, and fair elections of a President and other officials of their country;

Whereas Luiz Inacio ''Lula'' da Silva, candidate of Brazil's Worker's Party, was elected President of Brazil on October 27, 2002, receiving 52,793,364 votes, representing 61.27 percent of the votes cast;

Whereas Brazil utilized a new nationwide computerized voting system, which enabled the tallying of approximately 100,000,000 votes in less than 10 hours, including votes cast in areas that are accessible only by boat or plane;

Whereas Brazil has a population of 174,500,000, making it the eighth most populous nation in the world and the most populous nation in Latin America;

Whereas Brazil's diversified economy is the eighth largest in the world, and Brazil's gross domestic product, which was $540,000,000,000 in 2001, is the largest in Latin America;

Whereas Brazil plays a critical regional leadership role in Latin America within the Organization of American States, the Inter-American Treaty of Reciprocal Assistance (commonly known as the ''Rio Treaty''), the Latin American Integration Association, and Mercosur/Mercosul (Southern Common Market), and is one of the guarantors of the Peru-Ecuador peace process;

Whereas Brazil has been a member of the United Nations Security Council four times, most recently from 1998 through 2000, has contributed troops to several United Nations peacekeeping missions, and is an active participant in international cooperation and commerce as a party to numerous international treaties and conventions;

Whereas the economic relationship between Brazil and the United States is substantial and growing, with United States direct foreign investment increasing from less than $19,000,000,000 in 1994 to an estimated $35,000,000,000 in 2000, United States exports to Brazil increasing from $8,100,000,000 in 1994 to $15,900,000,000 in 2001, and United States imports from Brazil increasing from $8,700,000,000 in 1994 to $14,500,000,000 in 2001;

Whereas Brazil will play a critical role in the continuing negotiations related to the creation of a Free Trade Area of the Americas, which the United States and Brazil will co-chair during the next two years;

Whereas the United States and Brazil have a long history of friendly relations beginning when the United States became the first country to recognize Brazil's independence in 1822;

Whereas Brazil led the parties to the Inter-American Treaty of Reciprocal Assistance in stating on September 11, 2001, that the attacks on the United States on that date were attacks on all American States;

Whereas there are an estimated 50,000 United States citizens residing in Brazil, and some 150,000 United States citizens visit Brazil each year;

Whereas the United States and Brazil have entered into many agreements together, including the Education Partnership Agreement, the Technical Safeguards Agreement, the Common Agenda on the Environment, and agreements to cooperate in matters relating to energy, the international space station, national parks, and government reform; and

Whereas cooperation between the United States and Brazil on several counter-narcotics efforts, including the United States training of Brazilian counter-narcotics agents and Operation Cobra in northern Brazil, has increased significantly in recent years: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Brazil on successfully completing peaceful, free, and fair elections on October 6, 2002, and October 22, 2002;

(2) congratulates President-elect Luiz Inacio ''Lula'' da Silva on his electoral victory and welcomes him as a democratic partner in the numerous bilateral and multilateral efforts to which the United States and Brazil are parties;

(3) endorses President Bush's invitation of President-elect da Silva to Washington, District of Columbia, which will result in a meeting between the two leaders on December 10, 2002;

(4) urges President Bush and President-elect da Silva to pursue policies on economic, security, drug enforcement, and other matters of mutual interest to Brazil and the United States that will continue to strengthen the relationship between the people and governments of the two countries; and

(5) pledges the Senate's continued support for a strong and friendly economic, political, and cultural relationship between the United States and Brazil based on shared values.

SENATE RESOLUTION 366—URGING THE GOVERNMENT OF EGYPT AND OTHER ARAB GOVERNMENTS NOT TO ALLOW THEIR GOVERNMENT-CONTROLLED TELEVISION STATIONS TO BROADCAST ANY PROGRAM THAT LENDS LEGITIMACY TO THE PROTOCOLS OF THE ELDERS OF ZION, AND FOR OTHER PURPOSES

Mr. NELSON of Florida (for himself, Mr. SMITH of Oregon, Mrs. CLINTON, Mr. HELMS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. HATCH, Mr. SCHUMER, and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 366

Whereas in November 2002, a number of government-controlled television stations in Egypt began broadcasting a multi-part series, ''Horseman Without a Horse'', based on the Protocols of the Elders of Zion and conspiracy myths about Jewish global domination;

Whereas the Protocols of the Elders of Zion are a notorious forgery, written by Russian anti-Semites in the early 20th century, which purport to reveal a plot for Jewish domination of the world;

Whereas the Protocols of the Elders of Zion have been a staple of anti-Semitic and anti-Israel propaganda for decades and have long since been discredited by all reputable scholars;

Whereas the broadcast of this series takes place in the context of a sustained pattern of vitriolic anti-Semitic commentary and depictions in the Egyptian government-sponsored press, which has gone unanswered by the Government of Egypt; and

Whereas the Department of State has urged Egypt and other Arab states not to broadcast this program, saying ''We don't think government TV stations should be broadcasting programs that we consider racist and untrue'': Now, therefore, be it

Resolved, That the Senate—

(1) condemns any publication or program that lends legitimacy to the Protocols of the Elders of Zion;

(2) believes the use of such heinous propaganda, especially in the Arab world, serves to incite popular sentiment against Jewish people and the State of Israel rather than promoting religious tolerance and preparing Arab populations for the prospect of peace with Israel;

(3) commends the Department of State for its denunciation of the ''Horseman Without a Horse'' television series and its efforts to discourage Arab states from broadcasting it; and

(4) urges the Government of Egypt and other Arab governments—

(A) not to allow their government-controlled television stations to broadcast this program or any other racist and untrue material; and

(B) to speak out against such incitement by vigorously and publicly condemning anti-Semitism as a form of bigotry.

SENATE RESOLUTION 367—RECOGNIZING THE COMMUNITY SERVICES OF ARCHIE EDWARDS BLUES HERITAGE FOUNDATION, DESIGNATING THE FORTNIGHT BEGINNING NOVEMBER 29, 2002, AS THE ''BLUES HERITAGE APPRECIATION FORTNIGHT'', AND DESIGNATING FRIDAY, NOVEMBER 29, 2002, AS ''BLUES FRIDAY''

Mr. HATCH (for himself and Mr. BARKLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 367

Whereas Mr. Archie Edwards was a talented musician who devoted his life to playing the blues and inspiring others to learn and appreciate music;

Whereas Mr. Archie Edwards was a self-taught musician whose music was acclaimed throughout the United States, Canada, and Europe;

Whereas Mr. Archie Edwards, for 40 years, provided a haven in the District of Columbia for all those who loved the blues to play, listen, and socialize;

Whereas the Archie Edwards Blues Heritage Foundation is a nonprofit organization dedicated to preserving Mr. Edwards' memory and extending the positive influence of his music in the Washington, D.C. community;

Whereas the Archie Edwards Blues Heritage Foundation is committed to carrying on Mr. Edwards' legacy by maintaining an open forum for people in the community to meet, learn, and share the music he loved;

Whereas the Archie Edwards Blues Heritage Foundation supports and expands community outreach programs that provide entertainment and promote the blues to citizens in nursing homes, schools, hospitals, and other venues; and

Whereas the Archie Edwards Blues Heritage Foundation recognizes the importance that the blues has played in our country's heritage and has preserved and promoted the blues as a unique American art form: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the community services of the Archie Edwards Blues Heritage Foundation;

(2) recognizes the importance of blues in the history of American culture;

(3) designates the fortnight beginning November 29, 2002, as the ''Blues Heritage Appreciation Fortnight''; and

(4) designates Friday, November 29, 2002, as ''Blues Friday''.

SENATE RESOLUTION 368—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE DECLINE OF WORLD COFFEE PRICES AND ITS IMPACT ON DEVELOPING NATIONS

Mr. LEAHY (for himself, Mr. DODD, Mr. SPECTER, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 368

Whereas since 1997 the price of coffee has declined nearly 70 percent on the world market and has recently reached its lowest level in a century;

Whereas the collapse of coffee prices has resulted in a widespread humanitarian crisis for 25,000,000 coffee growers and for more than 50 developing countries where coffee is a critical source of rural employment and foreign exchange earnings;

Whereas, according to a recent World Bank report, 600,000 permanent and temporary coffee workers in Central America have been left unemployed in the last two years;

Whereas the World Bank has referred to the coffee crisis as ''the silent Mitch'', equating the impact of record-low coffee prices upon Central American countries with the damage done to such countries by Hurricane Mitch in 1998;

Whereas 6 of 14 immigrants who died in the Arizona desert in May 2001 were small coffee farmers from Veracruz, Mexico;

Whereas The Washington Post, The New York Times, and The Wall Street Journal report that cultivation of illicit crops such as coca and opium poppy is increasing in traditional coffee-growing countries, such as Colombia and Peru, which have been adversely affected by low international coffee prices;

Whereas the economies of some of the poorest countries in the world, particularly those in Africa, are highly dependent on trade in coffee;

Whereas coffee accounts for approximately 80 percent of export revenues for Burundi, 54 percent of export revenues for Ethiopia, 34 percent of export revenues for Uganda, and 31 percent of export revenues for Rwanda;

Whereas, according to the Oxfam International Report ''Mugged: Poverty in your Coffee Cup'', in the Dak Lak province of Vietnam, one of the lowest-cost coffee producers in the world, the price farmers receive for their product covers as little as 60 percent of their costs of production;

Whereas on February 1, 2002, the International Coffee Organization (ICO) passed Resolution 407, which calls on exporting member countries to observe minimum standards for exportable coffee and to provide for the issuance of ICO certificates of origin according to those standards and also calls on importing member countries to ''make their best endeavors to support the objectives of the programme'';

Whereas both the Speciality Coffee Association of America (SCAA) and the National Coffee Association (NCA) support ICO Resolution 407 and have publicly advocated for the United States to rejoin the International Coffee Organization;

Whereas the United States Agency for International Development (USAID) has already established coffee sector assistance programs for Colombia, Bolivia, the Dominican Republic, East Timor, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Rwanda, Tanzania, and Uganda; and

Whereas House Report 107–663, highlights the coffee price crisis as a global issue and ''urges USAID to focus its rural development and relief programs on regions severely affected by the coffee crisis, especially in Colombia'': Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the United States should adopt a global strategy to respond to the coffee crisis with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of counties adversely affected by the collapse of coffee prices; and

(B) the President should explore measures to support and complement multilateral efforts to respond to the global coffee crisis; and

(2) the Senate urges private sector coffee buyers and roasters to work with the United States Government to find a solution to the crisis which is economically, socially, and environmentally sustainable for all interested parties, and that will address the fundamental problem of oversupply in the world coffee market.

SENATE CONCURRENT RESOLUTION 160—PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE ONE HUNDRED SEVENTH CONGRESS, SECOND SESSION

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 160

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns at the close of business on any day from Wednesday, November 20, 2002 through Saturday, November 23, 2002, or from Monday, November 25, 2002 through Wednesday, November 27, 2002, or on a motion offered pursuant to this concurrent resolution by its Majority Leader, or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House of Representatives adjourns on any legislative day through the remainder of the second session of the One Hundred Seventh Congress on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4979. Mr. REID (for Mr. BIDEN (for himself and Mr. SPECTER)) proposed an amendment to the bill S. 3079, to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

SA 4980. Mr. REID (for Mr. INOUYE (for himself and Mr. CAMPBELL)) proposed an amendment to the bill S. 2711, to reauthorize and improve programs relating to Native Americans.

SA 4981. Mr. REID (for Mr. INOUYE) proposed an amendment to amendment SA 4980 proposed by Mr. REID (for Mr. INOUYE (for himself and Mr. CAMPBELL)) to the bill S. 2711, supra.

SA 4982. Mr. REID (for Mr. KERRY (for himself and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 1989, to reauthorize various fishing conservation management programs, and for other purposes.

SA 4983. Mr. REID (for Mr. KERRY) proposed an amendment to the bill H.R. 1989, supra.

SA 4984. Mr. REID (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 1606, to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations, and for other purposes.

TEXT OF AMENDMENTS

SA. 4979. Mr. REID (for Mr. BIDEN (for himself and Mr. SPECTER)) proposed an amendment to the bill S. 3079, to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Iraqi Scientists Immigration Act of 2002''.

SEC. 2. ADMISSION OF CRITICAL ALIENS.

(a) Section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15), is amended—

(1) by striking ''or'' at the end of subparagraph (U);

(2) by striking the period at the end of subparagraph (V) and inserting ''; or''; and

(3) by adding a new subparagraph (W), reading:

''(W) Subject to section 214(s), an alien—

''(i) who the Attorney General determines, in coordination with the Secretary of State, the Director of Central Intelligence and such other officials as he may deem appropriate, and in the Attorney General's unreviewable discretion, is an individual—

''(I) who has worked at any time in an Iraqi program to produce weapons of mass destruction or the means to deliver them;

''(II) who is in possession of critical and reliable information concerning any such Iraqi program;

''(III) who is willing to provide, or has provided, such information to the United States Government;

''(IV) who may be willing to provide, or has provided, such information to inspectors of the United Nations or of the International Atomic Energy Agency;

''(V) who will be or has been placed in danger as a result of providing such information; and

''(VI) whose admission would be in the public interest or in the interest of national security; or

''(ii) who is the spouse, married or unmarried son or daughter, parent, or other relative, as determined by the Attorney General in his unreviewable discretion, of an alien described in clause (i), if accompanying or following to join such alien, and whose admission the Attorney General, in coordination with the Secretary of State and the Director of Central Intelligence, determines in his unreviewable discretion is in the public interest or in the interest of national security.''

(b) Section 214 of the Immigration and Nationality Act, 8 U.S.C. 1184, is amended by—

(1) redesignating subsections second (m) (as added by section 105 of Public Law 106–313), (n) (as added by section 107(e) of Public Law 106–386, (o) (as added by section 1513(c) of Public Law 106–386), second (o) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (p) (as added by section 1503(b) of the Legal Immigration Family Equity Act), as subsections (n), (o), (p), (q), and (r), respectively; and

(2) adding a new subsection (s) reading:

''(s) Numerical limitations and conditions of admission and stay for nonimmigrants admitted under section 101(a)(15)(W).

''(1) The number of aliens who may be admitted to the United States or otherwise granted status under section 101(a)(15)(W)(i) may not exceed a total of 500.

''(2) As a condition for the admission, and continued stay in lawful status, of any alien admitted to the United States or otherwise granted status as a nonimmigrant under section 101(a)(15)(W), the nonimmigrant—

''(A) shall report to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

''(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission or grant of status;

''(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of removal or for protection under the Convention Against Torture, any action for removal of the alien instituted before the alien obtains lawful permanent resident status;

''(D) shall cooperate fully with all requests for information from the United States Government including, but not limited to, fully and truthfully disclosing to the United States Government all information in the alien's possession concerning any Iraqi program to produce weapons of mass destruction or the means to deliver them; and

''(E) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.''.

(c) Section 245 of the Immigration and Nationality Act, 8 U.S.C. 1255, is amended by—

(I) In subsection (c) striking ''or'' before ''(8)'' and inserting before the period, ''or (9) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(W)'';

(2) Redesignating subsection (l), related to ''U'' visa nonimmigrants, as subjection (m); and

(3) Adding a new subsection (n) reading:

''(n) Adjustment to permanent resident status of ''W'' nonimmigrants.

''(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(W)(i) has complied with section 214(s) since such admission or grant of status, the Attorney General may, in coordination with the Secretary of State and the Director of Central Intelligence, and in his unreviewable discretion, adjust the status of the alien (and any alien who has accompanied or followed to join such alien pursuant to section 101(a)(15)(W)(ii) and who has complied with section 214(s) since admission or grant of nonimmigrant status) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

''(2) Upon the approval of adjustment of status of any alien under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.''.

(d) Section 212(d) of the Immigration and Nationality Act, 8 U.S.C. 1182(d), is amended by inserting a new paragraph (d)(2) reading:

''(2) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(W). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) in the case of such nonimmigrant if the Attorney General considers it to be in the public interest or in the interest of national security.''.

(e) Section 248(1) of Immigration and Nationality Act, 8 U.S.C. 1258(1), is amended by striking ''or (S)'' and inserting ''(S), or (W)''.

SEC. 3. WEAPON OF MASS DESTRUCTION DEFINED.

(a) IN GENERAL.—In this Act, the term ''weapon of mass destruction'' has the meaning given the term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2727; 50 U.S.C. 2302(1)), as amended by subsection (b).

(b) TECHNICAL CORRECTION.—Section 1403(1)(B) of the Defense against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)(B)) is amended by striking ''a disease organism'' and inserting ''a biological agent, toxin, or vector (as those terms are defined in section 178 of title 18, United States Code)''.

SA 4980. Mr. REID (for Mr. INOUYE (for himself and Mr. CAMPBELL)) proposed an amendment to the bill S. 2711, to reauthorize and improve programs relating to Native Americans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Omnibus Act of 2002''.

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

TITLE I—ECONOMIC DEVELOPMENT

Sec. 1001. Short title.
Sec. 1002. Findings and purpose.
Sec. 1003. Amendments to Indian Financing Act.

TITLE II—LAND SETTLEMENT PROVISIONS

Subtitle A—T'uf Shur Bien Preservation Trust Area

Sec. 2101. Short title.
Sec. 2102. Findings and purposes.
Sec. 2103. Definitions.
Sec. 2104. T'uf Shur Bien Preservation Trust Area.
Sec. 2105. Pueblo rights and interests in the Area.
Sec. 2106. Limitations on Pueblo rights and interests in the Area.
Sec. 2107. Management of the Area.
Sec. 2108. Jurisdiction over the Area.
Sec. 2109. Subdivisions and other property interests.
Sec. 2110. Extinguishment of claims.
Sec. 2111. Construction.
Sec. 2112. Judicial review.
Sec. 2113. Provisions relating to contributions and land exchange.
Sec. 2114. Authorization of appropriations.
Sec. 2115. Effective date.

Subtitle B—Pueblo de Cochiti Settlement

Sec. 2201. Modification of Pueblo de Cochiti settlement.

TITLE III—WATER SETTLEMENTS AND WATER-RELATED PROVISIONS

Subtitle A—Zuni Heaven Restoration Water Rights Settlement

Sec. 3101. Short title.
Sec. 3102. Findings and purposes.
Sec. 3103. Definitions.
Sec. 3104. Authorization, ratifications, and confirmations.
Sec. 3105. Trust lands.
Sec. 3106. Development fund.
Sec. 3107. Claims extinguishment; waivers and releases.
Sec. 3108. Miscellaneous provisions.
Sec. 3109. Effective date for waiver and release authorizations.

Subtitle B—Quinault Indian Nation

Sec. 3201. Quinault Indian Nation water feasibility study.

Subtitle C—Santee Sioux Tribe of Nebraska Rural Water System Feasibility Study

Sec. 3301. Study; report.
Sec. 3302. Authorization of appropriations.

TITLE IV—LAND PROVISIONS

Subtitle A—Agreement To Affirm Boundary Between Pubelo of Santa Clara and Pueblo of San ildefonso Aboriginal Land Within Garcia Canyon Tract

Sec. 4101. Definitions.
Sec. 4102. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 4103. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 4104. Survey and legal descriptions.
Sec. 4105. Administration of trust land.
Sec. 4106. Effect.

Subtitle B—Additional Land Provisions

Sec. 4201. Indian Land Consolidation Act amendments.
Sec. 4202. Mississippi Band of Choctaw Indians.
Sec. 4203. Removal of restrictions on Ute Tribe of the Uintah and Ouray reservation land.
Sec. 4204. Reservation land of the Cow Creek Band of Umpqua Tribe of Indians.
Sec. 4205. Disposition of fee land of the Seminole Tribe of Florida.
Sec. 4206. Disposition of fee land of the Shakopee Mdewakanton Sioux Community.
Sec. 4207. Facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 4208. Agreement with Dry Prairie Rural Water Association, Incorporated.

TITLE V—LEASING PROVISIONS

Sec. 5001. Authorization of 99-year leases for Confederated Tribes of the Umatilla Indian Reservation.
Sec. 5002. Authorization of 99-year leases for Yurok Tribe and Hopland Band of Pomo Indians.
Sec. 5003. Lease of tribally-owned land by Assiniboine and Sioux Tribes of the Fort Peck Reservation.
Sec. 5004. Leases of restricted land.

TITLE VI—JUDGMENT FUND DISTRIBUTION

Subtitle A—Gila River Indian Community Judgment Fund Distribution

Sec. 6001. Short title.
Sec. 6002. Findings.
Sec. 6003. Definitions.

CHAPTER 1—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 6101. Distribution of judgment funds.
Sec. 6102. Responsibility of Secretary; applicable law.

CHAPTER 2—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

Sec. 6111. Plan for use and distribution of judgment funds awarded in Docket No. 228.
Sec. 6112. Plan for use and distribution of judgment funds awarded in Docket No. 236–N.

CHAPTER 3—EXPERT ASSISTANCE LOANS

Sec. 6121. Waiver of repayment of expert assistance loans to Gila River Indian Community.

Subtitle B—Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution

Sec. 6201. Short title.
Sec. 6202. Findings and purpose.
Sec. 6203. Definitions.
Sec. 6204. Distribution of judgment funds.
Sec. 6205. Applicable law.

TITLE VII—REPAYMENT OF EXPERT WITNESS LOANS

Sec. 7001. Waiver of repayment of expert assistance loans to the Pueblo of Santo Domingo.
Sec. 7002. Waiver of repayment of expert assistance loans to the Oglala Sioux Tribe.
Sec. 7003. Waiver of repayment of expert assistance loans to the Seminole Tribe of Oklahoma.

TITLE VIII—HEALTH-RELATED PROVISIONS

Sec. 8001. Rural health care facility, Fort Berthold Indian Reservation, North Dakota.
Sec. 8002. Health care funding allocation, Eagle Butte Service Unit.
Sec. 8003. Indian health demonstration project.
Sec. 8004. Alaska treatment centers and facilities.

TITLE IX—REAUTHORIZATION OF NATIVE AMERICAN PROGRAMS

Sec. 9001. Bosque Redondo Memorial Act.
Sec. 9002. Navajo-Hopi Land Settlement Cct of 1974.
Sec. 9003. Indian Health Care Improvement Act.
Sec. 9004. Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.
Sec. 9005. Indian Child Protection and Family Violence Prevention Act.
Sec. 9006. Native Hawaiian Health Care Improvement Act.
Sec. 9007. Four Corners Interpretive Center Act.
Sec. 9008. Environmental dispute resolution fund.

TITLE X—MISCELLANEOUS PROVISIONS

Subtitle A—Cultural Provisions

Sec. 10101. Oklahoma Native American Cultural Center and Museum.
Sec. 10102. Rehabilitation of Celilo Indian Village.
Sec. 10103. Conveyance of Native Alaskan objects.

Subtitle B—Self-Determination Provisions

Sec. 10201. Indian Self-Determination Act amendments.

Subtitle C—Indian Arts and Crafts

Sec. 10301. Indian Arts and Crafts Act amendments.

Subtitle D—Certification of Rental Proceeds

Sec. 10401. Certification of rental proceeds.

TITLE I—ECONOMIC DEVELOPMENT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Indian Financing Amendments Act of 2002''.

SEC. 1002. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this title is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 1003. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking ''$100,000'' and inserting ''$250,000''.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''Any loan guaranteed'' and inserting the following:

''(a) IN GENERAL.—Any loan guaranteed or insured''; and

(2) by adding at the end the following:

''(b) INITIAL TRANSFERS.—

''(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the lender shall give notice of the transfer to the Secretary.

''(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

''(A) be deemed to be the lender for the purpose of this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

''(c) SECONDARY TRANSFERS.—

''(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the transferor shall give notice of the transfer to the Secretary.

''(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

''(A) the transfer; and

''(B) the interest of the transferee in the guaranteed or insured portion of the loan.

''(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

''(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

''(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

''(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

''(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

''(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

''(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

''(2) enter into 1 or more contracts with a fiscal transfer agent—

''(A) to act as the designee of the Secretary under this section; and

''(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

''(h) POOLING OF LOANS.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

''(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

''(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.''.

TITLE II—LAND SETTLEMENT PROVISIONS

Subtitle A—T'uf Shur Bien Preservation Trust Area

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the ''T'uf Shur Bien Preservation Trust Area Act''.

SEC. 2102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest;

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

SEC. 2103. DEFINITIONS.

In this subtitle:

(1) AREA.—

(A) IN GENERAL.—The term ''Area'' means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) EXCLUSIONS.—The term ''Area'' does not include—

(i) the subdivisions;

(ii) the Pueblo-owned land;

(iii) the crest facilities; or

(iv) the special use permit area.

(2) CREST FACILITIES.—The term ''crest facilities'' means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) EXISTING USE.—The term ''existing use'' means a use that—

(A) is occurring in the Area as of the date of enactment of this Act; or

(B) is authorized in the Area after November 1, 1995, but before the date of enactment of this Act.

(4) LA LUZ TRACT.—The term ''La Luz tract'' means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) LOCAL PUBLIC BODY.—The term ''local public body'' means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) MAP.—The term ''map'' means the Forest Service map entitled ''T'uf Shur Bien Preservation Trust Area'' and dated April 2000.

(7) MODIFIED USE.—

(A) IN GENERAL.—The term ''modified use'' means an existing use that, at any time after the date of enactment of this Act, is modified or reconfigured but not significantly expanded.

(B) INCLUSIONS.—The term ''modified use'' includes—

(i) a trail or trailhead being modified, such as to accommodate handicapped access;

(ii) a parking area being reconfigured; and

(iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) NEW USE.—

(A) IN GENERAL.—The term ''new use'' means—

(i) a use that is not occurring in the Area as of the date of enactment of this Act; and

(ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) EXCLUSIONS.—The term ''new use'' does not include a use that—

(i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) PIEDRA LISA TRACT.—The term ''Piedra Lisa tract'' means the tract comprised of approximately 160 acres of land held in private ownership and depicted on the map.

(10) PUEBLO.—The term ''Pueblo'' means the Pueblo of Sandia in its governmental capacity.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) SPECIAL USE PERMIT.—The term ''special use permit'' means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company

(14) SPECIAL USE PERMIT AREA.—

(A) IN GENERAL.—The term ''special use permit area'' means the land and facilities subject to the special use permit.

(B) INCLUSIONS.—The term ''special use permit area'' includes—

(i) approximately 46 acres of land used as an aerial tramway corridor;

(ii) approximately 945 acres of land used as a ski area; and

(iii) the land and facilities described in Exhibit A to the special use permit, including—

(I) the maintenance road to the lower tram tower;

(II) water storage and water distribution facilities; and

(III) 7 helispots.

(15) SUBDIVISION.—The term ''subdivision'' means—

(A) the subdivision of—

(i) Sandia Heights Addition;

(ii) Sandia Heights North Unit I, II, or 3;

(iii) Tierra Monte;

(iv) Valley View Acres; or

(v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) TRADITIONAL OR CULTURAL USE.—The term ''traditional or cultural use'' means—

(A) a ceremonial activity (including the placing of ceremonial materials in the Area); and

(B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

SEC. 2104. T'UF SHUR BIEN PRESERVATION TRUST AREA.

(a) ESTABLISHMENT.—The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section 2105(a);

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) ADMINISTRATION AND APPLICABLE LAW.—

(1) IN GENERAL.—The Secretary shall continue to administer the Area as part of the National Forest System consistent with the provisions of this subtitle affecting management of the Area.

(2) TRADITIONAL OR CULTURAL USES.—Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section 2105(a)(4) shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; and

(B) applicable Federal wildlife protection laws, as provided in section 2106(a)(2).

(3) LATER ENACTMENTS.—To the extent that any law enacted or amended after the date of enactment of this Act is inconsistent with this subtitle, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) TRUST.—The use of the word ''Trust'' in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) MAP.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) PUBLIC AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) EFFECT.—The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in this subtitle, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section 2109 or subsection (b) or (c) of section 2113 shall be made; and

(C) to the extent that the map and the language of this subtitle conflict, the language of this subtitle shall control.

(d) NO CONVEYANCE OF TITLE.—No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) PROHIBITED USES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of the date of enactment of this Act shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section 2105(a)(3).

(2) MINING CLAIMS.—The Area is closed to the location of mining claims under Section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the ''Mining Law of 1872'').

(f) NO MODIFICATION OF BOUNDARIES.—Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

SEC. 2105. PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) GENERAL.—The Pueblo shall have the following rights and interests in the Area:

(1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; or

(B) applicable Federal wildlife protection laws as provided in section 2106(a)(2).

(2) Perpetual preservation of the national forest and wilderness character of the Area under this subtitle.

(3) Rights in the management of the Area as specified in section 2107, including—

(A) the right to consent or withhold consent to a new use;

(B) the right to consultation regarding a modified use;

(C) the right to consultation regarding the management and preservation of the Area; and

(D) the right to dispute resolution procedures.

(4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.

(5) Such other rights and interests as are recognized in sections 2104, 2105(c), 2107, 2108, and 2109.

(b) ACCESS.— Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) COMPENSABLE INTEREST.—

(1) IN GENERAL.—If, by an Act of Congress enacted after the date of enactment of this Act, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section 2104(e) in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

(A) the United States shall compensate the Pueblo as if the Pueblo had held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and

(B) the restrictions of sections 2104(e) and 2106(a) shall be disregarded in determining just compensation owed to the Pueblo.

(2) EFFECT.—Any compensation made to the Pueblo under paragraph (c) shall not affect the extinguishment of claims under section 2110.

SEC. 2106. LIMITATIONS ON PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) LIMITATIONS.—The rights and interests of the Pueblo recognized in this subtitle do not include—

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section 2104(e); or

(4) any right to exclude persons or governmental entities from the Area.

(b) EXCEPTION.—No person who exercises traditional or cultural use rights as authorized by section 2105(a)(4) may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law.

SEC. 2107. MANAGEMENT OF THE AREA.

(a) PROCESS.—

(1) IN GENERAL.—The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) NEW USES.—

(A) REQUEST FOR CONSENT AFTER CONSULTATION.—

(i) WITHHOLDING OF CONSENT.—If the Pueblo withholds consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) GRANTING OF CONSENT.—If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) FINAL REQUEST FOR CONSENT.—

(i) REQUEST.—Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) WITHHOLDING OF CONSENT.—If the Pueblo withholds consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(ii) FAILURE TO RESPOND.—If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) PUBLIC INVOLVEMENT.—

(A) IN GENERAL.—With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decision-making process; and

(iii) the position of the Pueblo on the proposal.

(B) COURT CHALLENGE.—Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) EMERGENCIES AND EMERGENCY CLOSURE ORDERS.—

(1) AUTHORITY.—The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) NOTICE.—The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) NO CONSENT.—An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) DISPUTES INVOLVING FOREST SERVICE MANAGEMENT AND PUEBLO TRADITIONAL USES.—

(1) IN GENERAL.—In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use or modified use subject to the process specified in subsection (a), the process for dispute resolution specified in this subsection shall apply.

(2) DISPUTE RESOLUTION PROCESS.—

(A) IN GENERAL.—In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) DISPUTES REQUIRING IMMEDIATE RESOLUTION.—In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

SEC. 2108. JURISDICTION OVER THE AREA.

(a) CRIMINAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.

(2) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section 2105(a)(4).

(3) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18, United States Code, committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) OVERLAPPING JURISDICTION.—To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) FEDERAL USE OF STATE LAW.—Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) CIVIL JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before the date of enactment of this Act.

(2) JURISDICTION OF THE PUEBLO.—

(A) IN GENERAL.—The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) REGULATORY JURISDICTION.—The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with this subtitle; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) TAXING JURISDICTION.—The Pueblo shall have no authority to impose taxes within the Area.

(3) STATE AND LOCAL TAXING JURISDICTION.—The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized to use the Area under section 2105(a)(4).

SEC. 2109. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.

(a) SUBDIVISIONS.—

(1) IN GENERAL.—The subdivisions are excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) STATE JURISDICTION.—The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo at the time of enactment of this Act, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) LIMITATIONS ON TRUST LAND.—Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in this subtitle.

(b) PIEDRA LISA.—

(1) IN GENERAL.—The Piedra Lisa tract is excluded from the Area notwithstanding any subsequent acquisition of the tract by the Pueblo.

(2) ACQUISITION OF TRACT.—If the Secretary or the Pueblo acquires the Piedra Lisa tract, the tract shall be transferred to the United States and is declared to be held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this subtitle.

(3) APPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section 2106(a)(4) shall not apply outside of Forest Service System trails.

(4) JURISDICTION.—Until acquired by the Secretary or Pueblo, the jurisdiction of the State of New Mexico and local public bodies over the Piedra Lisa tract and property interests therein shall continue in effect.

(c) CREST FACILITIES.—

(1) IN GENERAL.—The land on which the crest facilities are located is excluded from the Area.

(2) JURISDICTION.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) SPECIAL USE PERMIT AREA.—

(1) IN GENERAL.—The land described in the special use permit is excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) PREEXISTING STATUS.—The preexisting jurisdictional status of that land shall continue in effect.

(3) AMENDMENT TO PLAN.—In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under this subtitle as the land currently described in the special use permit.

(4) LAND DEDICATED TO AERIAL TRAMWAY AND RELATED USES.—Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) LA LUZ TRACT.—

(1) IN GENERAL.—The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this subtitle.

(2) NONAPPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section 2106(a)(4) shall not apply outside of Forest Service System trails.

(f) EVERGREEN HILLS ACCESS.—The Secretary, consistent with section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210), shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition consistent with the terms of section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210).

(g) PUEBLO FEE LAND.—Those properties not specifically addressed in subsections (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) RIGHTS-OF-WAY.—

(1) ROAD RIGHTS-OF-WAY.—

(A) IN GENERAL.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

(i) a right-of-way for Tramway Road;

(ii) a right-of-way for Juniper Hill Road North;

(iii) a right-of-way for Juniper Hill Road South;

(iv) a right-of-way for Sandia Heights Road; and

(v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) CONDITIONS.—The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by this Act.

(2) UTILITY RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company; provided that use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) FOREST SERVICE RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

(A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract, if the Pueblo ever acquires the Piedra Lisa tract.

SEC. 2110. EXTINGUISHMENT OF CLAIMS.

(a) IN GENERAL.—Except for the rights and interests in and to the Area specifically recognized in sections 2104, 2105, 2107, 2108, and 2109, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

(b) SUBDIVISIONS.—Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of the date of enactment of this Act), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) SPECIAL USE AND CREST FACILITIES AREAS.—Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

(d) PUEBLO AGREEMENT.—As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection (a), (b) and (c).

(e) CONSIDERATION.—The recognition of the Pueblo's rights and interests in this Act constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section 2109, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to this subtitle.

SEC. 2111. CONSTRUCTION.

(a) STRICT CONSTRUCTION.—This subtitle recognizes only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) EXISTING RIGHTS.—To the extent there exists within the Area at the date of enactment of this Act any valid private property rights associated with the Piedra Lisa tract or other private land that is not otherwise addressed in this subtitle, such rights are not modified or otherwise affected by this subtitle, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section 2105(a)(3)(A).

(c) NOT PRECEDENT.—The provisions of this subtitle creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) FISH AND WILDLIFE.—Except as provided in section 2108(b)(2)(B), nothing in this subtitle shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(e) FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) is amended by adding at the end the following: ''Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.''

SEC. 2112. JUDICIAL REVIEW.

(a) ENFORCEMENT.—A civil action to enforce the provisions of this subtitle may be brought to the extent permitted under chapter 7 of title 5, United States Code. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5, United States Code.

(b) WAIVER.—A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under this subtitle, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) VENUE.—Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of this subtitle, shall lie only in the United States District Court for the District of New Mexico.

SEC. 2113. PROVISIONS RELATING TO CONTRIBUTIONS AND LAND EXCHANGE.

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with this subtitle.

(2) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding Wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) ACCEPTANCE OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act (43 U.S.C. 1716(b)), the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) FUNDS RECEIVED.—Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established

under the Act of December 4, 1967, known as the Sisk Act (16 U.S.C. 484a), and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) TREATMENT OF LAND EXCHANGED OR CONVEYED.—All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under this Act.

(5) FAILURE TO MAKE OFFER.—If the land exchange offer is not made by the date that is 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) LAND ACQUISITION.—

(1) IN GENERAL.—The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) ACQUISITION BY PUEBLO.—If the Pueblo acquires the Piedra Lisa tract, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section 2109(h)(3)(C); and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 2109(b).

(d) REIMBURSEMENT OF CERTAIN COSTS.—

(1) IN GENERAL.—The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) TREATMENT OF REIMBURSEMENT.—Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24 U.S.C. 2412).

(3) PAYMENTS.—The Secretary of the Treasury shall make reimbursement payments as provided in this section out of any money not otherwise appropriated.

(4) APPLICATIONS.—Applications for reimbursement shall be filed within 180 days of the date of enactment of this Act with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) MAXIMUM REIMBURSEMENT.—In no event shall any 1 party be compensated in excess of $750,000 and the total amount reimbursed pursuant to this section shall not exceed $3,000,000.

SEC. 2114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle, including such sums as are necessary for the Forest Service, in accordance with section 2113(c), to acquire ownership of, or other interests in or to, land within the external boundaries of the Area.

SEC. 2115. EFFECTIVE DATE.

The provisions of this subtitle shall take effect immediately on enactment of this Act.

Subtitle B—Pueblo de Cochiti Settlement

SEC. 2201. MODIFICATION OF PUEBLO DE COCHITI SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

TITLE III—WATER SETTLEMENTS AND WATER-RELATED PROVISIONS

Subtitle A—Zuni Heaven Restoration Water Rights Settlement

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the ''Zuni Indian Tribe Water Rights Settlement Act of 2002''.

SEC. 3102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this subtitle.

SEC. 3103. DEFINITIONS.

In this subtitle:

(1) EASTERN LCR BASIN.—The term ''Eastern LCR basin'' means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term ''Fund'' means the Zuni Indian Tribe Water Rights Development Fund established by section 3106(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term ''Intergovernmental Agreement'' means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) PUMPING PROTECTION AGREEMENT.—The term ''Pumping Protection Agreement''

means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) RESERVATION; ZUNI HEAVEN RESERVATION.—The term ''Reservation'' or ''Zuni Heaven Reservation'', also referred to as ''Kolhu:wala:wa'', means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) SRP.—The term ''SRP'' means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) TEP.—The term ''TEP'' means Tucson Electric Power Company.

(10) TRIBE, ZUNI TRIBE, OR ZUNI INDIAN TRIBE.—The terms ''Tribe'', ''Zuni Tribe'', or ''Zuni Indian Tribe'' means the body politic and federally recognized Indian nation, and its members.

(11) ZUNI LANDS.—The term ''Zuni Lands'' means all the following lands, in the State of Arizona, that, on the effective date described in section 3109(a), are—

(A) within the Zuni Heaven Reservation;

(B) held in trust by the United States for the benefit of the Tribe or its members; or

(C) held in fee within the Little Colorado River basin by or for the Tribe.

SEC. 3104. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.

(a) SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this subtitle, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this subtitle. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 3106(a), $19,250,000, to be allocated by the Secretary as follows:

(1) $3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 3109(b).

(2) $15,750,000, of which $5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this subtitle.

(c) OTHER AGREEMENTS.—Except as provided in section 3109, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

SEC. 3105. TRUST LANDS.

(a) NEW TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 3109(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4 , S 1/2 NE 1/4 SE 1/4 , W 1/2 SE 1/4 , SE 1/4 SE 1/4;

(B) Section 23: N 1/2 , N 1/2 SW 1/4 , N 1/2 SE 1/4 , SE 1/4 SE 1/4 , N 1/2 SW 1/4 SE 1/4 , SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4 , SW 1/4 , S 1/2 NE 1/4 , N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4 , SE 1/4 NE 1/4 , NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4 , W 1/2 NW 1/4 , W 1/2 NE 1/4 SW 1/4 , NW 1/4 SW 1/4 , S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4 , NW 1/4 NW 1/4 SW 1/4 , S 1/2 N 1/2 SW 1/4 , S 1/2 SW1/4 , S 1/2 NW 1/4 SE 1/4 , SW 1/4 SE 1/4;

(C) Section 30: W 1/2 , SE 1/4; and

(D) Section 31: N 1/2 NE 1/4 , N 1/2 S 1/2 NE 1/4 , S 1/2 SE 1/4 NE 1/4 , NW 1/4 , E 1/2 SW 1/4 , N 1/2 NW 1/4 SW 1/4 , SE 1/4 NW 1/4 SW 1/4 , E 1/2 SW 1/4 SW 1/4 , SW 1/4 SW 1/4 SW 1/4.

(b) FUTURE TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 3109(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;

(B) Section 16: S 1/2 SW 1/4 SE 1/4;

(C) Section 19: S 1/2 SE 1/4 SE 1/4;

(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) NEW RESERVATION LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 3109(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) LIMITATION ON SECRETARIAL DISCRETION.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) LANDS REMAINING IN FEE STATUS.—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) FINAL AGENCY ACTION.—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) NO FEDERAL WATER RIGHTS.—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) STATE WATER RIGHTS.—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) FORFEITURE AND ABANDONMENT.—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) AD VALOREM TAXES.—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) AUTHORITY OF TRIBE.—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) FEDERAL ACKNOWLEDGEMENT OF INTERGOVERNMENTAL AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) NO ABROGATION.—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this subtitle.

(3) REMOVAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) EXCEPTION.—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 3108(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) DISCLAIMER.—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled ''An Act to convey certain lands to the Zuni Indian Tribe for religious purposes'' approved August 28, 1984 (Public Law 98-408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101-486; 104 Stat. 1174)).

SEC. 3106. DEVELOPMENT FUND.

(a) ESTABLISHMENT OF THE FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Zuni Indian Tribe Water Rights Development Fund'', to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 3104(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) ADDITIONAL DEPOSITS.—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the ''Trust Fund Reform Act''), this subtitle, and the Settlement Agreement.

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 3109(a) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 3104(b).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this subtitle.

(3) LIABILITY.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this subtitle that the Zuni Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this subtitle.

(5) ANNUAL REPORT.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS FOR ACQUISITION OF WATER RIGHTS.—

(1) WATER RIGHTS ACQUISITIONS.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 3104(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 3104(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) RIGHT TO SET OFF.—In the event the requirements of section 3109(a) have not been met and the Settlement Agreement has become null and void under section 3109(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 3104(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) WATER RIGHTS.—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

SEC. 3107. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.

(a) FULL SATISFACTION OF MEMBERS' CLAIMS.—

(1) IN GENERAL.—The benefits realized by the Tribe and its members under this subtitle, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 3109(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 3109(a).

(2) NO RECOGNITION OR ESTABLISHMENT OF INDIVIDUAL WATER RIGHT.—Nothing in this subtitle recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) TRIBE AND UNITED STATES AUTHORIZATION AND WATER QUANTITY WAIVERS.—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 3109(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 3109(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 3109(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) TRIBAL WAIVERS AGAINST THE UNITED STATES.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 3109(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 3109(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the effective date described in section 3109(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 3109(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this subtitle.

(d) TRIBAL WAIVER OF WATER QUALITY CLAIMS AND INTERFERENCE WITH TRUST CLAIMS.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) INTERFERENCE WITH TRUST RESPONSIBILITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this subtitle.

(B) INJURY OR THREAT OF INJURY TO WATER QUALITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 3109(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 3109(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) CLAIMS OF THE UNITED STATES.—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 3109(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 3109(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(3) LIMITATIONS.—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D)(3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 3109(a).

(e) WAIVER OF UNITED STATES WATER QUALITY CLAIMS RELATED TO SETTLEMENT LAND AND WATER.—

(1) PAST AND PRESENT CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 3109(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 3109(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) FUTURE CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 3109(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 3109(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) EFFECT.—Subject to subsections (b) and (e), nothing in this subtitle or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

SEC. 3108. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this subtitle, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 3104(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of Article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under Article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) TRIBAL USE OF WATER.—

(1) IN GENERAL.—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 3109(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 3105 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) EXCEPTION.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) RIGHTS-OF-WAY.—

(1) NEW AND FUTURE TRUST LAND.—The land taken into trust under subsections (a) and (b) of section 3105 shall be subject to existing easements and rights-of-way.

(2) ADDITIONAL RIGHTS-OF-WAY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this subtitle or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) VESTED RIGHTS.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this subtitle and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this subtitle, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 3104(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) OTHER CLAIMS.—Nothing in the Settlement Agreement or this subtitle quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) NO MAJOR FEDERAL ACTION.—

(1) IN GENERAL.—Execution of the Settlement Agreement by the Secretary as provided for in section 3104(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) SETTLEMENT AGREEMENT.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

SEC. 3109. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.

(a) IN GENERAL.—The waiver and release authorizations contained in subsections (b) and (c) of section 3107 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This subtitle has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 3104(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this subtitle and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) DEADLINE FOR EFFECTIVE DATE.—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 3104 and 3105, and any agreements entered into pursuant to sections 3104 and 3105 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 3104(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

Subtitle B—Quinault Indian Nation

SEC. 3201. QUINAULT INDIAN NATION WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary of the Interior may carry out a water source, quantity, and quality feasibility study for the Quinault Indian Nation, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary of the Interior shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

Subtitle C—Santee Sioux Tribe of Nebraska Rural Water System Feasibility Study

SEC. 3301. STUDY; REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary of the Interior (referred to in this subtitle as the ''Secretary''), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

SEC. 3302. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $500,000 to carry out this subtitle.

TITLE IV—LAND PROVISIONS

Subtitle A—Agreement To Affirm Boundary Between Pubelo of Santa Clara and Pueblo of San ildefonso Aboriginal Land Within Garcia Canyon Tract

SEC. 4101. DEFINITIONS.

In this subtitle:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 4104(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 4102(a) or 4103(a).

SEC. 4102. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5–acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 4103. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 4104. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 4102(b) and 4103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 4102(b) and 4103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 4105. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 4102(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 4103(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 4106. EFFECT.

Nothing in this subtitle—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

Subtitle B—Additional Land Provisions

SEC. 4201. INDIAN LAND CONSOLIDATION ACT AMENDMENTS.

(a) TECHNICAL CORRECTION.—Section 206(c)(2)(B) of the Indian Land Consolidation Act (25 U.S.C. 2205(c)(2)(B)) is amended by striking ''207(a)(6)(B) of this Act'' and inserting ''207(a)(6)''.

(b) EFFECTIVE DATE.—Section 207(g) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)) is amended by striking paragraph (5) and inserting the following:

''(5) EFFECTIVE DATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to the estate of an individual who dies before the date that is 1 year after the date on which the Secretary makes the certification required under paragraph (4).

''(B) APPROVAL.—Subsection (e) takes effect on November 7, 2000.''.

(c) TRUST AND RESTRICTED LAND TRANSACTIONS.—Section 217(c) of the Indian Land Consolidation Act (25 U.S.C. 2216(c)) is amended—

(1) by striking the subsection heading and all that follows through the end of the first sentence and inserting the following:

''(c) ACQUISITION OF INTEREST BY SECRETARY.—

''(1) REQUEST.—

''(A) IN GENERAL.—An Indian, or the recognized tribal government of a reservation, that is in possession of any portion of the fee interest in a parcel of land described in subparagraph (B) may request that the interest be taken into trust by the Secretary.

''(B) LAND.—A parcel of land described in this subparagraph is any parcel of land—

''(i) that is located within a reservation; and

''(ii) at least a portion of the ownership interest in which is held by the Secretary, in trust or restricted status, on November 7, 2000.''; and

(2) in the second sentence, by striking ''Upon'' and inserting the following:

''(2) INTEREST.—Upon''.

SEC. 4202. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

SEC. 4203. REMOVAL OF RESTRICTIONS ON UTE TRIBE OF THE UINTAH AND OURAY RESERVATION LAND.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) no grant, lease, exploration or development agreement, or other conveyance of the land (or any interest in the land) that is authorized by the governing body of the Tribe shall be subject to approval by the Secretary of the Interior or any other Federal official.''.

SEC. 4204. RESERVATION LAND OF THE COW CREEK BAND OF UMPQUA TRIBE OF INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 4205. DISPOSITION OF FEE LAND OF THE SEMINOLE TRIBE OF FLORIDA.

(a) TRANSACTIONS.—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) NO FURTHER APPROVAL REQUIRED.—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) TRUST LAND NOT AFFECTED.—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

SEC. 4206. DISPOSITION OF FEE LAND OF THE SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) TRUST LAND NOT AFFECTED.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 4207. FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½SE¼, 68 acres; NW¼NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 4208. AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

Any agreement between the Tribe and Dry Prairie Rural Water Association, Incorporated (or any non-Federal successor entity) for the use of water to meet the needs of the Dry Prairie system that is entered into under section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454)—

(1) is approved by Congress; and

(2) shall be approved and executed by the Secretary.

TITLE V—LEASING PROVISIONS

SEC. 5001. AUTHORIZATION OF 99-YEAR LEASES FOR CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence—

(1) by inserting ''the reservation of the Confederated Tribes of the Umatilla Indian Reservation,'' before ''the Burns Paiute Reservation,'';

(2) by inserting ''the'' before ''Yavapai-Prescott''; and

(3) by striking ''Washington,,'' and inserting ''Washington,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any lease entered into on, or renewed after, the date of enactment of this Act.

SEC. 5002. AUTHORIZATION OF 99-YEAR LEASES FOR YUROK TRIBE AND HOPLAND BAND OF POMO INDIANS.

(a) IN GENERAL.—The first section of the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting ''lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.

SEC. 5003. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) is amended by adding at the end the following:

''(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations, subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

''(2) CONDITIONS.—A lease entered into under paragraph (1)—

''(A) shall commence during fiscal year 2011 for an initial term of 25 years;

''(B) may be renewed for an additional term of 25 years; and

''(C) shall specify in the terms of the lease an annual rental rate—

''(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

''(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations.''.

SEC. 5004. LEASES OF RESTRICTED LAND.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, no approval by the Secretary shall be required for any new lease, or for renewal of any existing lease, of land under this subsection if the lease, including all periods covered by any renewal, is for an aggregate term of less than 7 years.''.

TITLE VI—JUDGMENT FUND DISTRIBUTION

Subtitle A—Gila River Indian Community Judgment Fund Distribution

SEC. 6001. SHORT TITLE.

This subtitle may be cited as the ''Gila River Indian Community Judgment Fund Distribution Act of 2002''.

SEC. 6002. FINDINGS.

Congress finds that—

(1) on August 8, 1951, the Gila River Indian Community filed a complaint before the Indian Claims Commission in Gila River Pima-Maricopa Indian Community v. United States, Docket No. 236, for the failure of the United States to carry out its obligation to protect the use by the Community of water from the Gila River and the Salt River in the State of Arizona;

(2) except for Docket Nos. 236–C and 236–D, which remain undistributed, all 14 original dockets under Docket No. 236 have been resolved and distributed;

(3) in Gila River Pima-Maricopa Indian Community v. United States, 29 Ind. Cl. Comm. 144 (1972), the Indian Claims Commission held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–C;

(4) in Gila River Pima-Maricopa Indian Community v. United States, 684 F.2d 852 (1982), the United States Claims Court held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–D;

(5) with the approval of the Community under Community Resolution GR–98–98, the Community entered into a settlement with the United States on April 27, 1999, for claims made under Dockets Nos. 236–C and 236–D for an aggregate total of $7,000,000;

(6) on May 3, 1999, the United States Court of Federal Claims ordered that a final judgment be entered in consolidated Dockets Nos. 236–C and 236–D for $7,000,000 in favor of the Community and against the United States;

(7)(A) on October 6, 1999, the Department of the Treasury certified the payment of $7,000,000, less attorney fees, to be deposited in a trust account on behalf of the Community; and

(B) that payment was deposited in a trust account managed by the Office of Trust Funds Management of the Department of the Interior; and

(8) in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit an Indian judgment fund use or distribution plan to Congress for approval.

SEC. 6003. DEFINITIONS.

In this subtitle:

(1) ADULT.—The term ''adult'' means an individual who—

(A) is 18 years of age or older as of the date on which the payment roll is approved by the Community; or

(B) will reach 18 years of age not later than 30 days after the date on which the payment roll is approved by the Community.

(2) COMMUNITY.—The term ''Community'' means the Gila River Indian Community.

(3) COMMUNITY-OWNED FUNDS.—The term ''Community-owned funds'' means—

(A) funds held in trust by the Secretary as of the date of enactment of this Act that may be made available to make payments under section 6101; or

(B) revenues held by the Community that—

(i) are derived from trust resources; and

(ii) qualify for an exemption under section 7 or 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

(4) IIM ACCOUNT.—The term ''IIM account'' means an individual Indian money account.

(5) JUDGMENT FUNDS.—The term ''judgment funds'' means the aggregate amount awarded to the Community by the Court of Federal Claims in Dockets Nos. 236–C and 236–D.

(6) LEGALLY INCOMPETENT INDIVIDUAL.—The term ''legally incompetent individual'' means an individual who has been determined to be incapable of managing his or her own affairs by a court of competent jurisdiction.

(7) MINOR.—The term ''minor'' means an individual who is not an adult.

(8) PAYMENT ROLL.—The term ''payment roll'' means the list of eligible, enrolled members of the Community who are eligible to receive a payment under section 6101(a), as prepared by the Community under section 6101(b).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

CHAPTER 1—GILA RIVER JUDGMENT FUND DISTRIBUTION

SEC. 6101. DISTRIBUTION OF JUDGMENT FUNDS.

(a) PER CAPITA PAYMENTS.—Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any other provision of law (including any regulation promulgated or plan developed under such a law), the amounts paid in satisfaction of an award granted to the Gila River Indian Community in Dockets Nos. 236–C and 236–D before the United States Court of Federal Claims, less attorney fees and litigation expenses and including all accrued interest, shall be distributed in the form of per capita payments (in amounts as equal as practicable) to all eligible enrolled members of the Community.

(b) PREPARATION OF PAYMENT ROLL.—

(1) IN GENERAL.—The Community shall prepare a payment roll of eligible, enrolled members of the Community that are eligible to receive payments under this section in accordance with the criteria described in paragraph (2).

(2) CRITERIA.—

(A) INDIVIDUALS ELIGIBLE TO RECEIVE PAYMENTS.—Subject to subparagraph (B), the following individuals shall be eligible to be listed on the payment roll and eligible to receive a per capita payment under subsection (a):

(i) All enrolled Community members who are eligible to be listed on the per capita payment roll that was approved by the Secretary for the distribution of the funds awarded to the Community in Docket No. 236–N (including any individual who was inadvertently omitted from that roll).

(ii) All enrolled Community members who are living on the date of enactment of this Act.

(iii) All enrolled Community members who died—

(I) after the effective date of the payment plan for Docket No. 236–N; but

(II) on or before the date of enactment of this Act.

(B) INDIVIDUALS INELIGIBLE TO RECEIVE PAYMENTS.—The following individuals shall be ineligible to be listed on the payment roll and ineligible to receive a per capita payment under subsection (a):

(i) Any individual who, before the date on which the Community approves the payment roll, relinquished membership in the Community.

(ii) Any minor who relinquishes membership in the Community, or whose parent or legal guardian relinquishes membership on behalf of the minor, before the date on which the minor reaches 18 years of age.

(iii) Any individual who is disenrolled by the Community for just cause (such as dual enrollment or failure to meet the eligibility requirements for enrollment).

(iv) Any individual who is determined or certified by the Secretary to be eligible to receive a per capita payment of funds relating to a judgment—

(I) awarded to another community, Indian tribe, or tribal entity; and

(II) appropriated on or before the date of enactment of this Act.

(v) Any individual who is not enrolled as a member of the Community on or before the date that is 90 days after the date of enactment of this Act.

(c) NOTICE TO SECRETARY.—On approval by the Community of the payment roll, the Community shall submit to the Secretary a notice that indicates the total number of individuals eligible to share in the per capita distribution under subsection (a), as expressed in subdivisions that reflect—

(1) the number of shares that are attributable to eligible living adult Community members; and

(2) the number of shares that are attributable to deceased individuals, legally incompetent individuals, and minors.

(d) INFORMATION PROVIDED TO SECRETARY.—The Community shall provide to the Secretary enrollment information necessary to allow the Secretary to establish—

(1) estate accounts for deceased individuals described in subsection (c)(2); and

(2) IIM accounts for legally incompetent individuals and minors described in subsection (c)(2).

(e) DISBURSEMENT OF FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date on which the payment roll is approved by the Community and the Community has reconciled the number of shares that belong in each payment subdivision described in subsection (c), the Secretary shall disburse to the Community the funds necessary to make the per capita distribution under subsection (a) to eligible living adult members of the Community described in subsection (c)(1).

(2) ADMINISTRATION AND DISTRIBUTION.—On disbursement of the funds under paragraph (1), the Community shall bear sole responsibility for administration and distribution of the funds.

(f) SHARES OF DECEASED INDIVIDUALS.—

(1) IN GENERAL.—The Secretary, in accordance with regulations promulgated by the Secretary and in effect as of the date of enactment of this Act, shall distribute to the appropriate heirs and legatees of deceased individuals described in subsection (c)(2) the per capita shares of those deceased individuals.

(2) ABSENCE OF HEIRS AND LEGATEES.—If the Secretary and the Community make a final determination that a deceased individual described in subsection (c)(2) has no heirs or legatees, the per capita share of the deceased individual and the interest earned on that share shall—

(A) revert to the Community; and

(B) be deposited into the general fund of the Community.

(g) SHARES OF LEGALLY INCOMPETENT INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of legally incompetent individuals described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—The IIM accounts described in paragraph (1) shall be administered in accordance with regulations and procedures established by the Secretary and in effect as of the date of enactment of this Act.

(h) SHARES OF MINORS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of minors described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall hold the per capita share of a minor described in subsection (c)(2) in trust until such date as the minor reaches 18 years of age.

(B) NONAPPLICABLE LAW.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held by the Secretary under this subtitle.

(C) DISBURSEMENT.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in subsection (c)(2) until such date as the minor reaches 18 years of age.

(i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LISTED ON PAYMENT ROLL.—

(1) IN GENERAL.—An individual who is not listed on the payment roll, but is eligible to receive a payment under this subtitle, as determined by the Community, may be paid from any remaining judgment funds after the date on which—

(A) the Community makes the per capita distribution under subsection (a); and

(B) all appropriate IIM accounts are established under subsections (g) and (h).

(2) INSUFFICIENT FUNDS.—If insufficient judgment funds remain to cover the cost of a payment described in paragraph (1), the Community may use Community-owned funds to make the payment.

(3) MINORS, LEGALLY INCOMPETENT INDIVIDUALS, AND DECEASED INDIVIDUALS.—In a case in which a payment described in paragraph (2) is to be made to a minor, a legally incompetent individual, or a deceased individual, the Secretary—

(A) is authorized to accept and deposit funds from the payment in an IIM account or estate account established for the minor, legally incompetent individual, or deceased individual; and

(B) shall invest those funds in accordance with applicable law.

(j) USE OF RESIDUAL FUNDS.—On request by the governing body of the Community to the Secretary, and after passage by the governing body of the Community of a tribal council resolution affirming the intention of the governing body to have judgment funds disbursed to, and deposited in the general fund of, the Community, any judgment funds remaining after the date on which the Community completes the per capita distribution under subsection (a) and makes any appropriate payments under subsection (i) shall be disbursed to, and deposited in the general fund of, the Community.

(k) REVERSION OF PER-CAPITA SHARES TO TRIBAL OWNERSHIP.—

(1) IN GENERAL.—In accordance with the first section of Public Law 87–283 (25 U.S.C. 164), the share for an individual eligible to receive a per-capita share under subsection (a) that is held in trust by the Secretary, and any interest earned on that share, shall be restored to Community ownership if, for any reason—

(A) subject to subsection (i), the share cannot be paid to the individual entitled to receive the share; and

(B) the share remains unclaimed for the 6-year period beginning on the date on which the individual became eligible to receive the share.

(2) REQUEST BY COMMUNITY.—In accordance with subsection (j), the Community may request that unclaimed funds described in paragraph (1)(B) be disbursed to, and deposited in the general fund of, the Community.

SEC. 6102. RESPONSIBILITY OF SECRETARY; APPLICABLE LAW.

(a) RESPONSIBILITY FOR FUNDS.—After the date on which funds are disbursed to the Community under section 6101(e)(1), the United States and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the funds disbursed.

(b) DECEASED AND LEGALLY INCOMPETENT INDIVIDUALS.—Funds subject to subsections (f) and (g) of section 6101 shall continue to be held in trust by the Secretary until the date on which those funds are disbursed under this subtitle.

(c) APPLICABILITY OF OTHER LAW.—Except as otherwise provided in this subtitle, all funds distributed under this subtitle shall be subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

CHAPTER 2—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

SEC. 6111. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 228.

(a) DEFINITION OF PLAN.—In this section, the term ''plan'' means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 228 of the United States Claims Court (52 Fed. Reg. 6887 (March 5, 1987)), as modified in accordance with Public Law 99–493 (100 Stat. 1241).

(b) CONDITIONS.—Notwithstanding any other provision of law, the Community shall modify the plan to include the following conditions with respect to funds distributed under the plan:

(1) APPLICABILITY OF OTHER LAW RELATING TO MINORS.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of this Act, by the Secretary.

(2) SHARE OF MINORS IN TRUST.—The Secretary shall hold a per capita share of a minor described in paragraph (1) in trust until such date as the minor reaches 18 years of age.

(3) DISBURSAL OF FUNDS FOR MINORS.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in paragraph (1) until such date as the minor reaches 18 years of age.

(4) USE OF REMAINING JUDGMENT FUNDS.—On request by the governing body of the Community, as manifested by the appropriate tribal council resolution, any judgment funds remaining after the date of completion of the per capita distribution under section 6101(a) shall be disbursed to, and deposited in the general fund of, the Community.

SEC. 6112. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 236–N.

(a) DEFINITION OF PLAN.—In this section, the term ''plan'' means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 236–N of the United States Court of Federal Claims (59 Fed. Reg. 31092 (June 16, 1994)).

(b) CONDITIONS.—

(1) PER CAPITA ASPECT.—Notwithstanding any other provision of law, the Community shall modify the last sentence of the paragraph under the heading ''Per Capita Aspect'' in the plan to read as follows: ''Upon request from the Community, any residual principal and interest funds remaining after the Community has declared the per capita distribution complete shall be disbursed to, and deposited in the general fund of, the Community.''.

(2) GENERAL PROVISIONS.—Notwithstanding any other provision of law, the Community shall—

(A) modify the third sentence of the first paragraph under the heading ''General Provisions'' of the plan to strike the word ''minors''; and

(B) insert between the first and second paragraphs under that heading the following: ''Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of the Gila River Indian Community Judgment Fund Distribution Act of 2002, by the Secretary. The Secretary shall hold a per capita share of a minor in trust until such date as the minor reaches 18 years of age. No judgment funds, or any interest earned on judgment funds, shall be disbursed from the account of a minor until such date as the minor reaches 18 years of age.''.

CHAPTER 3—EXPERT ASSISTANCE LOANS

SEC. 6121. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO GILA RIVER INDIAN COMMUNITY.

Notwithstanding any other provision of law—

(1) the balance of all outstanding expert assistance loans made to the Community under Public Law 88–168 (77 Stat. 301) and relating to Gila River Indian Community v. United States (United States Court of Federal Claims Docket Nos. 228 and 236 and associated subdockets) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Community from any liability associated with those loans.

Subtitle B—Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution

SEC. 6201. SHORT TITLE.

This subtitle may be cited as the ''Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution Act of 2002''.

SEC. 6202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) on December 18, 1987, the Assiniboine and Sioux Tribes of the Fort Peck Reservation and 5 individual Fort Peck tribal members filed a complaint before the United States Claims Court (currently the Court of Federal Claims) in Assiniboine and Sioux Tribes of the Fort Peck Reservation, et al. v. The United States of America, Docket No. 773–87–L to recover interest earned on trust funds while those funds were held in special deposit and IMPL-agency accounts;

(2) in the case referred to in paragraph (1), the Court held that the United States was liable for any income derived from investment of the trust funds of the Tribe and individual members of the Tribe for the period during which those funds were held in special deposit and IMPL-agency accounts;

(3) the plaintiffs in the case referred to in paragraph (1) entered into a settlement with the United States for claims made under Docket No. 773–87–L on December 31, 1998, for payment by the United States of—

(A) $1,339,415.33, representing interest earned on funds while held in Special Deposit accounts at the Fort Peck Agency during the period August 13, 1946, through September 30, 1981;

(B) $2,749,354.41, representing—

(i) interest on the principal indebtedness for the period from August 13, 1946, through July 31, 1998; plus

(ii) $364.27 in per diem interest on the principal indebtedness for each day during the period commencing August 1, 1998, and ending on the date on which the judgment is paid; and

(C) $350,000, representing the litigation costs and attorney's fees that the Tribe incurred to prosecute those claims;

(4) the terms of the settlement were approved by the Court on January 8, 1999, and judgment was entered on January 12, 1999;

(5) on March 18, 1999, $4,522,551.84 was transferred to the Department of the Interior;

(6) that judgment amount was deposited in an escrow account established to provide—

(A) $350,000 for the payment of attorney's fees and expenses; and

(B) $4,172,551.84 for pending Court-ordered distribution to the Tribe and individual Indian trust beneficiaries;

(7) on January 31, 2001, the Court approved a joint stipulation that established procedures for—

(A) identification of the class of individual Indians having an interest in the judgment;

(B) notice to and certification of that class; and

(C) the distribution of the judgment amount to the Tribe and affected class of individual Indians;

(8)(A) on or about February 14, 2001, in accordance with the Court-approved stipulation, $643,186.73 was transferred to an account established by the Secretary for the benefit of the Tribe; and

(B) that transferred amount represents—

(i) 54.2 percent of the Tribe's estimated 26-percent share of the amount referred to in paragraph (6)(B); plus

(ii) 50 percent of the Tribe's estimated 26-percent share of interest and capital gains earned on the judgment amount from the period beginning March 18, 1999, and ending on December 31, 2000;

(9) under the Court-approved stipulation—

(A) that transferred amount is to remain available for use by the Tribe in accordance with a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.);

(B) the Tribe will most likely receive additional payments from the distribution amount once the identification of all individuals eligible to share in the distribution amount is completed and the pro rata shares are calculated; and

(C) those additional payments would include—

(i) the balance of the share of the Tribe of the distribution amount and investment income earned on the distribution amount;

(ii) the portion of the distribution amount that represents income derived on funds in special deposit accounts that are not attributable to the Tribe or any individual Indian; and

(iii) the portion of the distribution amount that represents shares attributable to individual Indians that—

(I) cannot be located for purposes of accepting payment; and

(II) will not be bound by the judgment in the case referred to in paragraph (1); and

(10) pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit to Congress for approval an Indian judgment fund use or distribution plan.

SEC. 6203. DEFINITIONS.

In this subtitle:

(1) COURT.—The term ''Court'' means the United States Court of Federal Claims.

(2) DISTRIBUTION AMOUNT.—The term ''distribution amount'' means the amount referred to in section 6202(a)(6)(B).

(3) JUDGMENT AMOUNT.—The term ''judgment amount'' means the amount referred to in section 6202(a)(5).

(4) PRINCIPAL INDEBTEDNESS.—The term ''principal indebtedness'' means the sum referred to in section 6202(a)(3)(A).

(5) TRIBE.—The term ''Tribe'' means the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 6204. DISTRIBUTION OF JUDGMENT FUNDS.

(a) IN GENERAL.—Notwithstanding any provision of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) to the contrary, the share of the Tribe of the distribution amount, and such additional amounts as may be awarded to the Tribe by the Court with respect to the case referred to in section 6202(a)(1) (including any interest accrued on those amounts)—

(1) shall be made available for tribal health, education, housing and social services programs of the Tribe, including—

(A) educational and youth programs;

(B) programs for improvement of facilities and housing;

(C) programs to provide equipment for public utilities;

(D) programs to provide medical assistance or dental, optical, or convalescent equipment; and

(E) programs to provide senior citizen and community services; and

(2) shall not be available for per capita distribution to any member of the Tribe.

(b) BUDGET SPECIFICATION.—The specific programs for which funds are made available under subsection (a)(1), and the amount of funds allocated to each of those programs, shall be specified in an annual budget developed by the Tribe and approved by the Secretary.

SEC. 6205. APPLICABLE LAW.

Except as provided in section 6204(a), all funds distributed under this subtitle are subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

TITLE VII—REPAYMENT OF EXPERT WITNESS LOANS

SEC. 7001. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO THE PUEBLO OF SANTO DOMINGO.

Notwithstanding any other provision of law—

(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No. 355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary of the Interior shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

SEC. 7002. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO THE OGLALA SIOUX TRIBE.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary of the Interior shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

SEC. 7003. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO THE SEMINOLE TRIBE OF OKLAHOMA.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No. 247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary of the Interior shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

TITLE VIII—HEALTH-RELATED PROVISIONS

SEC. 8001. RURAL HEALTH CARE FACILITY, FORT BERTHOLD INDIAN RESERVATION, NORTH DAKOTA.

The Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act is amended—

(1) in section 3504 (106 Stat. 4732), by adding at the end the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''; and

(2) by striking section 3511 (106 Stat. 4739) and inserting the following:

''SEC. 3511. RURAL HEALTH CARE FACILITY, FORT BERTHOLD INDIAN RESERVATION, NORTH DAKOTA.

''There is authorized to be appropriated to the Secretary of Health and Human Services for the construction of a rural health care facility on the Fort Berthold Indian Reservation of the Three Affiliated Tribes, North Dakota, $20,000,000.''.

SEC. 8002. HEALTH CARE FUNDING ALLOCATION, EAGLE BUTTE SERVICE UNIT.

Section 117 of the Indian Health Care Improvement Act (25 U.S.C. 1616j) is amended by adding at the end the following:

''(g) CHEYENNE RIVER SIOUX TRIBE BONUS PAYMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, to promote more efficient use of the health care funding allocation for fiscal year 2003, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may carry out a program under which a health professional may be paid—

''(A) a base salary in an amount up to the highest grade and step available to a physician, pharmacist, or other health professional, as the case may be; and

''(B) a recruitment or retention bonus of up to 25 percent of the base salary rate of the health professional.

''(2) MONITORING AND REPORTING.—If the Service implements the program under paragraph (1), the Service shall—

''(A) monitor the program closely; and

''(B) not later than September 30, 2003, submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a report that includes an evaluation of the program.''.

SEC. 8003. INDIAN HEALTH DEMONSTRATION PROJECT.

Section 10 of the Ponca Restoration Act (25 U.S.C. 983h) is amended by adding at the end the following:

''(e) DEMONSTRATION PROJECT.—The Director of the Indian Health Service shall direct the Aberdeen Area Office of the Indian Health Service to carry out, in coordination with the Tribe, a demonstration project to determine—

''(1) the ability of an urban, restored facility of the Tribe to provide health services to members residing in Douglas County and Sarpy County, Nebraska, and Pottawattamie County, Iowa;

''(2) the viability of using third-party billing to enable a facility described in paragraph (1) to become self-sustaining; and

''(3) the effectiveness of using a computer-registered patient management system in the counties specified in paragraph (1).''.

SEC. 8004. ALASKA TREATMENT CENTERS AND FACILITIES.

Section 704(b)(4)(A) of the Indian Health Care Improvement Act (25 U.S.C. 1665c(b)(4)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(iii) the Yukon Kuskokwim Health Corporation, for the purpose of operating and maintaining a residential and outpatient child, youth, and family inhalant prevention and treatment program in Bethel, Alaska;

''(iv) the Southcentral Foundation, for the purpose of operating and maintaining a residential substance abuse, mental, and behavioral health treatment program for Alaska Native youth in need of those services in Anchorage, Alaska;

''(v) the Cook Inlet Tribal Council, for the purpose of operating and maintaining a residential treatment program, day treatment program, and continuing care program for alcohol and drug rehabilitation in Anchorage, Alaska; and

''(vi) the Southeast Alaska Regional Health Consortium, for the purpose of operating and maintaining a residential substance abuse treatment program for women with children in Sitka, Alaska.''.

TITLE IX—REAUTHORIZATION OF NATIVE AMERICAN PROGRAMS

SEC. 9001. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $2,000,000 for fiscal year 2001.''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2006,''.

SEC. 9002. NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C. 640d–24(a)(8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2002 through 2006''.

SEC. 9003. INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) INDIAN HEALTH PROFESSIONAL PERSONNEL.—Title I of the Indian Health Care Improvement Act is amended by striking section 123 (25 U.S.C. 1616p) and inserting the following:

''SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as are necessary for each of fiscal years 2002 and 2003.''.

(b) HEALTH SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—Section 209(m) of the Indian Health Care Improvement Act (25 U.S.C. 1621h(m)) is amended by striking paragraph (6) and inserting the following:

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(B) CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.—Section 211 of the Indian Health Care Improvement Act (25 U.S.C. 1621j) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(C) PATIENT TRAVEL COSTS.—Section 213 of the Indian Health Care Improvement Act (25 U.S.C. 1621*l*) is amended by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(D) EPIDEMIOLOGY CENTERS.—Section 214(b) of the Indian Health Care Improvement Act (25 U.S.C. 1621m(b)) is amended by striking paragraph (6) and inserting the following:

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 and 2003.''.

(E) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.—Section 215 of the Indian Health Care Improvement Act (25 U.S.C. 1621n) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(F) INDIAN YOUTH GRANT PROGRAM.—Section 216 of the Indian Health Care Improvement Act (25 U.S.C. 1621o) is amended by striking subsection (e) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Title II of the Indian Health Care Improvement Act is amended by striking section 224 (25 U.S.C. 1621w) and inserting the following:

''SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title (other than sections 209(m), 211(g), 213(b), 214(b)(6), 215(g), and 216(e)) such sums as are necessary for each of fiscal years 2002 and 2003.''.

(c) HEALTH FACILITIES.—Title III of the Indian Health Care Improvement Act is amended by striking section 309 (25 U.S.C. 1638a) and inserting the following:

''SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as are necessary for each of fiscal years 2002 and 2003.''.

(d) ACCESS TO HEALTH SERVICES.—Title IV of the Indian Health Care Improvement Act is amended by striking section 407 (25 U.S.C. 1647) and inserting the following:

''SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as are necessary for each of fiscal years 2002 and 2003.''.

(e) HEALTH SERVICES FOR URBAN INDIANS.—Title V of the Indian Health Care Improvement Act is amended by striking section 514 (25 U.S.C. 1660d) and inserting the following:

''SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as are necessary for each of fiscal years 2002 and 2003.''.

(f) ORGANIZATIONAL IMPROVEMENTS.—Title VI of the Indian Health Care Improvement Act is amended by striking section 603 (25 U.S.C. 1663) and inserting the following:

''SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as are necessary for each of fiscal years 2002 and 2003.''.

(g) SUBSTANCE ABUSE PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) INDIAN WOMEN TREATMENT PROGRAMS.—Section 703 of the Indian Health Care Improvement Act (25 U.S.C. 1665b) is amended by striking subsection (d) and inserting the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.

''(2) GRANTS.—Of the funds made available under paragraph (1) for a fiscal year, 20 percent shall be used to provide grants to urban Indian organizations funded under title V.''.

(B) GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER.—Section 706 of the Indian Health Care Improvement Act (25 U.S.C. 1665e) is amended by striking subsection (d) and inserting the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(C) FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS.—Section 708(f)(2) of the Indian Health Care Improvement Act (25 U.S.C. 1665g) is amended by striking subsection (f) and inserting the following:

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.

''(2) GRANTS.—Of the funds made available under paragraph (1) for a fiscal year, 10 percent shall be used to provide grants to urban Indian organizations funded under title V (including to carry out demonstration projects that involve 1 or more Indian tribes, tribal organizations, or urban Indian organizations working with organizations such as the National Organization on Fetal Alcohol Syndrome to carry out subparagraphs (A) and (F) of subsection (a)(2)).''.

(D) THUNDER CHILD TREATMENT CENTER.—Section 710 of the Indian Health Care Improvement Act (25 U.S.C. 1665i) is amended—

(i) by striking ''(b) For the purposes of'' and all that follows through ''No funding'' and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.

''(2) STAFFING AND OPERATION.—No funding''; and

(ii) in the third sentence, by striking ''None of the funding'' and inserting the following:

''(3) ADMINISTRATIVE PURPOSES.—None of the funding''.

(E) SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.—Section 711 of the Indian Health Care Improvement Act (25 U.S.C. 1665j) is amended by striking subsection (h) and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003, to remain available until expended.''.

(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Title VII of the Indian Health Care Improvement Act is amended by striking section 714 (25 U.S.C. 1665m) and inserting the following:

''SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title (other than sections

703(d), 706(d), 708(f), 710(b), and 711(h)) such sums as are necessary for each of fiscal years 2002 and 2003.''.

(h) MISCELLANEOUS.—

(1) HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT.—Section 821 of the Indian Health Care Improvement Act (25 U.S.C. 1680k) is amended by striking subsection (i) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003, to remain available until expended.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Title VIII of the Indian Health Care Improvement Act is amended by striking section 825 (25 U.S.C. 1680o) and inserting the following:

''SEC. 825. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title (other than section 821) such sums as are necessary for each of fiscal years 2002 and 2003.''.

SEC. 9004. INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986.

(a) TRIBAL ACTION PLANS.—

(1) IN GENERAL.—Section 4206(d) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412(d)) is amended—

(A) by striking ''(1) The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by striking paragraph (2) and inserting the following:

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 and 2003.''.

(2) ADDITIONAL AUTHORIZATION.—Section 4206(f) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412(f)) is amended—

(A) by striking ''(f)(1) The Secretary'' and inserting the following:

''(f) GRANTS FOR IN-SCHOOL TRAINING PROGRAMS.—

''(1) IN GENERAL.—The Secretary'';

(B) in paragraph (2)—

(i) by striking ''(2) Funds'' and inserting the following:

''(2) USE OF FUNDS.—Funds''; and

(ii) by indenting subparagraphs (A) through (E) appropriately; and

(C) by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 and 2003.''.

(b) NEWSLETTER.—Section 4210 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2416) is amended by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(c) INDIAN EDUCATION PROGRAMS.—Section 4212(a) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2432(a)) is amended—

(1) in the first sentence, by striking ''The Assistant Secretary of Indian Affairs'' and inserting the following:

''(1) IN GENERAL.—The Assistant Secretary of Indian Affairs'';

(2) in the second sentence, by striking ''The Assistant Secretary shall'' and inserting the following:

''(2) DEFRAYMENT OF COSTS.—The Assistant Secretary shall''; and

(3) by striking the third sentence and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 and 2003.''.

(d) EMERGENCY SHELTERS.—Section 4213(e) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433(e)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out planning and design, construction, and renovation of, or to purchase or lease land or facilities for, emergency shelters and halfway houses to provide emergency care for Indian youth, such sums as are necessary for each of fiscal years 2002 and 2003.

''(2) STAFFING AND OPERATION.—There is authorized to be appropriated for staffing and operation of emergency shelters and halfway houses described in paragraph (1) $7,000,000 for each of fiscal years 2002 and 2003.

''(3) ALLOCATION.—

''(A) IN GENERAL.—The Secretary of the Interior shall allocate funds made available under this subsection to Indian tribes on the basis of priority of need of the Indian tribes.

''(B) CONTRACTING AND GRANTS.—Funds allocated under subparagraph (A) shall be subject to contracting or available for grants under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).'';

(2) in paragraph (4), by striking ''(4) Funds'' and inserting the following:

''(4) CONDITIONS FOR USE.—Funds''; and

(3) in paragraph (5)—

(A) by striking ''(5) Nothing in this Act may be construed'' and inserting the following:

''(5) EFFECT ON OTHER AUTHORITY.—Nothing in this Act'';

(B) in subparagraph (A)—

(i) by striking ''to limit'' and inserting ''limits''; and

(ii) by striking ''houses, or'' and inserting ''houses; or''; and

(C) in subparagraph (B), by striking ''to require'' and inserting ''requires''.

(e) ILLEGAL NARCOTICS TRAFFIC ON THE TOHONO O'ODHAM AND ST. REGIS RESERVATIONS; SOURCE ERADICATION.—Section 4216 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2442) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

''(A) to carry out paragraph (1)(A), $1,000,000 for each of fiscal years 2002 and 2003; and

''(B) to carry out provisions of this subsection other than paragraph (1)(A), such sums as are necessary for each of fiscal years 2002 and 2003.''; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 and 2003.''.

(f) BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.—Section 4218 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2451) is amended by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

(g) JUVENILE DETENTION CENTERS.—Section 4220 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2453) is amended by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 and 2003.''.

SEC. 9005. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT.

(a) INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.—Section 409 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208) is amended by striking subsection (e) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 and 2003.''.

(b) INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.—Section 410 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3209) is amended by striking subsection (h) and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2002 and 2003.''.

(c) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.—Section 411 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210) is amended by striking subsection (i) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2002 and 2003.''.

SEC. 9006. NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT.

(a) NATIVE HAWAIIAN HEALTH CARE SYSTEMS.—Section 6 of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11705) is amended by striking subsection (h) and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 and 2003.''.

(b) NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.—Section 10 of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11709) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 and 2003.''.

SEC. 9007. FOUR CORNERS INTERPRETIVE CENTER ACT.

Section 7 of the Four Corners Interpretive Center Act (Public Law 106–143; 113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking ''2005'' and inserting ''2007'';

(2) in subsection (b), by striking ''2002'' and inserting ''2004''; and

(3) in subsection (c), by striking ''2001'' and inserting ''2003''.

SEC. 9008. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5609) is amended by striking subsection (b) and inserting the following:

''(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 10 $4,000,000 for each of fiscal years 2004 through 2008, of which—

''(1) $3,000,000 shall be used to pay operations costs (including not more than $1,000 for official reception and representation expenses); and

''(2) $1,000,000 shall be used for grants or other appropriate arrangements to pay the

costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.''.

TITLE X—MISCELLANEOUS PROVISIONS

Subtitle A—Cultural Provisions

SEC. 10101. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Director shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Director which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Director, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this Act, the Director shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this Act:

(1) AUTHORITY.—The term ''Authority'' means the Native American Cultural and Educational Authority of Oklahoma, and agency of the State of Oklahoma.

(2) CENTER.—The term ''Center'' means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) DIRECTOR.—The term ''Director'' means the Director of the Institute of Museum and Library Services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

SEC. 10102. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting ''and Celilo Village'' after ''existing sites''.

SEC. 10103. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

Subtitle B—Self-Determination Provisions

SEC. 10201. INDIAN SELF-DETERMINATION ACT AMENDMENTS.

(a) APPLICATION OF LAWS TO ADMINISTRATIVE APPEALS.—Section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m–1) is amended by striking subsection (c) and inserting the following:

''(c) APPLICATION OF LAWS TO ADMINISTRATIVE APPEALS.—

''(1) IN GENERAL.—The Equal Access to Justice Act (5 U.S.C. 504 note; Public Law 96–481), section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, shall apply to an administrative appeal by a tribal organization that—

''(A) is pending on or filed after October 5, 1988; and

''(B) relates to a contract, a grant agreement, or any other agreement or compact authorized under—

''(i) this Act; or

''(ii) the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.).

''(2) FEE.—

''(A) IN GENERAL.—In the case of any claim for a fee described in subparagraph (B), the fee shall be $125 per hour, unless an appropriate Federal agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee.

''(B) DESCRIPTION OF CLAIM.—A claim described in this subparagraph is—

''(i) a claim by a person for a fee for services relating to an appeal described in paragraph (1) that are performed on or after March 29, 1996; or

''(ii) a claim by a person for a fee for services that—

''(I) is asserted on or after March 29, 1996; but

''(II) is for a fee for services relating to an appeal described in paragraph (1) performed before that date.''.

(b) INCORPORATION OF SELF-DETERMINATION PROVISIONS.—Section 403 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458cc) is amended by striking subsection (l) and inserting the following:

''(l) INCORPORATION OF SELF-DETERMINATION PROVISIONS.—

''(1) IN GENERAL.—At the option of any participating Indian tribe, any or all of the provisions of title I or V shall be incorporated in a compact or funding agreement entered into under this title.

''(2) FORCE AND EFFECT.—A provision incorporated under paragraph (1) shall—

''(A) have the same force and effect as if included in this title; and

''(B) be deemed to—

''(i) supplement or supplant any related provision in this title, as appropriate; and

''(ii) apply to any agency subject to this title.

''(3) TIMING.—In any case in which an Indian tribe requests incorporation of a provision under paragraph (1) during the negotiation stage of a compact or funding agreement described in that paragraph, the incorporation shall—

''(A) be considered to be effective immediately; and

''(B) control the negotiation and any resulting compact or funding agreement.''.

Subtitle C—Indian Arts and Crafts

SEC. 10301. INDIAN ARTS AND CRAFTS ACT AMENDMENTS.

Section 2(g) of the Act of August 27, 1935 (25 U.S.C. 305a(g)), is amended—

(1) in paragraph (1), by inserting ''trademarks for'' after ''products and'';

(2) in paragraph (3), by striking ''and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and'' and inserting a semicolon;

(3) in paragraph (4), by striking ''to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office'' and inserting ''to file with the United States Patent and Trademark Office, and prosecute, an application for any trademark or other mark described in paragraph (1) that is owned by an individual Indian, Indian tribe, or Indian arts and crafts organization, for registration without charge in the United States Patent and Trademark Office''; and

(4) by inserting after the semicolon at the end the following: ''(5)(A) to assign any trademark described in paragraph (2) that is owned by the Federal Government, and the goodwill associated with the trademark, to an individual Indian, Indian tribe, or Indian arts and crafts organization; and (B) to record any such assignment in the United States Patent and Trademark Office, without charge; and (6) to pursue or defend in the appropriate courts of the United States any appeal or proceeding with respect to any final determination of the United States Patent and Trademark Office;''.

Subtitle D—Certification of Rental Proceeds

SEC. 10401. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

SA 4981. Mr. REID (for Mr. INOUYE) proposed an amendment to amendment SA 4980 proposed by Mr. REID (for Mr. INOUYE (for himself and Mr. CAMPBELL)) to the bill S. 2711, to reauthorize and improve programs relating to Native Americans; as follows:

Beginning on page 1–1, strike line 1 and all that follows through page 1–8, line 21.

Beginning on page 2–8, strike line 9 and all that follows through page 2–12, line 9.

Beginning on page 4–9, strike line 3 and all that follows through page 4–10, line 22, and insert the following:

SEC. 4201. INDIAN LAND CONSOLIDATION ACT AMENDMENTS.

Section 217(c) of the Indian Land Consolidation Act (25 U.S.C. 2216(c)) is amended—

(1) by striking the subsection heading and all that follows through the end of the first sentence and inserting the following:

''(c) ACQUISITION OF INTEREST BY SECRETARY.—

''(1) REQUEST.—

''(A) IN GENERAL.—An Indian, or the recognized tribal government of a reservation, that is in possession of any portion of the fee interest in a parcel of land described in subparagraph (B) may request that the interest be taken into trust by the Secretary.

''(B) LAND.—A parcel of land described in this subparagraph is any parcel of land—

''(i) that is located within a reservation; and

''(ii) at least a portion of the ownership interest in which is held by the Secretary, in trust or restricted status, on November 7, 2000.''; and

(2) in the second sentence, by striking ''Upon'' and inserting the following:

''(2) INTEREST.—Upon''.

On page 4–15, strike lines 6 through 16 and insert the following:

SEC. 4208. AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the ''Tribes'') may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck–Montana Compact (Montana Code Annotated 85–20–201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), pursuant to section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(B) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

Beginning on page 10–4, strike line 19 and all that follows through page 10–9, line 14, and insert the following:

Subtitle B—Indian Probate Reform

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the ''Indian Probate Reform Act of 2002''.

SEC. 10202. FINDINGS.

Congress makes the following findings:

(1) The General Allotment Act of 1887 (commonly known as the 'Dawes Act'), which authorized the allotment of Indian reservations, did not allow Indian allotment owners to provide for the testamentary disposition of the land that was allotted to those owners.

(2) The Dawes Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment.

(3) The Federal Government's reliance on the State law of intestate succession with respect to the descendency of allotments has resulted in numerous problems affecting Indian tribes, their members, and the Federal Government. Those problems include—

(A) the increasing fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each of a decedent's interests in trust and restricted land if that land is located within the boundaries of more than 1 State, which application makes probate planning unnecessarily difficult and impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which is unfair to the owners of trust and restricted land and their heirs and devisees and which makes probate planning more difficult.

(4) Based on the problems identified in paragraph (3), a uniform Federal probate code would likely—

(A) reduce the number of unnecessary fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate inter-tribal efforts to produce tribal probate codes pursuant to section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this subtitle to interests in trust or restricted land.

CHAPTER 1—INDIAN PROBATE REFORM

SEC. 10211. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Subsection (a) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206(a)) is amended to read as follows:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, or a tribal probate code enacted pursuant to section 206, the owner of an interest in trust or restricted land may devise such an interest to the Indian tribe with jurisdiction over the land so devised, or to any Indian in trust or restricted status or as a passive trust interest (as provided for in section 207A).

''(B) STATUS.—The devise of an interest in trust or restricted land to an Indian under subparagraph (A) shall not alter the status of such an interest as a trust or restricted interest unless the testator provides that the interest is to be held as a passive trust interest.

''(2) DEVISE OF TRUST OR RESTRICTED LAND IN PASSIVE TRUST OR FEE STATUS.—

''(A) IN GENERAL.—Except as provided in any applicable Federal law, any interest in trust or restricted land that is not devised pursuant to paragraph (1) may only be devised—

''(i) as a life estate to any non-Indian person (the remainder interest may only be devised pursuant to clause (ii), subparagraph (C), or paragraph (1)(A));

''(ii)(I) to the testator's lineal descendant or heir of the 1st or 2nd degree as a passive trust interest (to be known as an 'eligible passive trust devisee'); or

''(II) if the testator does not have an heir of the 1st or 2nd degree or a lineal descendant, to any lineal descendant of a testator's Indian grandparent as a passive trust interest (to be known as an 'eligible passive trust devisee'); or

''(iii) in fee status as provided for in subparagraph (C).

''(B) PRESUMED DEVISE OF PASSIVE TRUST INTEREST.—Any devise to an eligible passive trust devisee, including the devise of a remainder interest from the devise of a life estate under subparagraph (A)(ii), that does not indicate whether the interest is devised as a passive trust interest or a fee interest shall be construed to devise a passive trust interest.

''(C) DEVISE OF A FEE INTEREST.—Subject to subparagraph (D), any interest in trust or restricted land that is not devised pursuant to paragraph (1), or devised to an eligible passive trust devisee pursuant to subparagraph (A), may be devised to a non-Indian in fee status.

''(D) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464) may only be devised pursuant to such section 4, subparagraph (A) of this paragraph, or paragraph (1) of this subsection.

''(3) DEVISE OF A PASSIVE TRUST INTEREST.—

''(A) IN GENERAL.—The holder of an interest in trust or restricted land that is held as a passive trust interest may devise the interest as a passive trust interest only to—

''(i) any Indian or the Indian tribe that exercises jurisdiction over the interest;

''(ii) the holder's lineal descendants or heirs of the first or second degree;

''(iii) any living descendant of the decedent from whom the holder acquired the interest by devise or descent; and

''(iv) any person who owns a pre-existing interest or a passive trust interest in the same parcel of land if the pre-existing interest is held in trust or restricted status or in passive trust status.

''(B) INELIGIBLE DEVISEES AND INTESTATE SUCCESSION.—A passive trust interest that is devised to a person who is not eligible under subparagraph (A) or that is not disposed of by a valid will shall pass pursuant to the applicable law of intestate succession as provided for in subsection (b).''.

(b) INTESTATE SUCCESSION.—Subsection (b) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206(b)) is amended to read as follows:

''(b) INTESTATE SUCCESSION.—

''(1) RULES OF DESCENT.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted land that is not disposed of by a valid will shall—

''(i) descend according to a tribal probate code that is approved pursuant to section 206; or

''(ii) in the case of an interest in trust or restricted land to which such a code does not apply, be considered an 'intestate interest' and descend pursuant to paragraph (2), this Act, and other applicable Federal law.

''(B) CLASSIFICATIONS.—For purposes of applying this subsection, intestate interests referred to in subparagraph (A)(ii) shall be classified as either—

''(i) a devise or inheritance interest (an interest acquired by a decedent through devise or inheritance); or

''(ii) an acquired interest (an interest acquired by a decedent by any means other than devise or inheritance and an interest acquired by a decedent through devise or inheritance)—

''(I) if the decedent—

''(aa) acquired additional undivided interests in the same parcel as the interest, by a means other than devise or inheritance; or

''(bb) acquired land adjoining the parcel of land that includes the interest; or

''(II) if the parcel of land that includes the interest includes the decedent's spouse's residence.

''(2) INTESTATE SUCCESSION.—An interest in trust or restricted land described in paragraph (1)(A)(ii) (an intestate interest) shall descend as provided for in this paragraph:

''(A) SURVIVING INDIAN SPOUSE.—If a decedent is survived by an Indian spouse and the decedent's estate includes—

''(i) one or more acquired interests, the decedent's spouse shall receive all such acquired interests; or

''(ii) one or more devise or inheritance Interests, and—

''(I) the decedent is not survived by an Indian heir of the first or second degree, the decedent's spouse shall receive all such devise or inheritance interests; or

''(II) the decedent is survived by an Indian heir of the first or second degree, the decedent's devise or inheritance interest shall descend pursuant to paragraph (3)(A).

''(B) SURVIVING NON-INDIAN SPOUSE.—If a decedent is survived by a non-Indian spouse and the decedent's estate includes—

''(i) one or more acquired interests, the decedent's spouse shall receive a life estate in such acquired interest, and if the decedent is—

''(I) survived by an Indian heir of the 1st or 2nd degree, the remainder interests shall descend pursuant to paragraph (3)(A); or

''(II) not survived by an Indian heir of the 1st or 2nd degree, the remainder interest shall descend pursuant to paragraph (3)(C); or

''(ii) one or more devise or inheritance interests, and the decedent is—

''(I) survived by an Indian heir of the 1st or 2nd degree, such devise or inheritance interests shall descend pursuant to paragraph (3)(A); or

''(II) not survived by an Indian heir of the 1st or 2nd degree, such devise or inheritance interest shall descend pursuant to paragraph (3)(C).

''(C) NO SURVIVING SPOUSE.—If the decedent is not survived by a spouse, and the decedent's estate includes one or more acquired interests or one or more devise or inheritance interests and the decedent is—

''(i) survived by an Indian heir of the 1st or 2nd degree, the acquired interests or devise or inheritance interests shall descend pursuant to paragraph (3)(A); or

''(ii) not survived by an Indian heir of the 1st or 2nd degree, the acquired interests or devise or inheritance interests shall descend pursuant to paragraph (3)(C).

''(3) RULES APPLICABLE TO INTESTATE SUCCESSION.—

''(A) INDIAN HEIRS.—For purposes of this subsection, Indian heirs of the 1st or 2nd degree shall inherit in the following order:

''(i) The Indian children of the decedent, in equal shares, or if one or more of those Indian children do not survive the decedent, such Indian children of the decedent's deceased child shall inherit by right of representation.

''(ii) If the decedent has no Indian children or grandchildren (that take by representation under clause (i)), to the decedent's Indian brothers and sisters in equal shares.

''(iii) If the decedent has no Indian brothers or sisters, to the decedent's Indian parent or parents.

''(B) RIGHT OF REPRESENTATION.—For purpose of this subsection, in any case involving the determination of a right of representation—

''(i) each interest in trust land shall be equally divided into a number of shares that equals the sum of—

''(I) the number of surviving heirs in the nearest degree of kinship; and

''(II) the number of deceased persons in that same degree, if any, who left issue who survive the decedent;

''(ii) each surviving heir described in clause (i)(I) shall receive 1 share; and

''(iii)(I) each deceased person described in clause (i)(II) shall receive 1 share; and

''(II) that share shall be divided equally among the surviving issue of the deceased person.

''(C) NO INDIAN HEIRS.—

''(i) IN GENERAL.—For purposes of this subsection, if a decedent does not have an Indian heir of the 1st or 2nd degree, an interest shall descend to an Indian collateral heir who is a co-owner of an interest owned by the decedent if any.

''(ii) MULTIPLE COLLATERAL HEIRS.—If—

''(I) more than one Indian collateral heir owns an interest in an interest referred to in clause (i), the interest shall descend to the collateral heir that owns the largest undivided interest in the parcel; or

''(II) two or more collateral heirs own equal shares in an interest referred to in clause (i), the interest passing pursuant to this subsection shall be divided equally between those collateral heirs that own equal shares.

''(iii) NO OWNERSHIP.—If none of the decedent's collateral heirs own an interest in the interest referred to in clause (i), the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to clause (iv).

''(iv) ACQUISITION OF INTEREST.—Notwithstanding clause (iii), an Indian co-owner of a parcel of trust or restricted land may acquire an interest subject to such clause by paying into the decedent's estate, before the close of the probate of the decedent's estate, the fair market value of the interest in such land. If more than 1 Indian co-owner (including the Indian tribe referred to in clause (iii)) offers to pay for such an interest, the highest bidder shall acquire the interest.

''(v) DEFINITION.—In this subparagraph, the term 'collateral heir' means the decedent's aunt, uncle, niece, nephew, and first cousin.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—For purposes of this section, an individual who fails to survive a decedent by at least 120 hours is deemed to have predeceased the decedent for the purposes of intestate succession, and the heirs of the decedent shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by at least 120 hours, the individual shall be deemed to have failed to survive for the required time-period for the purposes of the preceding sentence.

''(5) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—For the purposes of this section, if the surviving spouse of a testator married the testator after the testator executed his or her will, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have otherwise received if the testator had died intestate. The preceding sentence shall not apply to an interest in trust or restricted land where—

''(i) the will is executed before the date of enactment of this subsection;

''(ii) the testator's spouse is a non-Indian and the testator has devised his or her interests in trust or restricted land to an Indian or Indians;

''(iii) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

''(iv) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

''(v) the testator provided for the spouse by a transfer of funds or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

''(B) CHILDREN.—For the purposes of this section, if a testator executed his or her will prior to the birth or adoption of 1 or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, those children shall share in the decedent's intestate interests in trust or restricted land as if the decedent had died intestate. Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (54 Stat 746), shall be treated as a decedent's child under this section.

''(6) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—For the purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife shall not be considered a divorce for the purposes of this subsection.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed to prevent an entity responsible for adjudicating interests in trust or restricted land from giving force and effect to a property right settlement if one of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—If after executing a will the testator is divorced or the marriage of the testator is annulled, upon the effective date of the divorce or annulment any disposition of interests in trust or restricted land made by the will to the former spouse shall be deemed to be revoked unless the will expressly provides otherwise. Property that is prevented from passing to a former spouse based on the preceding sentence shall pass as if the former spouse failed to survive the decedent. Any provision of a will that is revoked solely by operation of this paragraph shall be revived by the testator's remarriage to the former spouse.

''(7) NOTICE.—To the extent practicable, the Secretary shall notify the owners of trust and restricted land of the provisions of this Act. The notice may, at the discretion of the Secretary, be provided together with the notice required under section 207(g).''.

(c) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) RULE OF CONSTRUCTION.—For purposes of subsections (a) and (b), any reference to 'applicable Federal law' shall be construed to include Public Law 91-627 (84 Stat. 1874, amending section 7 of the Act of August 9, 1946), Public Law 92-377 (86 Stat. 530), Public Law 92-443 (86 Stat. 744), Public Law 96-274 (94 Stat. 537), and Public Law 98-513 (98 Stat. 2411). Nothing in this section shall be construed to amend or alter such Public Laws or any other Federal law that provides for the devise and descent of any trust or restricted lands located on a specific Indian reservation.''.

(d) PASSIVE TRUST STATUS FOR TRUST OR RESTRICTED LAND.—The Indian Land Consolidation Act is amended by inserting after section 207 (25 U.S.C. 2206) the following:

''SEC. 207A. PASSIVE TRUST STATUS FOR TRUST OR RESTRICTED LAND.

''(a) PASSIVE TRUST.—The owner of an interest in trust or restricted land may submit an application to the Secretary requesting that such interest be held in passive trust interest status. Such application may authorize the Secretary to amend or alter any existing lease or agreement with respect to the interest that is the subject of the application.

''(b) APPROVAL.—Upon the approval of an application by the Secretary under subsection (a), an interest in trust or restricted land shall be held as a passive trust interest in accordance with this section.

''(c) REQUIREMENTS.—Except as provided in this section, an interest in trust or restricted land that is held as a passive trust interest under this section—

''(1) shall continue to be covered under any applicable tax-exempt status and continue to be subject to any restrictions on alienation until such interest is patented in fee status;

''(2) may, without the approval of the Secretary, be—

''(A) leased for a period of not to exceed 25 years;

''(B) mortgaged pursuant to the Act of March 29, 1956 (25 U.S.C. 483a); or

''(C) sold or conveyed to an Indian, the Indian tribe that exercises jurisdiction over the interest, or a co-owner of an interest in the same parcel of land if the co-owner owns a pre-existing trust, restricted interest, or a passive trust interest in the parcel; and

''(3) may be subject to an ordinance or resolution enacted under subsection (d).

''(d) ORDINANCE OR RESOLUTION FOR REMOVAL OF STATUS.—

''(1) IN GENERAL.—The governing body of the Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is held as a passive trust interest in accordance with this section may enact an ordinance or resolution to allow the owner of such an interest to apply to the Secretary for the removal of the trust or restricted status of such portion of such lands that are subject to the tribe's jurisdiction.

''(2) REVIEW BY SECRETARY.—The Secretary shall review and may approve an ordinance or resolution enacted by an Indian tribe pursuant to paragraph (1) if the Secretary determines that the ordinance or resolution is consistent with this Act and will not increase fractionated ownership of Indian land.

''(e) REVENUES OR ROYALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not be responsible for the collection of or accounting for any lease revenues or royalties accruing to an interest held as a passive trust interest by any person under this section.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an interest described in such paragraph if the Secretary approves an application to have such interest be taken into active trust status on behalf of an Indian or an Indian tribe pursuant to regulations enacted by the Secretary.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to alter the authority or responsibility of the Secretary, if any, with respect to an interest in trust or restricted land held in active trust status, including an undivided interest within the same parcel of land as an undivided passive trust interest.

''(f) JURISDICTION OVER PASSIVE TRUST INTEREST.—An Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is devised or held as a passive trust interest under this section shall continue to exercise jurisdiction over the land that is held as a passive trust interest and any person holding, leasing, or otherwise using such land shall be deemed to have consented to the jurisdiction of such a tribe with respect to the use of such land, including any impacts associated with any use of such lands.

''(g) PROBATE OF PASSIVE TRUST INTERESTS.—An interest in trust or restricted land that is held as a passive trust interest under this section shall be subject to probate by the Secretary pursuant to this Act and other laws applicable to the probate of trust or restricted land. Any interested party may file an application to commence the probate of an interest in trust or restricted land held as a passive trust interest.

''(h) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.''.

(e) PARTITION.—Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, in accordance with this subsection and subject to paragraphs (2), (3), and (4)—

''(A) an Indian tribe may apply to the Secretary for the partition of a parcel of land that is—

''(i) located within the reservation of the Indian tribe; or

''(ii) otherwise under the jurisdiction of the Indian tribe; and

''(B) the Secretary may commence a process for partitioning a parcel of land as provided for in paragraphs (2)(B) and (6)(B), if—

''(i) an Indian tribe owns an undivided interest in the parcel of land and such tribe consents to the partition;

''(ii)(I) the tribe referred to in clause (i) meets the ownership requirement of clauses (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii); and

''(iii) the tribe referred to in paragraph (3), if any, consents to the partition.

For purposes of this subsection, the term 'eligible Indian tribe' means an Indian tribe described in subparagraph (A) and (B)(i).

''(2) TRIBAL OWNERSHIP.—A parcel of land may be partitioned under this subsection if, with respect to the eligible Indian tribe involved—

''(A) the tribe owns an undivided interest in the parcel of land; and

''(B)(i) the tribe owns 50 percent or more of the undivided interest in the parcel;

''(ii) the tribe is the owner of the largest quantity of undivided interest in the parcel; or

''(iii) the owners of undivided interests equal to at least 50 percent of the undivided interests in the parcel (including any undivided interest owned by the tribe) consent or do not object to the partition.

''(3) TRIBAL CONSENT.—A parcel of land that is located within the reservation of an Indian tribe or otherwise under the jurisdiction of an Indian tribe shall be partitioned under this subsection only if the Indian tribe does not object to the partition.

''(4) APPLICABILITY.—This subsection shall not apply to any parcel of land that is the bona fide residence of any person unless the person consents to the partition in writing.

''(5) PARTITION IN KIND.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of land under this paragraph; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii).

''(B) PARTITION PROCESS.—In carrying out any partition, the Secretary shall—

''(i) provide, to each owner of any undivided interest in the parcel to be partitioned, through publication or other appropriate means, notice of the proposed partition;

''(ii) make available to any interested party a copy of any proposed partition plan submitted by an Indian tribe or proposed by the Secretary; and

''(iii) review—

''(I) any proposed partition plan submitted by any owner of an undivided interest in the parcel; and

''(II) any comments or objections concerning a partition, or any proposed plan of partition, submitted by any owner or any other interested party.

''(C) DETERMINATION NOT TO PARTITION.—If the Secretary determines that a parcel of land cannot be partitioned in a manner that is fair and equitable to the owners of the parcel, the Secretary shall inform each owner of the parcel of—

''(i) the determination of the Secretary; and

''(ii) the right of the owner to appeal the determination.

''(D) PARTITION WITH CONSENT OF QUALIFIED INDIAN TRIBE.—If the Secretary determines that a parcel of land may be partitioned in a manner that is fair and equitable to the owners of the parcel, and the Indian tribe meets the applicable ownership requirements under clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i) approve a plan of partition;

''(ii) provide notice to the owners of the parcel of the determination of the Secretary;

''(iii) make a copy of the plan of partition available to each owner of the parcel; and

''(iv) inform each owner of the right to appeal the determination of the Secretary to partition the parcel in accordance with the plan.

''(E) PARTITION WITH CONSENT; IMPLIED CONSENT.—If the Secretary determines that a parcel may be partitioned in a manner that is fair and equitable to the owners of the parcel, but the Indian tribe involved does not meet the applicable ownership requirements under clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i)(I) make a plan of partition available to the owners of the parcel; and

''(II) inform the owners that the parcel will be partitioned in accordance with the plan if the owners of 50 percent or more of undivided ownership interest in the parcel either—

''(aa) consent to the partition; or

''(bb) do not object to the partition by such deadline as may be established by the Secretary;

''(ii) if the owners of 50 percent or more of undivided ownership interest in the parcel consent to the partition or do not object by a deadline established by the Secretary under clause (i)(II)(bb), inform the owners of the parcel that—

''(I) the plan for partition is final; and

''(II) the owners have the right to appeal the determination of the Secretary to partition the parcel; and

''(iii) if the owners of 50 percent or more of the undivided ownership interest in the parcel object to the partition, inform the Indian tribe of the objection.

''(F) SUCCESSIVE PARTITION PLANS.—In carrying out subparagraph (E) in accordance with paragraph (2)(B)(iii), the Secretary may, in accordance with subparagraph (E)—

''(i) approve 1 or more successive plans of partition; and

''(ii) make those plans available to the owners of the parcel.

''(G) PLAN OF PARTITION—A plan of partition approved by the Secretary in accordance with subparagraph (D) or (E)—

''(i) may determine that 1 or more of the undivided interests in a parcel are not susceptible to a partition in kind;

''(ii) may provide for the sale or exchange of those undivided interests to—

''(I) 1 or more of the owners of undivided interests in the parcel; or

''(II) the Secretary in accordance with section 213; and

''(iii) shall provide that the sale of any undivided interest referred to in clause (ii) shall be for not less than the fair market value of the interest.

''(6) PARTITION BY SALE.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of land under this subsection; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii).

''(B) PARTITION PROCESS.—In carrying out any partition of a parcel, the Secretary—

''(i) shall conduct a preliminary appraisal of the parcel;

''(ii) shall provide, to the owners of the parcel, through publication or other appropriate means—

''(I) notice of the application of the Indian tribe to partition the parcel; and

''(II) access to the preliminary appraisal conducted in accordance with clause (i);

''(iii) shall inform each owner of the parcel of the right to submit to the Secretary comments relating to the preliminary appraisal;

''(iv) may, based on comments received under clause (iii), modify the preliminary appraisal or provide for the conduct of a new appraisal; and

''(v) shall—

''(I) issue a final appraisal for the parcel;

''(II) provide to the owners of the parcel and the appropriate Indian tribes access to the final appraisal; and

''(III) inform the Indian tribes of the right to appeal the final appraisal.

''(C) PURCHASE BY QUALIFIED INDIAN TRIBE.—If an eligible Indian tribe agrees to pay fair market value for a partitioned parcel, as determined by the final appraisal of the parcel issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), and the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i) provide to each owner of the parcel notice of the decision of the Indian tribe; and

''(ii) inform the owners of the right to appeal the decision (including the right to appeal any final appraisal of the parcel referred to in subparagraph (B)(v)(III)).

''(D) PARTITION WITH CONSENT; IMPLIED CONSENT.—

''(i) IN GENERAL.—If an eligible Indian tribe agrees to pay fair market value for a partitioned parcel, as determined by the final appraisal of the parcel issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), but does not meet the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(I) provide notice to the owners of the undivided interest in the parcel; and

''(II) inform the owners that the parcel will be partitioned by sale unless the partition is opposed by the owners of 50 percent or more of the undivided ownership interest in the parcel.

''(ii) FAILURE TO OBJECT TO PARTITION.—If the owners of 50 percent or more of undivided ownership interest in or to a parcel consent to the partition or the parcel, or do not object to the partition by such deadline as may be established by the Secretary, the Secretary shall inform the owners of the parcel of the right to appeal the determination of the Secretary (including the results of the final appraisal issued under subparagraph (B)(v)(I)).

''(iii) OBJECTION TO PARTITION.—If the owners of 50 percent or more of the undivided ownership interest in a parcel object to the partition of the parcel—

''(I) the Secretary shall notify the Indian tribe of the objection; and

''(II) the Indian tribe and the Secretary may agree to increase the amount offered to purchase the undivided ownership interests in the parcel.

''(7) ENFORCEMENT.—

''(A) IN GENERAL.—If, with respect to a parcel, a partition in kind is approved under subparagraph (D) or (E) of paragraph (5), or a partition by sale is approved under paragraph (6)(C), and the owner of an interest in or to the parcel fails or refuses to convey the interest to the Indian tribe, the Indian tribe or the United States may—

''(i) bring a civil action in the United States district court for the district in which the parcel is located; and

''(ii) request the court to issue an appropriate order for the partition in kind, or partition by sale to the Indian tribe, of the parcel.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) no civil action brought under this section shall be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is an indispensable party.''.

SEC. 10212. OTHER AMENDMENTS.

(a) OTHER AMENDMENTS.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prevents the devise of an interest in trust or restricted land to—

''(A) an Indian lineal descendant of the original allottee; or

''(B) to an Indian who is not a member of the tribe that exercises jurisdiction over such an interest unless the code provides for the renouncing of interests (to eligible devisees pursuant to such a code), the opportunity for a devisee who is the testator's spouse or lineal descendant to reserve a life estate, and payment of fair market value in the manner prescribed under subsection (c)(2).'';

(B) in subsection (c)(1)—

(i) by striking ''section 207(a)(6)(A)'' and inserting ''sections 207(a)(2)(A)(ii), 207(a)(2)(C), and 207(a)(3)''; and

(ii) by striking the last sentence and inserting ''The Secretary shall transfer such payments to any person or persons who would have received an interest in land if the interest had not been acquired by the tribe pursuant to this paragraph.''; and

(C) in subsection (c)(2)—

(i) in subparagraph (A)—

(I) by striking ''(A) IN GENERAL.—Paragraph'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph'';

(II) by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(III) by striking the period and inserting ''; or''; and

(IV) by adding at the end the following:

''(II) the interest is part of a family farm that is devised to a member of the decedent's family if the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—Upon the request of an Indian tribe described in clause (i)(II), a restriction relating to the acquisition by such tribe of an interest in the family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) RULE OF CONSTRUCTION.—Nothing in clause (i)(II) shall be construed to prevent or limit the ability of an owner of land to which that clause applies to mortgage the land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law.

''(iv) DEFINITION.—In this paragraph, the term 'member of the decedent's family' means the decedent's lineal descendant, a lineal descendant of the grandparent of the decedent, the spouse of any such descendant, or the decedent's spouse.''; and

(ii) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B)'' and inserting ''paragraph (1)'';

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (c)—

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

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

''(3) ALIENATION OF JOINT TENANCY INTERESTS.—

''(A) IN GENERAL.—With respect to any interest held as a joint tenancy pursuant to this subsection—

''(i) nothing in this subsection shall be construed to alter the ability of the owner of such an interest to convey a life estate in the owner's undivided joint tenancy interest; and

''(ii) only the last remaining owner of such an interest may devise or convey more than a life estate in such an interest.

''(B) APPLICATION OF PROVISION.—This paragraph shall not apply to any conveyance, sale, or transfer that is part of an agreement referred to in subsection (e) or to a co-owner of a joint tenancy interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(4) in section 213 (25 U.S.C. 2212)—

(A) in subsection (a)(2), by striking ''(A) IN GENERAL.—'' and all that follows through ''subparagraph (A), the Secretary'' and inserting ''The Secretary'';

(B) in subsection (b)(4), by inserting before the period the following: ''through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program (established by this Act) though the elimination of duplicate conveyance documents, administrative proceedings, and transactions, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation''; and

(C) in subsection (c)—

(i) in paragraph (1)(A), by striking ''landowner upon payment'' and all that follows through the period and inserting the following: ''landowner—

''(i) upon payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if the Indian referred to in this subparagraph provides assurance that the purchase price will be paid by pledging revenue from any source, including trust resources, and the Secretary determines that the purchase price will be paid in a timely and efficient manner.'';

(ii) in paragraph (1)(B), by inserting ''unless the interest is subject to a foreclosure of a mortgage pursuant to the Act of March 29, 1956 (25 U.S.C. 483a)'' before the period; and

(iii) in paragraph (3), by striking ''10 percent of more of the undivided interests'' and inserting ''an undivided interest'';

(5) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described under subsection (a) until the Secretary provides for the removal of the lien under paragraph (3) or (4).

''(2) REQUIREMENTS.—Until Secretary removes the lien from an interest of land as provided for in paragraph (1)—

''(A) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary;

''(B) any revenue derived from any interest acquired by the Secretary pursuant to section 213 shall be paid into the fund created under section 216; and

''(C) the Secretary may approve a transaction covered under this section on behalf of a tribe notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476).

''(3) FINDINGS BY SECRETARY.—The Secretary may remove a lien referred to in (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) REMOVAL OF LIEN.—Pursuant to the consultations referred to in section 213(b)(3), the Secretary shall periodically remove the lien referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(6) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation where the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may utilize the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land pursuant to section 205.'';

(7) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using or consolidating, or is applying to, lease, use, or consolidate,''; and

(B) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY TRIBE.—

''(1) IN GENERAL.—Before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe that exercises jurisdiction over such a parcel shall have the opportunity to match any offer contained in such application, or where there is no purchase price offered, to acquire the interest in such land by paying the fair market value of such interest.

''(2) EXCEPTION FOR FAMILY FARMS.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the landowner's family (as defined in section 206(c)(2)(A)(iv)) if the tribe that exercises jurisdiction over the land is afforded the opportunity to purchase the interest if the interest is offered for sale to an entity that is not a member of the family of the owner of the land. Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of the trust or restricted land referred to in the preceding sentence.''; and

(8) in section 219(b)(1)(A) (25 U.S.C. 2219(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 202(2) of the Indian Land Consolidation Act (25 U.S.C. 2201(2)) is amended—

(A) by striking ''means any'' and inserting the following: ''means—

''(A) any'';

(B) by striking ''or any person who has been found to meet'' and inserting the following:

''(B) any person who meets''; and

(C) by striking ''if the Secretary'' and all that follows through the semicolon and inserting '', except that the Secretary may promulgate regulations to exclude any definition (except for definitions in laws that are related to land such as agriculture, grazing, housing, Indian schools, economic development, cultural resources, natural resources, and other laws providing for programs with benefits intended to run to Indian landowners and any future land-related programs) if the Secretary determines that the definition is not consistent with the purposes of this Act, or

''(C) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person who meets the definition of Indians of California as contained in section 1 of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress pursuant to section 809(b) of Public Law 94-437 (25 U.S.C. 1679(b));''.

(2) EFFECTIVE DATE.—Any exclusion referred to in the amendment made by paragraph (1)(C) shall apply only to those decedents who die after the Secretary of the Interior promulgates the regulation providing for such exclusion.

(c) MORTGAGES AND DEEDS OF TRUST.—The Act of March 29, 1956 (25 U.S.C. 483a) is amended in the first sentence of subsection (a) by inserting ''(including land owned by any person in passive trust status pursuant to section 207A of the Indian Land Consolidation Act)'' after ''land'' the first place that such appears.

(d) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348) is amended by striking the second proviso and inserting the following: ''*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply thereto after those patents have been executed and delivered:''.

(e) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by striking '', in accordance with'' and all that follows through the colon and inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

SEC. 10213. EFFECTIVE DATE.

This amendments made by this subtitle shall not apply to the estate of an individual who dies prior to the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

CHAPTER 2—INHERITANCE OF CERTAIN TRUST OR RESTRICTED LANDS

SEC. 10221. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LANDS.

Section 5 of Public Law 98–513 (98 Stat. 2411) is amended to read as follows:

''SEC. 5. (a) Notwithstanding any other provision of this Act—

''(1) subject to paragraph (2), the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in such land that is less than two and one half acres (or the equivalent thereof) to more than one tribal member;

''(2) the owner of an interest in trust or restricted land within the reservation may devise an interest (including a life estate under section 4) in such land that is less than two and one half acres (or the equivalent thereof) to more than one tribal member if each additional tribal member already holds an interest to such land; and

''(3) any interest in trust or restricted land within the reservation that is less than two and one half acres (or the equivalent thereof) that—

''(A) would otherwise pass by intestate succession (including a life estate in such land under section 4); or

''(B) is devised to more than one tribal member that is not described in paragraph (2);

shall escheat to the tribe, to be held in the name of the United States in trust for the tribe.

''(b) Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2002, the Secretary shall provide notice to owners of trust or restricted lands within the Lake Traverse Reservation of the enactment of this section by direct mail, publication in the Federal Register, or through local newspapers. After providing such notice, the Secretary shall certify that the requirements of this subsection have been met and shall publish notice of such certification in the Federal Register.

''(c) The provisions of this section shall not be enforceable with respect to the estate of any person who dies prior to the day that is 365 days after the Secretary makes the required certification under subsection (b).''.

Subtitle C—Settlement of Certain Foreign Claims

SEC. 10301. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada, notwithstanding any other provision of law, $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment appropriated under subsection (a) shall be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi Nation in Canada and the United States (in this subtitle referred to as the ''Stipulation for Recommendation of Settlement'') and included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94–1037X submitted to the Senate on January 4, 2001, pursuant to the provisions of sections 1492 and 2509 of title 28, United States Code.

(c) FULL SATISFACTION OF CLAIMS.—The payment made under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States referred to or described in the Stipulation for Recommendation of Settlement.

(d) NONAPPLICABILITY.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to the payment appropriated under subsection (a).

Subtitle D—Certification of Rental Proceeds

SEC. 10401. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

Subtitle E—Tribal Sovereignty

SEC. 10601. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

''(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

''(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

''(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).''.

SA 4982. Mr. REID (for Mr. KERRY (for himself and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 1989. To reauthorize various fishing conservation management programs, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. . AUTHORITY TO ACCEPT VOLUNTEER SERVICES.

Section 303 (33 U.S.C. 892a), is amended by adding at the end the following:

''(d) AUTHORITY TO ACCEPT VOLUNTEER SERVICES.—To help fulfill the duties of the Administrator, including authorities under the Act of 1947 (33 U.S.C. 883a et seq.), this Act, or in response to a maritime emergency, the Administrator may—

''(1) establish a volunteer program;

''(2) enter into special agreements with qualified organizations to assist in the implementation of a volunteer program; and

''(3) provide funding under the special agreement to the qualified organization for the purposes of assisting in the administration of the volunteer programs and for procuring and maintaining insurance or other coverage for the organization and its members when conducting volunteer activities.

''(e) LEGAL STATUS OF VOLUNTEERS.—Paragraphs (1) through (5) of section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)) shall apply to volunteers providing services to the Administrator under subsection (c) of this section, except that any reference in that section to the Secretary of the Interior or the Secretary of Commerce shall be deemed to refer to the Administrator.

''(f) QUALIFIED ORGANIZATION.—In this section, the term 'qualified organization' means a non-governmental, not-for-profit organization, determined by the Administrator to have demonstrated expertise in boating safety and a commitment to improving the quality of hydrographic services and related oceanographic and meteorological information that is made available to mariners.''.

SA 4983. Mr. REID (for Mr. KERRY) proposed an amendment to the bill H.R. 1989, to reauthorize various fishing conservation management programs, and for other purposes: as follows:

At the end of the bill, add the following:

TITLE VI—MISCELLANEOUS FISHERIES PROVISIONS

SEC. 601. REPORT ON OVERCAPACITY.

(a) IN GENERAL.—The Secretary of Commerce shall, within 12 months after the date of enactment of his Act, and triennially thereafter, submit to the Congress a report—

(1) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;

(2) in any such fisheries subject to a rebuilding program, identifying and describing the current capacity relative to the capacity that can be supported by the fishery: once the fishery is rebuilt;

(3) recommending measures for reducing excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and

(4) identifying potential sources of funding for such measures.

(b) BASIS FOR RECOMMENDATIONS.—The Secretary shall base the recommendations under subsection (a)(3) made with respect to a fishery on—

(1) the most cost-effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

(2) including measures to prevent the capacity that is being removed from the fishery from moving to other fisheries in the United States, in the waters of a foreign nation, or on the high seas.

SEC. 602. WEST COAST GROUNDFISH FISHERY CAPACITY REDUCTION.

(a) IN GENERAL.—

(1) PURPOSE OF SECTION.—The purpose of this section is to establish a fishing capacity reduction program for the West Coast ground-fish fishery pursuant to section 212 of the 2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States, and subsections (b) through (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a (b) through (e)).

(2) PROGRAM IMPLEMENTATION.—Within 90 days after the date of enactment of this Act, the Secretary shall implement the program by publishing a public notice in the Federal Register and issuing an invitation to bid for reduction payments that specifies the contractual terms and conditions under which bids shall be made and accepted under this section.

(3) APPLICATION OF MAGNUSON-STEVENS ACT; REGULATIONS.—Section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), and subpart L of part 600 of title 50, Code of Federal Regulations, shall apply to the program implemented under this section only to the extent that—

(A) that section and that subpart are not inconsistent with any specific provision of this section; or

(B) made inapplicable to the program under paragraph (3) of this section.

(4) INAPPLICABLE REGULATIONS.—Sections 600.1001, 600.1002, 600.1003, 600.1005, 600.1010(b), 600.1010(d)(1), 600.1011(d), the last sentence of section 600.1011(a), and the last sentence of section 600.1014(f) of title 50, Code of Federal Regulations, shall not apply to the program implemented under this section.

(5) PROGRAM DEEMED ACCEPTED.—The program implemented under this section is deemed to be accepted under section 600.1004 of title 50, Code of Federal Regulations.

(b) ELIGIBILITY.—

(1) IN GENERAL.—A reduction fishery is eligible for capacity reduction under the program implemented under this section.

(2) WHITING CATCHER-PROCESSOR EXCEPTION.—Notwithstanding paragraph (1), no vessel harvesting and processing whiting in the catcher-processors sector (as defined in section 660.323(a)(4)(A) of title 50, Code of Federal Regulations) may participate in any capacity reduction referendum or industry fee established under this section.

(c) APPLICATION OF SECTION 312 OF MAGNUSON-STEVENS ACT.—Subsections (b) through (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) shall apply to the program implemented under this section, except that:

(1) The program may apply to multiple fisheries, as appropriate.

(2) A referendum on the industry fee system shall occur after bids have been submitted, and such bids have been accepted by the Secretary, as follows:

(A) The members of the reduction fishery, and persons who have been issued WA, OR, or CA Dungeness Crab and Pink Shrimp permits, shall be eligible to vote in the referendum to approve an industry fee system.

(B) Referendum votes cast in each fishery shall be weighted in proportion to the debt obligation of each fishery, as calculated in subsection (f) of this section.

(C) The industry fee system shall be approved if the referendum votes cast in favor of the proposed system constitute a simple majority of the participating voting.

(3) Notwithstanding section 553 of title 5, United States Code, and section 312(e) of the Magnuson-Stevens Act (16 U.S.C. 1861a(e)), the Secretary shall not prepare or publish proposed or final regulations for the implementation of the program under this section before the referendum is conducted.

(d) NO INTERFERENCE WITH OTHER PROPOSED PROGRAM CHANGES OR SUBSEQUENT REGULATIONS.—Nothing in this section shall be construed to prohibit—

(1) the Pacific Fishery Management Council from recommending, or the Secretary from approving, changes to any fishery management plan, in accordance with applicable law; or

(2) the Secretary from promulgating regulations (including regulations governing this program), after an industry fee system has been approved by the reduction fishery.

(e) BIDS AND BID ACCEPTANCE.—

(1) IN GENERAL.—The Secretary shall determine, and state in the public notice published under subsection (a)(2) of this section, all program implementation aspects the Secretary deems relevant.

(2) BIDS ARE IRREVOCABLE.—Any bid submitted in response to the invitation to bid issued by the Secretary under this section shall be irrevocable.

(3) BID ACCEPTANCE PROCEDURE.—The Secretary shall use a bid acceptance procedure that ranks each bid in accordance with this paragraph and with additional criteria, if any, established by the Secretary.

(A) BID SCORE.—For each bid from a qualified bidder that meets the bidding requirements in the public notice or the invitation to bid, the Secretary shall determine a bid score by dividing the bid's dollar amount by the average annual total ex-vessel dollar value of landings of Pacific groundfish, Dungeness crab, and Pink Shrimp based on the 3 highest total annual revenues earned from Pacific groundfish, Dungeness crab, and Pink Shrimp that the bidder's reduction vessel landed during 1998, 1999, 2000, or 2001. For purposes of this subparagraph, the term ''total annual revenue'' means the revenue earned in a single year from the Pacific groundfish, Dungeness crab, and Pink shrimp fisheries.

(B) BID RANKING AND ACCEPTANCE.—The Secretary shall accept each qualified bid in rank order of bid score from the lowest to the highest until acceptance of the next qualified bid with the next lowest bid score would cause the reduction cost to exceed the reduction loan's maximum amount.

(4) ACCEPTANCE CREATES CONTRACT.—Acceptance of bid by the Secretary shall create a binding reduction contract between the United States and the person whose bid is accepted, the performance of which shall be subject only to the conclusion of a successful referendum.

(5) RELINQUISHMENT AND REVOCATION OF PERMITS.—A person whose bid is accepted by the Secretary under this section shall relinquish all permits in the reduction fishery and any Dungeness crab and Pink shrimp permits issued by Washington, Oregon, or California. The Secretary shall revoke the Pacific groundfish permit, as well as all Federal fishery licenses, fishery permits, area, and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program.

(f) PROGRAM INDUSTRY FEE SYSTEM ALLOCATION.—

(1) IN GENERAL.—The Secretary shall establish separate reduction loan sub-amounts and repayment fees for fish sellers in the reduction fishery and for fish sellers in each of the fee-share fisheries by—

(A) dividing the total ex-vessel dollar value during the bid scoring period of all reduction vessel landings from the reduction fishery and from each of the fee-share fisheries by the total such value of all such landings for all such fisheries; and

(B) multiplying the reduction loan amount by each of the quotients resulting from each of the divisions above.

(2) REDUCTION LOAN SUB-AMOUNT.—Each of the resulting products shall be the reduction loan sub-amount for the reduction fishery and for each of the fee-share fisheries to which each of such products pertains.

(3) SELLER PAYMENTS.—Each fish seller in the reduction fishery and in each of the fee-share fisheries shall pay the fees required by the reduction loan-sub-amounts allocated to it under this subsection.

(4) STATE COLLECTION AGREEMENTS.—The Secretary may enter into agreements with the States of Washington, Oregon, and California to collect any fees established under the section.

(g) LOAN TERM.—Notwithstanding section 1111(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279(b)(4)), the reduction loan's term shall not be less than 30 years.

(h) SENSE OF THE CONGRESS REGARDING ADDITIONAL POST-REDUCTION PROGRAM ACTIONS.—It is the sense of the Congress that the States of Washington, Oregon, and California should revoke all relinquishment permits in each of the fee-share fisheries immediately after reduction payment, and otherwise to implement appropriate State fisheries management and conservation provisions in each of the fee-share fisheries that establishes a program that meets the requirements of section 312(b(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(b)(1)(B)) as if it were applicable to fee-share fisheries.

(i) DEFINITIONS.—In this section:

(1) FEE-SHARE FISHERY.—The term ''fee-share fishery'' means a fishery, other than the reduction fishery, whose members are eligible to vote in a referendum for an industry fee system under subsection (c)(2).

(2) REDUCTION FISHERY.—The term ''reduction fishery'' means that portion of a fishery holding limited entry fishing permits endorsed for the operation of a trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan.

(3) MAGNUSON-STEVENS ACT.—The term ''Magnuson-Stevens Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 603. NEW ENGLAND GROUNDFISH CAPACITY REDUCTION PLANNING.

The Secretary of Commerce, in consultation with the New England Regional Fishery Management Council, shall provide technical, planning, and other assistance requested by Northeast multispecies fishery participants, affected States and fishing communities, or other interested parties for the development of an industry-funded capacity reduction plan for the fishery (such as that authorized by section 211 of the 2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States), including planning for fisheries community transition to sustainable fisheries. The Secretary may provide technical and other assistance under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), or other applicable law implemented by the Secretary, and may include—

(1) quantification of overcapacity in the rebuilt fishery;

(2) development of geographic and spatial information and analyses for planning and projections;

(3) provision of socio-economic or fishery data;

(4) analyses of socio-economic effects of capacity reduction options;

(5) public workshop planning and support or other mechanisms for public input;

(6) small business financial planning and advice; and

(7) identification of Federal assistance programs.

SEC. 604. CLARIFICATION OF FLEXIBILITY.

(a) IN GENERAL.—The Secretary of Commerce has the discretion under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) to extend the time for rebuilding an overfished stock beyond the time previously established by the Secretary in a fishery management plan in order to meet substantially increased biomass rebuilding targets subsequently established for the fishery by the Secretary based on the best scientific information available, if—

(1) the extension will apply only to those stocks for which the new biomass targets substantially exceed the targets previously established by 100 percent or more;

(2) the biomass rebuilding target previously applicable to such stock will be met or exceeded within the time for rebuilding previously established by the Secretary;

(3) the extension period is based on the biology of the stock, the rate of rebuilding, and the increase in the biomass rebuilding target, and is as short as possible;

(4) monitoring will ensure rebuilding continues;

(5) the extension meets the requirements of section 301(a)(1) of that Act (16 U.S.C. 1851(a)(1)); and

(6) the best scientific information available shows that the extension will allow continued rebuilding.

(b) AUTHORITY.—Nothing in this section shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary under that Act.

SEC. 605. REVIEW OF DATA COLLECTION AND ASSESSMENT METHODS.

The Secretary of Commerce shall, commencing 60 days after the date of enactment of this Act and annually every 7 years thereafter, conduct an independent peer review of fishery management methods under this title, including evaluation and recommendations for—

(1) survey sampling methods and protocols (including inspection, calibration, and maintenance of sampling gear) used in the collection of fishery and fishery-independent data by or for the agency;

(2) stock assessment procedures (including methods for detecting and treating measurement error);

(3) risk assessment and management strategies;

(4) data collection quality control and validation methods; and

(5) an evaluation of the need to develop new assessment, survey, and collection techniques designed to accommodate incomplete or variable data or to evaluate or forecast effects of environmental fluctuations on fisheries.

SEC. 606. COOPERATIVE ENFORCEMENT AGREEMENTS.

(a) IN GENERAL.—The Governor of a State (as defined in section 3(35) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(35)) may apply to the Secretary of Commerce for execution of a cooperative enforcement agreement with the Secretary that will authorize the deputization of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource laws enforced by the Secretary. Upon receiving an application meeting the requirements of this section, the Secretary shall enter into a joint enforcement agreement with the requesting State.

(b) REQUIREMENTS.—Joint enforcement agreements executed under subsection (a)—

(1) shall be consistent with the purposes and intent of section 311(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(a)), to the extent applicable to the regulated activities; and

(2) may include specifications for joint management responsibilities as provided by the first section of Public Law 91–412 (15 U.S.C. 1525).

(c) ALLOCATIONS OF FUNDS.—The Secretary shall include in each cooperative enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be equitably distributed among all States participating in cooperative enforcement agreement under this subsection, based upon consideration of the specific marine conservation enforcement needs of each participating State. Such agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided by the State by the Secretary under the agreement.

SEC. 607. FISHERIES OUTREACH AND TRAINING.

The Secretary of Commerce shall establish a regional fisheries outreach program within the National Marine Fisheries Service to foster understanding and practical use of knowledge and technical expertise relevant to living marine resources. In establishing the program, the Secretary shall, in cooperation with the National Sea Grant College Program and the Regional Fishery Management Councils established under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.), develop a comprehensive effort to improve communication, education, and outreach to fishing communities, the fishing industry, the conservation community and interested members of the public at the regional, State, and local levels. The program shall—

(1) establish a program of demonstrations, workshops, townhall and industry and other non-scientific meetings for public understanding of National Marine Fisheries Service research, technology, or other information relating the conservation and management of fishery and other living marine resources;

(2) establish outreach programs and procedures designed to improve the transparency and accessibility of fishery stock assessments to the public, including dissemination of explanatory materials through the Internet;

(3) provide periodic training of members, staff, and advisory committee members of the Regional Fishery Management Councils established under that title, on implementation of the National Standards established under title III of the Magnuson Stevens Fisheries Conservation and Management Act (16 U.S.C. 1851 et seq.), the requirements of National Environmental Policy Act and chapter 6 of title 5, United States Code, and any other law applicable to the development of fishery management plans;

(4) identify, with the fishing industry, methods of improving collection, quality, and reporting of fishery dependent data;

(5) study the response of the regulated industry to fishery management regulations and develop management approaches that consider such behavior;

(6) foster communications and technology-transfer programs among regions to improve fish conservation and management;

(7) establish means of communicating information to the general public in an accessible and understandable form (including web-based communications); and

(8) develop partnerships with other agencies, academic institutions, and other entities to meet the purposes of this section.

SEC. 608. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Regional Fishery Management Councils established under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.), shall establish a national cooperative research and management program to address needs identified under the Magnuson Stevens Fisheries Conservation and Management Act and under any other marine resource laws enforced by the Secretary. The program shall make funds available for cooperative research and management activities that are developed through partnerships among Federal and State managers and scientists, fishing industry participating, and educational institutions.

(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Secretary in consultation with the Regional Fisheries Management Councils established under such title, that pertain to the collection and analysis of data and information on living marine resources, including data on landings, fishing effort, life history parameters, biology, habitat, economics and social sciences, including those information needs identified pursuant to section 401 of that Act (16 U.S.C. 1881) or the development of measures to promote innovative of cooperative management of fisheries, including development of innovative gear, methods, and technology. Such program shall promote and encourage efforts to mine and recover useful sources of data maintained by other Federal agencies, State agencies, or academic for use in such projects. In making funds available the Secretary shall give priority to the following projects.

(1) Projects to collect data to improve, supplement, or enhance stock assessments, including through the use of fishing vessels or acoustic or other innovative marine technology.

(2) Projects to improve calibration and accuracy of data collection gear and methods.

(3) Conservation engineering projects designed to reduce bycatch, minimize mortality of bycatch, or minimize fishery impacts on essential fish habitat.

(4) Projects to assess the amount and type of bycatch occurring in a fishery.

(5) Projects for the identification, conservation, or restoration of habitat areas of particular concern.

(6) Projects designed to identify ecosystem effects of fishing, to monitor marine ecosystem trends and dynamics, or to link climate forecasts to stock assessments or otherwise explore ecosystem-based approaches to governance.

(7) Projects designed to collect and compile economic and social data, including data to evaluate the long-term impact of conservation and management measures on fishing communities and data to evaluate economic motivation of harvesters.

(c) SELECTION OF PROJECTS.—Each research project shall be awarded by the Secretary on a competitive basis under procedures established by the Secretary in consultation with the Regional Fisheries Management Councils established under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.). To the extent practicable, the projects selected should collectively conform to a coherent program of research leading to solving priority programs. Each Regional Fisheries Management Council established under that title shall establish a research steering committee to carry out this section.

(d) EXPERIMENTAL PERMITTING PROCESS.—The Secretary, in consultation with the Regional Fisheries Management Councils established under title III of that Act shall establish an expedited permitting process for projects approved under this section.

(e) GUIDELINES.—The Secretary, in consultation with the appropriate Regional Fisheries Management Council established under title III of that Act, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of participant's catch history or unexpended days-at-sea as part of a limited entry system.

SEC. 609. COOPERATIVE MARINE EDUCATION AND RESEARCH.

For the purpose of developing adequate, coordinated, cooperative research and training programs for living marine resources, the Secretary of Commerce may establish a Cooperative Marine Education and Research Program. Under this program the Secretary is authorized to enter into cooperative agreements with universities and institutions of higher learning in order to conduct basic research in areas that support conservation and management of living marine resources. Research conducted under this program may include conservation engineering, research and development (including development of fishing gear and methods to reduce bycatch and habitat impacts) and biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish and other ecosystem components, and the linkages between fish habitat and fish production or abundance.

SEC. 610. GULF OF MEXICO FISHING QUOTA SYSTEMS.

Section 407 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1883) is amended—

(1) in subsection (c) by inserting at the end the following:

''(3) The initial referendum described in paragraph (1) shall be used to determine support for whether the sale, transfer, or lease of quota shares shall be allowed.''.

(2) by inserting at the end the following:

''(e) In order to facilitate balanced and fair apportionment of fishing interests, a Governor of a State submitting names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under section 302(b)(2) of this Act during Fiscal Years 2003–2004 shall include at least one nominee each from the commercial fishing sector and the recreational fishing sector (including the for-hire fishing sector). If the Secretary determines that a submission from such a Governor does not meet the requirements of subsection (a), the Secretary shall—

''(1) for an at-large seat, select a nominee from a list submitted by a State that complies with this subsection; and

''(2) for a seat assigned to that State, select no nominee for that seat until the Governor complies with this subsection.''.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this title—

(1) for science review and outreach—
(A) $10,000,000 for fiscal year 2003;
(B) $11,000,000 for fiscal year 2004;
(C) $12,000,000 for fiscal year 2005;
(D) $13,000,000 for fiscal year 2006; and
(E) $14,000,000 for fiscal year 2007;

(2) for cooperative enforcement—
(A) $27,000,000 for fiscal year 2003;
(B) $29,000,000 for fiscal year 2004;
(C) $31,000,000 for fiscal year 2005;
(D) $33,000,000 for fiscal year 2006; and
(E) $35,000,000 for fiscal year 2007; and

(3) for cooperative research—
(A) $30,000,000 for fiscal year 2003;
(B) $35,000,000 for fiscal year 2004;
(C) $40,000,000 for fiscal year 2005;
(D) $45,000,000 for fiscal year 2006; and
(E) $50,000,000 for fiscal year 2007.

TITLE VII—MISCELLANEOUS

SEC. 701. CHESAPEAKE BAY OFFICE.

(a) REAUTHORIZATION OF OFFICE.—Section 307 of the National Oceanic and Atmospheric

Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended to read as follows:

"SEC. 307. CHESAPEAKE BAY OFFICE.

''(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Office (in this section referred to as the 'Office').

''(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

''(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

''(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Executive Council, shall—

''(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

''(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

''(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

''(C) monitoring the implementation and effectiveness of management plans;

''(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

''(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration, the Chesapeake Bay Regional Sea Grant Programs, and the Chesapeake Bay units of the National Estuarine Research Reserve System, including—

''(A) programs and activities in—

''(i) coastal and estuarine research, monitoring, and assessment;

''(ii) fisheries research and stock assessments;

''(iii) data management;

''(iv) remote sensing;

''(v) coastal management;

''(vi) habitat conservation and restoration; and

''(vii) atmospheric deposition; and

''(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

''(i) nonindigenous species;

''(ii) estuarine and marine species pathology;

''(iii) human pathogens in estuarine and marine environments; and

''(iv) ecosystem health;

''(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

''(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

''(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

''(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay, which report shall include an action plan consisting of—

''(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

''(B) proposals for—

''(i) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

''(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.

''(c) CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL WATERSHED GRANTS PROGRAM.—

''(1) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (in this section referred to as the 'Director'), in cooperation with the Chesapeake Executive Council, shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

''(2) PROJECTS.—

''(A) SUPPORT.—The Director shall make grants under this subsection to pay the Federal share of the cost of projects that are carried out by entities eligible under paragraph (3) for the restoration of fisheries and habitats in the Chesapeake Bay.

''(B) FEDERAL SHARE.—The Federal share under subparagraph (A) shall not exceed 75 percent.

''(C) TYPES OF PROJECTS.—Projects for which grants may be made under this subsection include—

''(i) the improvement of fish passageways;

''(ii) the creation of natural or artificial reefs or substrata for habitats;

''(iii) the restoration of wetland or sea grass;

''(iv) the production of oysters for restoration projects; and

''(v) the prevention, identification, and control of nonindigenous species.

''(3) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under this subsection:

''(A) The government of a political subdivision of a State in the Chesapeake Bay watershed, and the government of the District of Columbia.

''(B) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization)—

''(i) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; and

''(ii) that will administer such grants in coordination with a government referred to in subparagraph (A).

''(4) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this subsection.

''(d) CHESAPEAKE EXECUTIVE COUNCIL.—For purposes of this section, 'Chesapeake Executive Council' means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of fiscal years 2002 through 2006.''.

(b) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended by striking subsection (e).

(c) MULTIPLE SPECIES MANAGEMENT STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall begin a 5-year study, in cooperation with the scientific community of the Chesapeake Bay, appropriate State and interstate resource management entities, and appropriate Federal agencies—

(A) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

(B) to develop a multiple species management strategy for the Chesapeake Bay.

(2) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under paragraph (1)(B), the study shall—

(A) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay and its tributaries and are selected for study;

(B) evaluate and assess interactions among the fish and shellfish referred to in subparagraph (A) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

(C) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

SEC. 702. CONVEYANCE OF NOAA LABORATORY IN TIBURON, CALIFORNIA.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Commerce may convey to the Board of Trustees of the California State University, by suitable instrument, in accordance with this section, by as soon as practicable, but not later than 180 days after the date of the enactment of this Act, and without consideration, all right, title, and interest of the United States in the balance of the National Oceanic and Atmosphere Administration property known as the Tiburon Laboratory, located in Tiburon, California, as described in Exhibit A of the notarized, revocable license between the Administration and Romberg Tiburon Center for Environmental Studies at San Francisco State University dated November 5, 2001 (license number 01ABF779–N).

(b) CONDITIONS.—As a condition of any conveyance by the Secretary under this section the Secretary may require the following:

(1) The property conveyed shall be administered by the Romberg Tiburon Center for Environmental Studies at San Francisco State University and used only for the following purposes:

(A) To enhance estuarine scientific research and estuary restoration activities within San Francisco Bay.

(B) To administer and coordinate management activities at the San Francisco Bay National Estuarine Research Reserve.

(C) To conduct education and interpretation and outreach activities to enhance public awareness and appreciation of estuary resources, and for other purposes.

(2) The Board shall—

(A) take title to the property as is;

(B) assume full responsibility for all facility maintenance and repair, security, fire

prevention, utilities, signs, and grounds maintenance;

(C) allow the Secretary to have all necessary ingress and egress over the property of the Board to access Department of Commerce building and related facilities, equipment, improvements, modifications, and alterations; and

(D) not erect or allow to be erected any structure or structures or obstruction of whatever kind that interfere with the access to or operation of property retained for the United States under subsection (c)(1), unless prior written consent has been provided by the Secretary to the Board.

(c) RETAINED INTERESTS.—The Secretary shall retain for the United States—

(1) all right, title, and interest in and to the portion of the property referred to in subsection (a) comprising Building 86, identified as Parcel C on Exhibit A of the license referred to in subsection (a), including all facilities, equipment, fixtures, improvements, modifications, or alterations made by the Secretary;

(2) rights-of-way and easements that are determined by the Secretary to be reasonable and convenient to ensure all necessary ingress, egress, utilities, drainage, and sewage disposal for the property retained under paragraph (1), including access to the existing boat launch ramp (or equivalent) and parking that is suitable to the Secretary;

(3) the exclusive right to install, maintain, repair, replace, and remove its facilities, fixtures, and equipment on the retained property, and to authorize other persons to take any such action;

(4) the right to grade, condition, and install drainage facilities, and to seed soil on the retained property, if necessary; and

(5) the right to remove all obstructions from the retained property that may constitute a hindrance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property, retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of the Board or its operatives in the operation of its facilities; or

(B) shall be the responsibility of the Board, if the Secretary's request for an equivalent alternative was in response to changes or modifications made by the Board or its operatives that adversely affected the Secretary's interest in the property retained under subsection (c).

(e) ADDITIONAL CONDITIONS.—As conditions of any conveyance under subsection (a)—

(1) the Secretary shall require that—

(A) the Board remediate, or have remediated, at its sole cost, all hazardous or toxic substance contamination found on the property conveyed under subsection (a), whether known or unknown at the time of the conveyance of later discovered; and

(B) the Board of Trustees hold harmless the Secretary for any and all costs, liabilities, or claims by third parties that arise out of any hazardous or toxic substance contamination found on the property conveyed under subsection (a) that are not directly attributable to the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alternations;

(2) the Secretary shall remediate, at the sole cost of the United States, all hazardous or toxic substance contamination on the property retained under subsection (c) that is found to have occurred as a direct result of the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alternations; and

(3) if the Secretary decides to terminate future occupancy and interest of the property retained under subsection (c), the Secretary may—

(A) provide written notice to the Board at least 60 days prior to the scheduled date when the property will be vacated;

(B) remove facilities, equipment, fixtures, improvements, modifications, or alternations and restore the property to as good a condition as existed at the time the property was retained under subsection (c), taking into account ordinary wear and tear and exposure to natural elements or phenomena; or

(C) surrender all facilities, equipment, fixtures, improvements, modifications, or alterations to the Board in lieu of restoration, whereupon title shall vest in the Board of Trustees, and whereby all obligations of restoration under this subsection shall be waived, and all interests retained under subsection (e) shall be revoked.

(f) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interest in and to all property and interests conveyed by the United States under this section shall revert to the United States on the date on which the Board uses any of the property for any purpose other than the purposes described in subsection (b)(1).

(2) ADMINISTRATION OF REVERTED PROPERTY.—Any property that reverts to the United States under this subsection shall be under the administrative jurisdiction of the Administrator of General Services.

(3) ANNUAL CERTIFICATION.—One year after the date of a conveyance made pursuant to subsection (a), and annually thereafter, the Board shall certify to the Administrator of General Services or his or her designee that the Board and its designees are in compliance with the conditions of conveyance under subsections (b) and (e).

(g) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Board of Trustees of the California State University.

(2) CENTER.—The term ''Center'' means the Romberg Tiburon Center for Environmental Studies at San Francisco State University.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 1703. ARCTIC RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Borrow Arctic Research Center.

SEC. 704. EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS.

Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government, or made by a member of such an organization, to prevent the loss of a whale.

SEC. 705. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $3,500,000 to the National Oceanic and Atmospheric Administration.

SEC. 706. TREATY ON PACIFIC COAST ALBACORE TUNA.

(a) FOREIGN FISHING UNDER TREATY; IMPLEMENTATION.—Section 201 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1821) is amended by adding at the end the following

''(j) TREATY ON PACIFIC COAST ALBACORE TUNA VESSELS.—

''(1) Notwithstanding subsection (a) and section 307(2)(B), foreign fishing may be conducted pursuant to the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, signed May 26, 1981, and any amendments thereto.

''(2) The Secretary of Commerce may promulgate regulations necessary to discharge Federal obligations under the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, signed May 26, 1981, including its Annexes and any amendments thereto. The proposed rulemaking and public participation requirements of section 553 of title 5, United States Code, shall not apply to collection of information or record-keeping requirements established by regulations promulgated under this subsection.''.

(b) TECHNICAL AMENDMENT.—Section 307(2)(B) of such Act (16 U.S.C. 1857(2)(B)) is amended by striking ''201(i),'' and inserting ''201(i) and foreign fishing permitted under section 201(j),''.

SA 4984. Mr. REID (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 1606, to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations, and for such other purposes; as follows:

On page 3, line 14, strike ''such sums as may be necessary'' and insert ''a total of $10 million for fiscal years 2003 and 2004.''

PRIVILEGE OF THE FLOOR

Mr. HUTCHINSON. Mr. President, I also ask unanimous consent that my entire Washington staff, as well as Tracie Spingarn, an interpreter for the learning impaired, be granted floor privileges for the duration of my remarks this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDING THE PEACE CORPS ACT TO PROMOTE GLOBAL ACCEPTANCE OF THE PRINCIPLES OF INTERNATIONAL PEACE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 12 introduced earlier today by Senator DODD.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 12) to amend the Peace Corps Act to promote global acceptance of the principles of international peace.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 12) was read the third time and passed, as follows:

S. 12

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 ''Peace Corps Charter for the 21st Century Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Peace Corps was established in 1961 to promote world peace and friendship through the service of American volunteers abroad.

(2) The three goals codified in the Peace Corps Act which have guided the Peace Corps and its volunteers over the years, can work in concert to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government.

(3) The Peace Corps has operated in 135 countries with 165,000 Peace Corps volunteers since its establishment.

(4) The Peace Corps has sought to fulfill three goals, as follows: to help people in developing nations meet basic needs, to promote understanding of America's values and ideals abroad, and to promote an understanding of other peoples by Americans.

(5) After more than 40 years of operation, the Peace Corps remains the world's premier international service organization dedicated to promoting grassroots development.

(6) The Peace Corps remains committed to sending well trained and well supported Peace Corps volunteers overseas to promote peace, friendship, and international understanding.

(7) The Peace Corps is an independent agency, and therefore no Peace Corps personnel or volunteers should be used to accomplish any other goal than the goals established by the Peace Corps Act.

(8) The Crisis Corps has been an effective tool in harnessing the skills and talents for returned Peace Corps volunteers and should be expanded to utilize to the maximum extent the talent pool of returned Peace Corps volunteers.

(9) The Peace Corps is currently operating with an annual budget of $275,000,000 in 70 countries with 7,000 Peace Corps volunteers.

(10) There is deep misunderstanding and misinformation about American values and ideals in many parts of the world, particularly those with substantial Muslim populations, and a greater Peace Corps presence in such places could foster greater understanding and tolerance.

(11) Congress has declared that the Peace Corps should be expanded to sponsor a minimum of 10,000 Peace Corps volunteers.

(12) President George W. Bush has called for the doubling of the number of Peace Corps volunteers in service.

(13) Any expansion of the Peace Corps shall not jeopardize the quality of the Peace Corps volunteer experience, and therefore can only be accomplished by an appropriate increase in field and headquarters support staff.

(14) In order to ensure that proposed expansion of the Peace Corps preserves the integrity of the program and the security of volunteers, the integrated Planning and Budget System supported by the Office of Planning and Policy Analysis should continue its focus on strategic planning.

(15) A streamlined, bipartisan National Peace Corps Advisory Council composed of distinguished returned Peace Corps volunteers and other individuals, with diverse backgrounds and expertise, can be a source of ideas and suggestions that may be useful to the Director of the Peace Corps as he discharges his duties and responsibilities as head of the agency.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DIRECTOR.—The term ''Director'' means the Director of the Peace Corps.

(3) PEACE CORPS VOLUNTEER.—The term ''Peace Corps volunteer'' means a volunteer or a volunteer leader under the Peace Corps Act.

(4) RETURNED PEACE CORPS VOLUNTEER.—The term ''returned Peace Corps volunteer'' means a person who has been certified by the Director as having served satisfactorily as a Peace Corps volunteer.

SEC. 4. RESTATEMENT OF INDEPENDENCE OF THE PEACE CORPS.

(a) IN GENERAL.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by adding at the end the following new sentence: ''As an independent agency, all recruiting of volunteers shall be undertaken primarily by the Peace Corps.''.

(b) DETAILS AND ASSIGNMENTS.—Section 5(g) of the Peace Corps Act (22 U.S.C. 2504(g)) is amended by inserting after ''*Provided*, That'' the following: ''such detail or assignment does not contradict the standing of Peace Corps volunteers as being independent: *Provided further*, That''.

SEC. 5. REPORTS AND CONSULTATIONS.

(a) ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.—Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by striking the section heading and the text of section 11 and inserting the following:

''SEC. 11. ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.

''(a) ANNUAL REPORTS.—The Director shall transmit to Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information—

''(1) describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

''(A) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

''(B) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations;

''(2) describing—

''(A) any major new initiatives that the Peace Corps has under review for the upcoming fiscal year, and any major initiatives that were undertaken in the previous fiscal year that were not included in prior reports to the Congress;

''(B) the rationale for undertaking such new initiatives;

''(C) an estimate of the cost of such initiatives; and

''(D) the impact on the safety of volunteers;

''(3) describing in detail the Peace Corp's plans for doubling the number of volunteers from 2002 levels, including a five-year budget plan for reaching that goal; and

''(4) describing standard security procedures for any country in which the Peace Corps operates programs or is considering doing so, as well as any special security procedures contemplated because of changed circumstances in specific countries, and assessing whether security conditions would be enhanced—

''(A) by colocating volunteers with international or local nongovernmental organizations; or

''(B) with the placement of multiple volunteers in one location.

''(b) CONSULTATIONS ON NEW INITIATIVES.—The Director of the Peace Corps should consult with the appropriate congressional committees with respect to any major new initiatives not previously discussed in the latest annual report submitted to Congress under subsection (a) or in budget presentations. Wherever possible, such consultations should take place prior to the initiation of such initiatives, but in any event as soon as practicable thereafter.''.

(b) ONE TIME REPORT ON STUDENT LOAN FORGIVENESS PROGRAMS.—Not later than 30 days after the date of enactment of this Act, the Director shall submit to the appropriate congressional committees a report—

(1) describing the student loan forgiveness programs currently available to Peace Corps volunteers upon completion of their service; and

(2) comparing such programs with other Government-sponsored student loan forgiveness programs; and

(3) recommending any additional student loan forgiveness programs which could attract more applicants from more low and middle income applicants facing high student loan obligations.

SEC. 6. SPECIAL VOLUNTEER RECRUITMENT AND PLACEMENT FOR COUNTRIES WHOSE GOVERNMENTS ARE SEEKING TO FOSTER GREATER UNDERSTANDING BETWEEN THEIR CITIZENS AND THE UNITED STATES.

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director shall submit a report to the appropriate

congressional committees describing the initiatives that the Peace Corps intends to pursue with eligible countries where the presence of Peace Corps volunteers would facilitate a greater understanding that there exists a universe of commonly shared human values and aspirations. Such report shall include—

(1) a description of the recruitment strategies to be employed by the Peace Corps to recruit and train volunteers with the appropriate language skills and interest in serving in such countries; and

(2) a list of the countries that the Director has determined should be priorities for special recruitment and placement of Peace Corps volunteers.

(b) USE OF RETURNED PEACE CORPS VOLUNTEERS.—Notwithstanding any other provision of law, the Director is authorized and strongly urged to utilize the services of returned Peace Corps volunteers having language and cultural expertise, including those returned Peace Corps volunteers who may have served previously in countries with substantial Muslim populations, in order to open or reopen Peace Corps programs in such countries.

SEC. 7. GLOBAL INFECTIOUS DISEASES INITIATIVE.

(a) IN GENERAL.—The Director, in cooperation with international public health experts such as the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization, the Pan American Health Organization, and local public health officials shall develop a program of training for all Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases in order to ensure that all Peace Corps volunteers make a contribution to the global campaign against such diseases.

(b) DEFINITIONS.—In this section:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(4) INFECTIOUS DISEASES.—The term ''infectious diseases'' means HIV/AIDS, tuberculosis, and malaria.

SEC. 8. PEACE CORPS ADVISORY COUNCIL.

Section 12 of the Peace Corps Act (22 U.S.C. 2511; relating to the Peace Corps National Advisory Council) is amended—

(1) by amending subsection (b)(2)(D) to read as follows:

''(D) make recommendations for utilizing the expertise of returned Peace Corps volunteers in fulfilling the goals of the Peace Corps.'';

(2) in subsection (c)—

(A) in paragraph (2)(A)—

(i) in the first sentence, by striking ''fifteen'' and inserting ''seven''; and

(ii) by striking the second sentence and inserting the following: ''Four of the members shall be former Peace Corps volunteers, at least one of whom shall have been a former staff member abroad or in the Washington headquarters, and not more than four shall be members of the same political party.'';

(B) by amending subparagraph (D) to read as follows:

''(D) The members of the Council shall be appointed to 2-year terms.'';

(C) by striking subparagraphs (B) and (H); and

(D) by redesignating subparagraphs (C), (D), (E), (F), (G), and (I) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively;

(3) by amending subsection (g) to read as follows:

''(g) CHAIR.—The President shall designate one of the voting members of the Council as Chair, who shall serve in that capacity for a period not to exceed two years.'';

(4) by amending subsection (h) to read as follows:

''(h) MEETINGS.—The Council shall hold a regular meeting during each calendar quarter at a date and time to be determined by the Chair of the Council.''; and

(5) by amending subsection (i) to read as follows:

''(i) REPORT.—Not later than July 30, 2003, and annually thereafter, the Council shall submit a report to the President and the Director of the Peace Corps describing how the Council has carried out its functions under subsection (b)(2).''.

SEC. 9. READJUSTMENT ALLOWANCES.

The Peace Corps Act is amended—

(1) in section 5(c) (22 U.S.C. 2504(c)), by striking ''$125'' and inserting ''$275''; and

(2) in section 6(1) (22 U.S.C. 2505(1)), by striking ''$125'' and inserting ''$275''.

SEC. 10. PROGRAMS AND PROJECTS OF RETURNED PEACE CORPS VOLUNTEERS TO PROMOTE THE GOALS OF THE PEACE CORPS.

(a) PURPOSE.—The purpose of this section is to provide support for returned Peace Corps volunteers to develop and carry out programs and projects to promote the third purpose of the Peace Corps Act, as set forth in section 2(a) of that Act (22 U.S.C. 2501(a)), by promoting a better understanding of other peoples on the part of the American people.

(b) GRANTS TO CERTAIN NONPROFIT CORPORATIONS.—

(1) GRANT AUTHORITY.—To carry out the purpose of this section, and subject to the availability of appropriations, the Chief Executive Officer of the Corporation for National and Community Service (referred to in this section as the ''Corporation'') shall award grants on a competitive basis to private nonprofit corporations for the purpose of enabling returned Peace Corps volunteers to use their knowledge and expertise to develop and carry out the programs and projects described in subsection (a).

(2) PROGRAMS AND PROJECTS.—Such programs and projects may include—

(A) educational programs designed to enrich the knowledge and interest of elementary school and secondary school students in the geography and cultures of other countries where the volunteers have served;

(B) projects that involve partnerships with local libraries to enhance community knowledge about other peoples and countries; and

(C) audio-visual projects that utilize materials collected by the volunteers during their service that would be of educational value to communities.

(3) ELIGIBILITY FOR GRANTS.—To be eligible to compete for grants under this section, a nonprofit corporation shall have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The nonprofit corporation shall meet all appropriate Corporation management requirements, as determined by the Corporation.

(c) GRANT REQUIREMENTS.—Such grants shall be made pursuant to a grant agreement between the Corporation and the nonprofit corporation that requires that—

(1) the grant funds will only be used to support programs and projects described in subsection (a) pursuant to proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);

(2) the nonprofit corporation will give consideration to funding individual programs or projects by returned Peace Corps volunteers, in amounts of not more than $100,000, under this section;

(3) not more than 20 percent of the grant funds made available to the nonprofit corporation will be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation;

(4) the nonprofit corporation will not receive grant funds for programs or projects under this section for a third or subsequent year unless the nonprofit corporation makes available, to carry out the programs or projects during that year, non-Federal contributions—

(A) in an amount not less than $2 for every $3 of Federal funds provided through the grant; and

(B) provided directly or through donations from private entities, in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(5) the nonprofit corporation shall manage, monitor, and submit reports to the Corporation on each program or project for which the nonprofit corporation receives a grant under this section.

(d) STATUS OF THE FUND.—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the Federal Government or to make the members of the board of directors or any officer or employee of such nonprofit corporation an officer or employee of the United States.

(e) FACTORS IN AWARDING GRANTS.—In determining the number of nonprofit corporations to receive grants under this section for any fiscal year, the Corporation—

(1) shall take into consideration the need to minimize overhead costs that direct resources from the funding of programs and projects; and

(2) shall seek to ensure a broad geographical distribution of grants for programs and projects under this section.

(f) CONGRESSIONAL OVERSIGHT.—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000. Such sum shall be in addition to funds made available to the Corporation under Federal law other than this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting before the period the following: '', $362,000,000 for fiscal year 2004, $404,000,000 for fiscal year 2005, $446,000,000 for fiscal year 2006, and $488,000,000 for fiscal year 2007''.

Mr. REID. Mr. President, let me say that this bill was introduced by Senator DODD, who is a very proud former member of the Peace Corps. He has been the protector of the Peace Corps. In addition to his father, the Peace Corps is where he got his love of public service. That is where he learned to speak Spanish so well.

IRAQI SCIENTISTS IMMIGRATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3079, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3079) to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

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

Mr. REID. Mr. President, I ask unanimous consent that the Biden substitute amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4979) in the nature of a substitute was agreed to, as follows:

AMENDMENT NO. 4979

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Iraqi Scientists Immigration Act of 2002''.

SEC. 2. ADMISSION OF CRITICAL ALIENS.

(a) Section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15), is amended—

(1) by striking ''or'' at the end of the subparagraph (U);

(2) by striking the period at the end of the subparagraph (V) and inserting ''; or''; and

(3) by adding a new subparagraph (W), reading:

''(W) Subject to section 214(s), an alien—

''(i) who the Attorney General determines, in coordination with the Secretary of State, the Director of Central Intelligence and such other officials as he may deem appropriate, and in the Attorney General's unreviewable discretion, is an individual—

''(I) who has worked at any time in an Iraqi program to produce weapons of mass destruction or the means to deliver them;

''(II) who is in possession of critical and reliable information concerning any such Iraqi program;

''(III) who is willing to provide, or has provided, such information to the United States Government;

''(IV) who may be willing to provide, or has provided, such information to inspectors of the United Nations or of the International Atomic Energy Agency;

''(V) who will be or has been placed in danger as a result of providing such information; and

''(VI) whose admission would be in the public interest or in the interest of national security; or

''(ii) who is the spouse, married or unmarried son or daughter, parent, or other relative, as determined by the Attorney General in his unreviewable discretion, of an alien described in clause (i), if accompanying or following to join such alien, and whose admission the Attorney General, in coordination with the Secretary of State and the Director of Central Intelligence, determines in his unreviewable discretion is in the public interest or in the interest of national security.''

(b) Section 214 of the Immigration and Nationality Act, 8 U.S.C. 1184, is amended by—

(1) redesignating subsections second (m) (as added by section 105 of Public Law 106–313), (n) (as added by section 107(e) of Public Law 106–386), (o) (as added by section 1513(c) of Public Law 106–386), second (o) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (p) (as added by section 1503(b) of the Legal Immigration Family Equity Act), as subsections (n), (o), (p), (q), and (r), respectively; and

(2) adding a new subsection (s) reading:

''(s) Numerical limitations and conditions of admission and stay for nonimmigrants admitted under section 101(a)(15)(W).

''(1) The number of aliens who may be admitted to the United States or otherwise granted status under section 101(a)(15)(W)(i) may not exceed a total of 500.

''(2) As a condition for the admission, and continued stay in lawful status, of any alien admitted to the United States or otherwise granted status as a nonimmigrant under section 101(a)(15)(W), the nonimmigrant—

''(A) shall report to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

''(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission or grant of status;

''(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of removal or for protection under the Convention Against Torture, any action for removal of the alien instituted before the alien obtains lawful permanent resident status;

''(D) shall cooperate fully with all requests for information from the United States Government including, but not limited to, fully and truthfully disclosing to the United States Government including, but not limited to, fully and truthfully disclosing to the United States Government all information in the alien's possession concerning any Iraqi program to produce weapons of mass destruction or the means to deliver them; and

''(E) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.''

(c) Section 245 of the Immigration and Nationality Act, §U.S.C. 1255, is amended by—

(1) In subsection (c), striking ''or'' before ''(8)'' and inserting before the period, ''or (9) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(W)'';

(2) Redesignating subsection (1), relating to ''U'' visa nonimmigrants, as subsection (m); and

(3) Adding a new subsection (n) reading:

''(n) Adjustment to permanent resident status of 'W' nonimmigrants.

''(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(W)(i) has complied with section 214(s) since such admission or grant of status, the Attorney General may, in coordination with the Secretary of State and the Director of Central Intelligence, and in his unreviewable discretion, adjust the status of the alien (and any alien who has accompanied or followed to join such alien pursuant to section 101(a)(15)(W)(ii) and who has complied with section 214(s) since admission or grant of nonimmigrant status) to that of an alien lawfully admitted for permanent resident if the alien is not described in section 212(a)(3)(E).

''(2) Upon the approval of adjustment of status of any alien under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.''

(d) Section 212(d) of the Immigrantion and Nationality Act, §U.S.C. 1182(d), is amended by inserting a new paragraph (d)(2) reading:

''(2) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(W). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) in the case of such a nonimmigrant if the Attorney General considers it to be in the public interest or in the interest of national security.''

(e) Section 248(1) of the Immigration and Nationality Act, 8 U.S.C. 1258(I), is amended by striking ''or (S)'' and inserting ''(S), or (W)''.

SEC. 3. WEAPON OF MASS DESTRUCTION DEFINED.

(a) IN GENERAL.—In this Act, the term ''weapon of mass destruction'' has the meaning given the term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)), as amended by subsection (b).

(b) TECHNICAL CORRECTION.—Section 1403(1)(B) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)(B)) is amended by striking ''a disease organism'' and inserting ''a biological agent, toxin, or vector (as those terms are defined in section 178 of title 18, United States Code)''.

The bill (S. 3079), as amended, was read the third time and passed.

INDIAN FINANCING AMENDMENTS ACT OF 2002

Mr. REID. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2017) to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2017) entitled ''An Act to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—INDIAN FINANCING ACT AMENDMENTS

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Amendments to Indian Financing Act.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Yankton Sioux Tribe Development Trust Fund.
Sec. 205. Santee Sioux Tribe Development Trust Fund.
Sec. 206. Tribal plans.
Sec. 207. Eligibility of tribe for certain programs and services.
Sec. 208. Statutory construction.
Sec. 209. Authorization of appropriations.
Sec. 210. Extinguishment of claims.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

Sec. 301. Oklahoma Native American Cultural Center and Museum.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

Sec. 401. Transmission of power from Indian lands in Oklahoma.

TITLE V—PECHANGA TRIBE

Sec. 501. Land of Pechanga Band of Luiseno Mission Indians.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Purposes.
Sec. 604. Definitions.
Sec. 605. Settlement and claims; appropriations; allocation of funds.
Sec. 606. Tribal trust funds.
Sec. 607. Attorney fees.
Sec. 608. Release of other tribal claims and filing of claims.
Sec. 609. Effect on claims.

TITLE VII—SEMINOLE TRIBE

Sec. 701. Approval not required to validate certain land transactions.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Definitions.
Sec. 804. Jicarilla Apache Reservation rural water system.
Sec. 805. General authority.
Sec. 806. Project requirements.
Sec. 807. Authorization of appropriations.
Sec. 808. Prohibition on use of funds for irrigation purposes.
Sec. 809. Water rights.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Definitions.
Sec. 904. Rocky Boy's rural water system.
Sec. 905. Noncore system.
Sec. 906. Limitation on availability of construction funds.
Sec. 907. Connection charges.
Sec. 908. Authorization of contracts.
Sec. 909. Tiber Reservoir allocation to the tribe.
Sec. 910. Use of Pick-Sloan power.
Sec. 911. Water conservation plan.
Sec. 912. Water rights.
Sec. 913. Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.
Sec. 914. Authorization of appropriations.

TITLE X—MISCELLANEOUS

Sec. 1001. Santee Sioux Tribe, Nebraska, water system study.
Sec. 1002. Yurok Tribe and Hopland Band included in long term leasing.

TITLE I—INDIAN FINANCING ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This Act may be cited as the ''Indian Financing Amendments Act of 2002''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 103. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking ''$100,000'' and inserting ''$250,000''.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''Any loan guaranteed'' and inserting the following:

''(a) IN GENERAL.—Any loan guaranteed or insured''; and

(2) by adding at the end the following:

''(b) INITIAL TRANSFERS.—

''(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the lender shall give notice of the transfer to the Secretary.

''(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

''(A) be deemed to be the lender for the purpose of this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

''(c) SECONDARY TRANSFERS.—

''(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the transferor shall give notice of the transfer to the Secretary.

''(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

''(A) the transfer; and

''(B) the interest of the transferee in the guaranteed or insured portion of the loan.

''(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

''(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

''(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

''(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

''(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

''(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

''(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

''(2) enter into 1 or more contracts with a fiscal transfer agent—

''(A) to act as the designee of the Secretary under this section; and

''(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

''(h) POOLING OF LOANS.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

''(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

''(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.''.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act''.

SEC. 202. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 203. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term ''Yankton Sioux Tribe'' means the Yankton Sioux Tribe of South Dakota.

SEC. 204. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 205. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 206. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) ANNUAL REPORTS.—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this title

may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 207. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 208. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

SEC. 210. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

SEC. 301. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Secretary shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this title:

(1) AUTHORITY.—The term ''Authority'' means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) CENTER.—The term ''Center'' means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

SEC. 401. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration's transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under 25 CFR Part 151. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

TITLE V—PECHANGA TRIBE

SEC. 501. LAND OF PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) LIMITATION ON CONVEYANCE.—Land described in subsection (b) (or any interest in that land) shall not be voluntarily or involuntarily transferred or otherwise made available for condemnation until the date on which—

(1)(A) the Secretary of the Interior renders a final decision on the fee to trust application pending on the date of the enactment of this title concerning the land; and

(B) final decisions have been rendered regarding all appeals relating to that application decision; or

(2) the fee to trust application described in paragraph (1)(A) is withdrawn.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located in Riverside County, California, that is held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Office of the Recorder, Riverside County, California, and recorded on May 15, 2001.

(c) RULE OF CONSTRUCTION.—Nothing in this section designates, or shall be used to construe, any land described in subsection (b) (or any interest in that land) as an Indian reservation, Indian country, Indian land, or reservation land (as those terms are defined under any Federal law (including a regulation)) for any purpose under any Federal law.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act''.

SEC. 602. FINDINGS.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the ''Three Forks'' area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the

United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218–89L and 630–89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218–89L and 630–89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United State Court of Federal Claims, Case Nos. 218–89L and 630–89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

SEC. 603. PURPOSES.

The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.

SEC. 604. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) DISCLAIMED DRYBED LANDS.—The term ''Disclaimed Drybed Lands'' means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State Oklahoma.

(2) DRYBED LANDS.—The term ''Drybed Lands'' means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term ''Drybed Lands'' is intended to have the same meaning as the term ''Upland Claim Area'' as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term ''Drybed Lands'' includes any lands so identified in the ''Holway study.''

(3) INDIAN NATION; INDIAN NATIONS.—The term ''Indian Nation'' means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term ''Indian Nations'' means all 3 tribes collectively.

(4) RIVERBED.—The term ''Riverbed'' means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) WETBED LANDS.—The term ''Wetbed Lands'' means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term Wetbed Land is intended to have the same meaning as the term ''Present Channel Claim Areas'' as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

SEC. 605. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) EXTINGUISHMENT OF CLAIMS.—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations' interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) RELEASE OF TRIBAL CLAIMS TO CERTAIN DRYBED LANDS.—

(1) IN GENERAL.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) SPECIAL PROVISIONS.—Notwithstanding any provision of this title—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) SETOFF.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) QUIET TITLE ACTIONS.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) LAND TO BE CONVEYED IN FEE.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) AUTHORIZATION FOR SETTLEMENT APPROPRIATIONS.—There is authorized to be appropriated an aggregate sum of $40,000,000 as follows:

(1) $10,000,000 for fiscal year 2004.

(2) $10,000,000 for fiscal year 2005.

(3) $10,000,000 for fiscal year 2006.

(4) $10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

(1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.

(2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

SEC. 606. TRIBAL TRUST FUNDS.

(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—

(1) ESTABLISHMENT.—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) MANAGEMENT OF FUNDS.—

(1) LAND ACQUISITION.—

(A) TRUST LAND STATUS PURSUANT TO REGULATIONS.—The funds appropriated and allocated to the Indian Nations pursuant to sections 205(c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) REQUIRED TRUST LAND STATUS.—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) OTHER EXPENDITURE OF FUNDS.—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) INVESTMENT OF TRUST FUNDS; NO PER CAPITA PAYMENT.—

(A) NO PER CAPITA PAYMENTS.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) INVESTMENT BY SECRETARY.—Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) USE OF PRINCIPAL FUNDS.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) DISBURSEMENT OF FUNDS.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) ADDITIONAL RESTRICTION ON USE OF FUNDS.—None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

SEC. 607. ATTORNEY FEES.

(a) PAYMENT.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) LIMITATIONS.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

SEC. 608. RELEASE OF OTHER TRIBAL CLAIMS AND FILING OF CLAIMS.

(a) EXTINGUISHMENT OF OTHER TRIBAL CLAIMS.—

(1) IN GENERAL.—As of the date of enactment of this title—

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a ''claimant tribe'') in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) QUIET TITLE ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) FUTURE ACTIONS.—As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) NO BREACH OF TRUST.—The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

(i) constitute a breach of trust by the United States; or

(ii) be compensable to a claimant tribe in any manner.

(b) CLAIMS OF OTHER INDIAN TRIBES.—

(1) LIMITED PERIOD FOR FILING CLAIMS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or subsection 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims.

(B) FAILURE TO FILE.—After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) SPECIAL HOLDING ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) DEPOSITS.—Notwithstanding any other provision of this title or any other law, of any

funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall—

(i) be deposited in the special holding account established by subparagraph (A); and

(ii) be held in that account for distribution under paragraph (3).

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) CLAIM FILED.—If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim—

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) NO CLAIMS FILED.—If no claims under paragraph (1)(A) are filed by the deadline specified that paragraph—

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) DECLARATION WITH RESPECT TO SCOPE OF RIGHTS, TITLE, AND INTERESTS.—Congress declares that—

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

SEC. 609. EFFECT ON CLAIMS.

This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

TITLE VII—SEMINOLE TRIBE

SEC. 701. APPROVAL NOT REQUIRED TO VALIDATE CERTAIN LAND TRANSACTIONS.

(a) TRANSACTIONS.—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) NO FURTHER APPROVAL REQUIRED.—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) TRUST LAND NOT AFFECTED.—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

SEC. 801. SHORT TITLE.

This title may be cited as the ''Jicarilla Apache Reservation Rural Water System Act''.

SEC. 802. PURPOSES.

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106–243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

SEC. 803. DEFINITIONS.

As used in this title:

(1) BIA.—The term ''BIA'' means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) IRRIGATION.—The term ''irrigation'' means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) RECLAMATION.—The term ''Reclamation'' means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) REPORT.—The term ''Report'' means the report entitled ''Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico'', dated September 2001, which was completed pursuant to Public Law 106–243.

(5) RESERVATION.—The term ''Reservation'' means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) RURAL WATER SUPPLY PROJECT.—The term ''Rural Water Supply Project'' means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) STATE.—The term ''State'' means the State of New Mexico.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) TRIBE.—The term ''Tribe'' means the Jicarilla Apache Nation.

SEC. 804. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.

(a) CONSTRUCTION.—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) SCOPE OF PROJECT.—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) COST SHARING.—

(1) TRIBAL SHARE.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) FEDERAL SHARE.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

SEC. 805. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93–638; 25 U.S.C. 450 et seq.).

SEC. 806. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

SEC. 808. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

SEC. 809. WATER RIGHTS.

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under ''historic and existing uses'' to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

SEC. 901. SHORT TITLE.

This title may be cited as the ''Rocky Boy's/North Central Montana Regional Water System Act of 2002''.

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the water systems serving residents of the Rocky Boy's Reservation in the State of Montana—

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) The study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy's Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior—

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe—

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

SEC. 903. DEFINITIONS.

In this title:

(a) AUTHORITY.—The term ''Authority'' means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75–6–301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(b) CORE SYSTEM.—The term ''core system'' means a component of the water system as described in section 904(d) and the final engineering report.

(c) FINAL ENGINEERING REPORT.—The term ''final engineering report'' means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.

(d) FUND.—The term ''fund'' means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.

(e) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The term ''on-reservation water distribution systems'' means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.

(f) NONCORE SYSTEM.—The term ''noncore system'' means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.

(g) RESERVATION.—

(1) IN GENERAL.—The term ''Reservation'' means the Rocky Boy's Reservation in the State of Montana.

(2) INCLUSIONS.—The term ''Reservation'' includes all land and interests in land that are held in trust by the United States for the Tribe at the time of the enactment of this title.

(h) ROCKY BOY'S/NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM.—The term ''Rocky Boy's/North Central Montana Regional Water System'' means—

(1) the core system;

(2) the on-reservation water distribution systems; and

(3) the non-core system.

(i) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(j) STATE.—The term ''State'' means the State of Montana.

(k) STUDY.—The term ''study'' means the study entitled ''North Central Montana Regional Water System Planning/Environmental Report'' dated May 2000.

(l) TRIBE.—The term ''Tribe'' means—

(1) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and

(2) all officers, agents, and departments of the Tribe.

SEC. 904. ROCKY BOY'S RURAL WATER SYSTEM.

(a) FINAL ENGINEERING REPORT.—The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104–204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and

(2) pursuant to section 202 of Public Law 106–163, the Tribe has conducted, through a self-governance agreements with the Secretary of Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives

for providing a municipal, rural and industrial supply of water to the Reservation.

(3) The Secretary of Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) CORE SYSTEM.—

(1) IN GENERAL.—The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) FEDERAL SHARE.—

(A) The Federal share of the cost of planning, design, and construction of the core system shall be—

(i) 100 percent of the Tribal share of costs as identified in section 914; and

(ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and

(iii) funded through annual appropriations to the Bureau of Reclamation.

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(c) OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R) CORE SYSTEM.—The cost of operation, maintenance, and replacement of the core system shall be allocated as follows—

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary.

Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) CORE SYSTEM COMPONENTS.—As described in the final engineering report, the core system shall consist of—

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75–6–313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—

(1) IN GENERAL.—The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT.—The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows:

(A) Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913; and

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) COMPONENTS.—As described in the final engineering report, the on-reservation water distribution systems shall consist of—

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) CONSTRUCTION OF NEW FACILITIES, OR EXPANSION OR REHABILITATION OF CURRENT FACILITIES.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) AGREEMENTS.—Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) IN GENERAL.—At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title—

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) SERVICE AREA.—The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) TITLE TO CORE SYSTEM.—Title to the core system—

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to—

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

SEC. 905. NONCORE SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) FEDERAL SHARE.—

(1) PLANNING, DESIGN, AND CONSTRUCTION.—The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT OF NON-CORE SYSTEM COMPONENTS.—The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) COOPERATIVE AGREEMENTS.—Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) COMPONENTS.—As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the non-core system. The Secretary is further authorized to enter into a tripartite Cooperative Agreement with the Authority and the Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) MANDATORY PROVISIONS.—The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority—

(A) the responsibilities of each party to the agreements for—

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) SERVICE AREA.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area—

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana; –

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) EXCLUSIONS FROM SERVICE AREA.—The service area of the noncore system shall not include the area inside the Reservation.

(f) LIMITATION ON USE OF FEDERAL FUNDS.—The operation, maintenance, and replacement expenses for the noncore system—

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the noncore system.

(g) TITLE TO NONCORE SYSTEM.—Title to the noncore system shall be held by the Authority.

(h) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75–6–313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

SEC. 906. LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.

The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water System that have been shown to be economically and financially feasible.

SEC. 907. CONNECTION CHARGES.

The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

SEC. 908. AUTHORIZATION OF CONTRACTS.

The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof and supplemental thereto).

SEC. 909. TIBER RESERVOIR ALLOCATION TO THE TRIBE.

(a) NO DIMINISHMENT OF STORAGE.—In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.

(b) DRAW OF SUPPLY; PURCHASE OF ADDITIONAL WATER.—In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.

SEC. 910. USE OF PICK-SLOAN POWER.

The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.

SEC. 911. WATER CONSERVATION PLAN.

(a) IN GENERAL.—The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains—

(1) a description of water conservation objectives;

(2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) PURPOSE.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncore system will use the best practicable technology and management techniques to conserve water.

(c) COORDINATION OF PROGRAMS.—Section 210(a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(a) and (c)) shall apply to activities under Section 911 of this title.

SEC. 912. WATER RIGHTS.

This title does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or

(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the 'Winters Doctrine'), or other law.

SEC. 913. CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund'', to be managed and invested by the Secretary.

(b) CONTENTS OF FUND.—The Fund shall consist of—

(1) the amount of $15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund $5,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the ''Trust Fund Reform Act''), and this title.

(d) USE OF FUND.—The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) INVESTMENT OF FUND.—The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) WITHDRAWAL BY TRIBE.—The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in accordance with the purposes described in subsections 913(d) and (f).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) DESCRIPTION.—The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) AVAILABILITY.—Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

(a) CORE SYSTEM.—There is authorized to be appropriated $129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.—For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of $7,500,000 each year for fiscal year 2005 and 2006.

(d) NONCORE SYSTEM.—There is authorized to be appropriated $73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) COST INDEXING.—The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

TITLE X—MISCELLANEOUS

SEC. 1001. SANTEE SIOUX TRIBE, NEBRASKA, WATER SYSTEM STUDY.

(a) STUDY.—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the ''Secretary''), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 to carry out this section.

SEC. 1002. YUROK TRIBE AND HOPLAND BAND INCLUDED IN LONG TERM LEASING.

(a) IN GENERAL.—The first section of the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting ''lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table.

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

INDIAN PROBATE REFORM ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 766, S. 1340.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1340) to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust and restricted lands.

There being no objection, the Senate proceeded to consider the bill which was reported by the Committee on Indian Affairs with an amendment, as follows:

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

S. 1340

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 ''Indian Probate Reform Act of 2001''.

[SEC. 2. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

[(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

[''Subtitle B—Indian Probate Reform

[''SEC. 231. FINDINGS.

[''Congress makes the following findings:

[''(1) The General Allotment Act of 1887 (commonly known as the ''Dawes Act''), which authorized the allotment of Indian reservations, did not allow Indian allotment owners to provide for the testamentary disposition of the land that was allotted to such owners.

[''(2) The Dawes Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment.

[''(3) The Federal Government's reliance on the State law of intestate succession with respect to the descendency of allotments has resulted in numerous problems to Indian tribes, their members, and the Federal Government. These problems include—

[''(A) the increasing fractionated ownership of trust and restricted land as these lands are inherited by successive generations of owners as tenants in common;

[''(B) the application of different rules of intestate succession to each of a decedent's interests in trust and restricted land if such land is located within the boundaries of different States which makes probate planning unnecessarily difficult and impedes efforts to provide probate planning assistance or advice;

[''(C) the absence of a uniform general probate code for trust and restricted land which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

[''(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which is unfair to the owners of trust and restricted land and their heirs and devisees and which makes probate planning more difficult.

[''(4) Based on the problems identified in paragraph (3), a uniform Federal probate code would likely—

[''(A) reduce the number of unnecessary fractionated interests in trust or restricted land;

[''(B) facilitate efforts to provide probate planning assistance and advice;

[''(C) facilitate inter-tribal efforts to produce tribal probate codes pursuant to section 206; and

[''(D) provide essential elements of general probate law that are not applicable on the date of enactment of this subtitle to interests in trust or restricted land.

[''SEC. 232. RULES RELATING TO INTESTATE INTERESTS AND PROBATE.

[''(a) IN GENERAL.—Any interest in trust or restricted land that is not disposed of by a valid will shall—

[''(1) descend according to a tribal probate code that is approved pursuant to section 206; or

[''(2) in the case of an interest in trust or restricted land to which such a code does not apply, be considered an 'intestate interest' and descend pursuant to subsection (b), this Act, and other applicable Federal law.

[''(b) INTESTATE SUCCESSION.—An interest in trust or restricted land described in subsection (a)(2) (intestate interest) shall descend as provided for in this subsection in the following order:

[''(1) SURVIVING INDIAN SPOUSE.—

[''(A) SOLE HEIR.—A surviving Indian spouse of the decedent shall receive all of the decedent's intestate interests if no Indian child or grandchild of the decedent survives the decedent.

[''(B) OTHER HEIRS.—A surviving Indian spouse of the decedent shall receive a one-half interest in each of the decedent's intestate interests if the decedent is also survived by Indian children or grandchildren.

[''(C) HEIRS OF THE FIRST OR SECOND DEGREE OTHER THAN SURVIVING INDIAN SPOUSE.—The one-half interest in each of the decedent's intestate interests that do not descend to the surviving Indian spouse under subparagraph (B) shall descend in the following order:

[''(i) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

[''(ii) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

[''(iii) If the decedent is not survived by any person who is eligible to inherit under clause (i) or (ii), to the surviving Indian brothers and sisters of the decedent.

[''(iv) If the decedent is not survived by any person who is eligible to inherit under clause (i), (ii), or (iii), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

[''(2) NO SURVIVING INDIAN SPOUSE.—If the decedent is not survived by an Indian spouse, the intestate interests of the decedent shall descend to the individuals described in subparagraphs (A) through (D) who survive the decedent in the following order:

[''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

[''(B) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

[''(C) If the decedent is not survived by any person who is eligible to inherit under subparagraph (A) or (B), to the surviving Indian brothers and sisters of the decedent.

[''(D) If the decent is not survived by any person who is eligible to inherit under subparagraph (A), (B), or (C), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

[''(3) SURVIVING NON-INDIAN SPOUSE.—

[''(A) NO DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a life estate in each of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is not survived by any children or grandchildren.

[''(B) DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a

life estate in one-half of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is survived by at least one of the children or grandchildren of the decedent.

[''(C) DESCENDANTS OTHER THAN SURVIVING NON-INDIAN SPOUSE.—The one-half life estate interest in each of the decedent's intestate interests that do not descend to the surviving non-Indian spouse under subparagraph (B) shall descend to the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

[''(4) NO SURVIVING SPOUSE OR INDIAN HEIRS.—If the decedent is not survived by a spouse, a life estate in the intestate interests of the decedent shall descend in the following order:

[''(A) To the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

[''(B) If the decedent has no surviving children or grandchildren, to the surviving parents of the decedent.

[''(5) REMAINDER INTEREST FROM LIFE ESTATES.—The remainder interest from a life estate established under paragraphs (3) and (4) shall descend in the following order:

[''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

[''(B) If there are no surviving Indian children or grandchildren of the decedent, to the surviving Indian parent of the decedent or to both of the surviving Indian parents of the decedent as joint tenant with the right of survivorship.

[''(C) If there is no surviving Indian child, grandchild, or parent, to the surviving Indian brothers or sisters of the decedent in equal shares.

[''(D) If there is no surviving Indian descendant or parent, brother or sister, the intestate interests of the decedent shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

[''(c) SPECIAL RULE RELATING TO SURVIVAL.—For purposes of this section, an individual who fails to survive a decedent by at least 120 hours is deemed to have predeceased the decedent for purposes of intestate succession, and the heirs of the decedent shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by at least 120 hours, such individual shall be deemed to have failed to survive for the required time-period for purposes of the preceding sentence.

[''(d) PRETERMITTED SPOUSES AND CHILDREN.—

[''(1) SPOUSES.—For purposes of this section, if the surviving spouse of a testator married the testator after the testator executed his or her will, the surviving spouse shall receive the intestate share in trust or restricted land that such spouse would have otherwise received if the testator had died intestate. The preceding sentence shall not apply to an interest in trust or restricted lands where—

[''(A) the will is executed before the date specified in section 234(a);

[''(B) the testator's spouse is a non-Indian and the testator has devised his or her interests in trust or restricted land to an Indian or Indians;

[''(C) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

[''(D) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

[''(E) the testator provided for the spouse by a transfer of funds or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

[''(2) CHILDREN.—For purposes of this section, if a testator executed his or her will prior to the birth of 1 or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, such children shall share in the decedent's intestate interests in trust or restricted lands as if the decedent had died intestate. Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (54 Stat 746) shall be treated as a decedent's child under this section.

[''(e) DIVORCE.—

[''(1) SURVIVING SPOUSE.—

[''(A) IN GENERAL.—For purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, such individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife shall not be considered a divorce for purposes of this subsection.

[''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to prevent an entity responsible for adjudicating interests in trust or restricted land from giving force and effect to a property right settlement if one of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

[''(2) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—If after executing a will the testator is divorced or the marriage of the testator is annulled, upon the effective date of the divorce or annulment any disposition of interests in trust or restricted land made by the will to the former spouse shall be deemed to be revoked unless the will expressly provides otherwise. Property that is prevented from passing to a former spouse based on the preceding sentence shall pass as if the former spouse failed to survive the decedent. Any provision of a will that is revoked solely by operation of this paragraph shall be revived by the testator's remarriage to the former spouse.

[''(f) NOTICE.—To the extent practicable, the Secretary shall notify the owners of trust and restricted land of the provisions of this title. Such notice may, at the discretion of the Secretary, be provided together with the notice required under section 207(g).

["SEC. 233. COLLECTION OF PAST-DUE AND OVER-DUE CHILD SUPPORT

[''The Secretary shall establish procedures to provide for the collection of past-due or over-due support obligations entered by a tribal court or any other court of competent jurisdiction from the revenue derived from an interests in trust or restricted land.

["SEC. 234. EFFECTIVE DATE.

[''(a) IN GENERAL.—The provisions of this title shall not apply to the estate of an individual who dies prior to the later of—

[''(1) the date that is 1 year after the date of enactment of this subtitle; or

[''(2) the date specified in section 207(g)(5).''.

[(b) OTHER AMENDMENTS.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

[(1) by inserting after section 202, the following:

["Subtitle A—General Land Consolidation";

[(2) in section 206 (25 U.S.C. 2205)—

[(A) in subsection (a)(3)—

[(i) by striking ''The Secretary'' and inserting the following:

[''(A) IN GENERAL.—The Secretary''; and

[(ii) by adding at the end the following:

[''(B) TRIBAL PROBATE CODES.—A tribal probate code shall not prevent the devise of an interest in trust or restricted land to nonmembers of the tribe unless the code—

[''(i) provides for the renouncing of interests, reservation of life estates, and payment of fair market value in the manner prescribed under subsection (c)(2); and

[''(ii) does not prohibit the devise of an interest in an allotment to an Indian person if such allotment was originally allotted to the lineal ancestor of the devisee.''; and

[(B) in subsection (c)(2)—

[(i) in subparagraph (A)—

[(I) by striking ''IN GENERAL.—Paragraph'' and inserting the following:

[''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

[''(i) IN GENERAL.—Paragraph'';

[(II) by striking ''if, while'' and inserting the following: ''if—

[''(I) while'';

[(III) by striking the period and inserting ''; or'';

[(IV) by adding at the end thereof the following:

[''(II) the interest is part of a family farm that is devised to a member of the decedent's family if the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

[''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i)(II) shall be construed to prevent or limit the ability of an owner of land to which such clause applies to mortgage such land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law.''; and

[(ii) in subparagraph (B), by striking ''207(a)(6)(B)'' and inserting ''207(a)(6)'';

[(3) in section 207 (25 U.S.C. 2206)—

[(A) in subsection (a)(6), by striking subparagraph (A) and inserting the following:

[''(A) DEVISE TO OTHERS.—

[''(i) IN GENERAL.—Notwithstanding paragraph (2), an owner of trust or restricted land—

[''(I) who does not have an Indian spouse or an Indian lineal descendant may devise his or her interests in such land to his or her spouse, lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree;

[''(II) who does not have a spouse or an Indian lineal descendent may devise his or her interests in such land to his or her lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree; or

[''(III) who does not have a spouse or lineal descendant may devise his or her interests in such land to his or her heirs of the first or second degree, or collateral heirs of the first or second degree.

[''(ii) RULE OF CONSTRUCTION.—Any devise of an interest in trust or restricted land under clause (i) to a non-Indian will be construed to devise a life estate unless the devise explicitly states that the testator intends for the devisee to take the interest in fee.

[''(B) UNEXERCISED RIGHTS OF REDEMPTION.—

[''(i) IN GENERAL.—This subparagraph (B) shall only apply to interests in trust or restricted land that are held in trust or restricted status as of the date of enactment of the Indian Probate Reform Act of 2001, and interests in any parcel of land, at least a portion of which is in trust or restricted status as of such date of enactment, that is subject to a tax sale, tax foreclosure proceeding, or similar proceeding.

[''(ii) EXERCISE OF RIGHT.—If the owner of such an interest referred to in clause (i) fails or refuses to exercise any right of redemption that is available to that owner under applicable law, the Indian tribe that exercises jurisdiction over the trust or restricted land referred to in such clause may exercise such right of redemption.

[''(iii) PENALTIES AND ASSESSMENTS.—To the extent permitted under the Constitution of the United States, an Indian tribe acquiring an interest under clause (i) may acquire such an interest without being required to pay—

[''(I) penalties; or

[''(II) past due assessments that exceed the fair market value of the interest.''; and

[(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)''; and

[(4) in section 217 (25 U.S.C. 2216)—

[(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using or consolidating, or is applying to, lease, use, or consolidate,''; and

[(B) in subsection (f)—

[(i) by striking ''After the expiration of the limitation period provided for in subsection (b)(2) and prior'' and inserting ''Prior''; and

[(ii) by striking ''sold, exchanged, or otherwise conveyed under this section''.

[(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (24 Stat. 348) is amended by striking the second proviso and inserting the following: ''*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act, or a tribal probate code approved under such Act and regulations, shall apply thereto after such patents have been executed and delivered:''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Probate Reform Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The General Allotment Act of 1887 (commonly known as the 'Dawes Act'), which authorized the allotment of Indian reservations, did not allow Indian allotment owners to provide for the testamentary disposition of the land that was allotted to those owners.

(2) The Dawes Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment.

(3) The Federal Government's reliance on the State law of intestate succession with respect to the descendency of allotments has resulted in numerous problems affecting Indian tribes, their members, and the Federal Government. Those problems include—

(A) the increasing fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each of a decedent's interests in trust and restricted land if that land is located within the boundaries of more than 1 State, which application makes probate planning unnecessarily difficult and impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which is unfair to the owners of trust and restricted land and their heirs and devisees and which makes probate planning more difficult.

(4) Based on the problems identified in paragraph (3), a uniform Federal probate code would likely—

(A) reduce the number of unnecessary fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate inter-tribal efforts to produce tribal probate codes pursuant to section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this subtitle to interests in trust or restricted land.

SEC. 3. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Subsection (a) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206(a)) is amended to read as follows:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, or a tribal probate code enacted pursuant to section 206, the owner of an interest in trust or restricted land may devise such an interest to the Indian tribe with jurisdiction over the land so devised, or to any Indian in trust or restricted status or as a passive trust interest (as provided for in section 207A).

''(B) STATUS.—The devise of an interest in trust or restricted land to an Indian under subparagraph (A) shall not alter the status of such an interest as a trust or restricted interest unless the testator provides that the interest is to be held as a passive trust interest.

''(2) DEVISE OF TRUST OR RESTRICTED LAND IN PASSIVE TRUST OR FEE STATUS.—

''(A) IN GENERAL.—Any interest in trust or restricted land that is not devised pursuant to paragraph (1) may only be devised—

''(i) as a life estate to any non-Indian person (the remainder interest may only be devised pursuant to clause (ii), subparagraph (C), or paragraph (1)(A));

''(ii)(I) to the testator's lineal descendant or heir of the 1st or 2nd degree as a passive trust interest (to be known as an 'eligible passive trust devisee'); or

''(II) if the testator does not have an heir of the 1st or 2nd degree or a lineal descendant, to any lineal descendant of a testator's grandparent as a passive trust interest (to be known as an 'eligible passive trust devisee'); or

''(iii) in fee status as provided for in subparagraph (C).

''(B) PRESUMED DEVISE OF PASSIVE TRUST INTEREST.—Any devise to an eligible passive trust devisee, including the devise of a remainder interest from the devise of a life estate under subparagraph (A)(ii), that does not indicate whether the interest is devised as a passive trust interest or a fee interest shall be construed to devise a passive trust interest.

''(C) DEVISE OF A FEE INTEREST.—Subject to subparagraph (D), any interest in trust or restricted land that is not devised pursuant to paragraph (1), or devised to an eligible passive trust devisee pursuant to subparagraph (A), may be devised to a non-Indian in fee status.

''(D) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464) may only be devised pursuant to such section 4, subparagraph (A) of this paragraph, or paragraph (1) of this subsection.

''(3) DEVISE OF A PASSIVE TRUST INTEREST.—

''(A) IN GENERAL.—The holder of an interest in trust or restricted land that is held as a passive trust interest may devise the interest as a passive trust interest only to—

''(i) any Indian or the Indian tribe that exercises jurisdiction over the interest;

''(ii) the holder's lineal descendants or heirs of the first or second degree;

''(iii) any living descendant of the decedent from whom the holder acquired the interest by devise or descent; and

''(iv) any person who owns a pre-existing interest or a passive trust interest in the same parcel of land if the pre-existing interest is held in trust or restricted status or in passive trust status.

''(B) INELIGIBLE DEVISEES AND INTESTATE SUCCESSION.—A passive trust interest that is devised to a person who is not eligible under subparagraph (A) or that is not disposed of by a valid will shall pass pursuant to the applicable law of intestate succession as provided for in subsection (b).''.

(b) INTESTATE SUCCESSION.—Subsection (b) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206(b)) is amended to read as follows:

''(b) INTESTATE SUCCESSION.—

''(1) RULES OF DESCENT.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted land that is not disposed of by a valid will shall—

''(i) descend according to a tribal probate code that is approved pursuant to section 206; or

''(ii) in the case of an interest in trust or restricted land to which such a code does not apply, be considered an 'intestate interest' and descend pursuant to paragraph (2), this Act, and other applicable Federal law.

''(B) CLASSIFICATIONS.—For purposes of applying this subsection, intestate interests referred to in subparagraph (A)(ii) shall be classified as either—

''(i) a devise or inheritance interest (an interest acquired by a decedent through devise or inheritance); or

''(ii) an acquired interest (an interest acquired by a decedent by any means other than devise or inheritance and an interest acquired by a decedent through devise or inheritance)—

''(I) if the decedent—

''(aa) acquired additional undivided interests in the same parcel as the interest, by a means other than devise or inheritance; or

''(bb) acquired land adjoining the parcel of land that includes the interest; or

''(II) if the parcel of land that includes the interest includes the decedent's spouse's residence.

''(2) INTESTATE SUCCESSION.—An interest in trust or restricted land described in paragraph (1)(A)(ii) (an intestate interest) shall descend as provided for in this paragraph:

''(A) SURVIVING INDIAN SPOUSE.—If a decedent is survived by an Indian spouse and the decedent's estate includes—

''(i) one or more acquired interests, the decedent's spouse shall receive all such acquired interests;

''(ii) one or more devise or inheritance Interests, and—

''(I) the decedent is not survived by an Indian heir of the first or second degree, the decedent's spouse shall receive all such devise or inheritance interests; or

''(II) the decedent is survived by an Indian heir of the first or second degree, the decedent's devise or inheritance interest shall descend pursuant to paragraph (3)(A).

''(B) SURVIVING NON-INDIAN SPOUSE.—If a decedent is survived by a non-Indian spouse and the decedent's estate includes—

''(i) one or more acquired interests, the decedent's spouse shall receive a life estate in such acquired interest, and if the decedent is—

''(I) survived by an Indian heir of the 1st or 2nd degree, the remainder interests shall descend pursuant to paragraph (3)(A); or

''(II) not survived by an Indian heir of the 1st or 2nd degree, the remainder interest shall descend pursuant to paragraph (3)(C); or

''(ii) one or more devise or inheritance interests, and the decedent is—

''(I) survived by an Indian heir of the 1st or 2nd degree, such devise or inheritance interests shall descend pursuant to paragraph (3)(A); or

''(II) not survived by an Indian heir of the 1st or 2nd degree, such devise or inheritance interest shall descend pursuant to paragraph (3)(C).

''(C) NO SURVIVING SPOUSE.—If the decedent is not survived by a spouse, and the decedent's estate includes one or more acquired interests or one or more devise or inheritance interests and the decedent is—

''(i) survived by an Indian heir of the 1st or 2nd degree, the acquired interests or devise or inheritance interests shall descend pursuant to paragraph (3)(A);

''(ii) not survived by an Indian heir of the 1st or 2nd degree, the acquired interests or devise or inheritance interests shall descend pursuant to paragraph (3)(C).

''(3) RULES APPLICABLE TO INTESTATE SUCCESSION.—

''(A) INDIAN HEIRS.—For purposes of this subsection, Indian heirs of the 1st or 2nd degree shall inherit in the following order:

''(i) The Indian children of the decedent, in equal shares, or if one or more of those Indian children do not survive the decedent, such Indian children of the decedent's deceased child shall inherit by right of representation;

''(ii) If the decedent has no Indian children or grandchildren (that take by representation under clause (i)), to the decedent's Indian brothers and sisters in equal shares.

''(iii) If the decedent has no Indian brothers or sisters, to the decedent's Indian parent or parents.

''(B) RIGHT OF REPRESENTATION.—For purpose of this subsection, in any case involving the determination of a right of representation—

''(i) each interest in trust land shall be equally divided into a number of shares that equals the sum of—

''(I) the number of surviving heirs in the nearest degree of kinship; and

''(II) the number of deceased persons in that same degree, if any, who left issue who survive the decedent;

''(ii) each surviving heir described in clause (i)(I) shall receive 1 share; and

''(iii)(I) each deceased person described in clause (i)(II) shall receive 1 share; and

''(II) that share shall be divided equally among the surviving issue of the deceased person.

''(C) NO INDIAN HEIRS.—

''(i) IN GENERAL.—For purposes of this subsection, if a decedent does not have an Indian heir of the 1st or 2nd degree, an interest shall descend to an Indian collateral heir who is a co-owner of an interest owned by the decedent if any.

''(ii) MULTIPLE COLLATERAL HEIRS.—If—

''(I) more than one Indian collateral heir owns an interest in an interest referred to in clause (i), the interest shall descend to the collateral heir that owns the largest undivided interest in the parcel; or

''(II) two or more collateral heirs own equal shares in an interest referred to in clause (i), the interest passing pursuant to this subsection shall be divided equally between those collateral heirs that own equal shares.

''(iii) NO OWNERSHIP.—If none of the decedent's collateral heirs own an interest in the interest referred to in clause (i), the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to clause (iv).

''(iv) ACQUISITION OF INTEREST.—Notwithstanding clause (iii), an Indian co-owner of a parcel of trust or restricted land may acquire an interest subject to such clause by paying into the decedent's estate, before the close of the probate of the decedent's estate, the fair market value of the interest in such land. If more than 1 Indian co-owner (including the Indian tribe referred to in clause (iii)) offers to pay for such an interest, the highest bidder shall acquire the interest.

''(v) DEFINITION.—In this subparagraph, the term 'collateral heir' means the decedent's aunt, uncle, niece, nephew, and first cousin.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—For purposes of this section, an individual who fails to survive a decedent by at least 120 hours is deemed to have predeceased the decedent for the purposes of intestate succession, and the heirs of the decedent shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by at least 120 hours, the individual shall be deemed to have failed to survive for the required time-period for the purposes of the preceding sentence.

''(5) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—For the purposes of this section, if the surviving spouse of a testator married the testator after the testator executed his or her will, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have otherwise received if the testator had died intestate. The preceding sentence shall not apply to an interest in trust or restricted land where—

''(i) the will is executed before the date of enactment of this subsection;

''(ii) the testator's spouse is a non-Indian and the testator has devised his or her interests in trust or restricted land to an Indian or Indians;

''(iii) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

''(iv) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

''(v) the testator provided for the spouse by a transfer of funds or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

''(B) CHILDREN.—For the purposes of this section, if a testator executed his or her will prior to the birth or adoption of 1 or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, those children shall share in the decedent's intestate interests in trust or restricted land as if the decedent had died intestate. Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (54 Stat 746), shall be treated as a decedent's child under this section.

''(6) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—For the purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife shall not be considered a divorce for the purposes of this subsection.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed to prevent an entity responsible for adjudicating interests in trust or restricted land from giving force and effect to a property right settlement if one of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—If after executing a will the testator is divorced or the marriage of the testator is annulled, upon the effective date of the divorce or annulment any disposition of interests in trust or restricted land made by the will to the former spouse shall be deemed to be revoked unless the will expressly provides otherwise. Property that is prevented from passing to a former spouse based on the preceding sentence shall pass as if the former spouse failed to survive the decedent. Any provision of a will that is revoked solely by operation of this paragraph shall be revived by the testator's remarriage to the former spouse.

''(7) NOTICE.—To the extent practicable, the Secretary shall notify the owners of trust and restricted land of the provisions of this Act. The notice may, at the discretion of the Secretary, be provided together with the notice required under section 207(g).''.

(c) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) RULE OF CONSTRUCTION.—For purposes of subsections (a) and (b), any reference to 'applicable Federal law' shall be construed to include Public Law 91-627 (84 Stat. 1874, amending section 7 of the Act of August 9, 1946), Public Law 92-377 (86 Stat. 530), and Public Law 92-443 (86 Stat. 744). Nothing in this section shall be construed to amend or alter such Public Laws or any other Federal law that provides for the devise and descent of any trust or restricted lands located on a specific Indian reservation.''.

(d) PASSIVE TRUST STATUS FOR TRUST OR RESTRICTED LAND.—The Indian Land Consolidation Act is amended by inserting after section 207 (25 U.S.C. 2206) the following:

''SEC. 207A. PASSIVE TRUST STATUS FOR TRUST OR RESTRICTED LAND.

''(a) PASSIVE TRUST.—The owner of an interest in trust or restricted land may submit an application to the Secretary requesting that such interest be held in passive trust interest status. Such application may authorize the Secretary to amend or alter any existing lease or agreement with respect to the interest that is the subject of the application.

''(b) APPROVAL.—Upon the approval of an application by the Secretary under subsection (a), an interest in trust or restricted land shall be held as a passive trust interest in accordance with this section.

''(c) REQUIREMENTS.—Except as provided in this section, an interest in trust or restricted land that is held as a passive trust interest under this section—

''(1) shall continue to be covered under any applicable tax-exempt status and continue to be subject to any restrictions on alienation until such interest is patented in fee status;

''(2) may, without the approval of the Secretary, be—

''(A) leased;

''(B) mortgaged pursuant to the Act of March 29, 1956 (25 U.S.C. 483a); or

''(C) sold or conveyed to an Indian, the Indian tribe that exercises jurisdiction over the interest, or a co-owner of an interest in the same parcel of land if the co-owner owns a pre-existing trust, restricted interest, or a passive trust interest in the parcel; and

''(3) may be subject to an ordinance or resolution enacted under subsection (d).

''(d) ORDINANCE OR RESOLUTION FOR REMOVAL OF STATUS.—

''(1) IN GENERAL.—The governing body of the Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is held as a passive trust interest in accordance with this section may enact an ordinance or resolution to allow the owner of such an interest to apply to the Secretary for the removal of the trust or restricted status of such portion of such lands that are subject to the tribe's jurisdiction.

''(2) REVIEW BY SECRETARY.—The Secretary shall review and may approve an ordinance or resolution enacted by an Indian tribe pursuant to paragraph (1) if the Secretary determines that the ordinance or resolution is consistent with this Act and will not increase fractionated ownership of Indian land.

''(e) REVENUES OR ROYALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not be responsible for the collection of or accounting for any lease revenues or royalties accruing to an interest held as a passive trust interest by any person under this section.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an interest described in such paragraph if the Secretary approves an application to have such interest be taken into active trust status on behalf of an Indian or an Indian tribe pursuant to regulations enacted by the Secretary.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to alter the authority or responsibility of the Secretary, if any, with respect to an interest in trust or restricted land held in active trust status, including an undivided interest within the same parcel of land as an undivided passive trust interest.

''(f) JURISDICTION OVER PASSIVE TRUST INTEREST.—An Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is devised or held as a passive trust interest under this section shall continue to exercise jurisdiction over the land that is held as a passive trust interest and any person holding, leasing, or otherwise using such land shall be deemed to have consented to the jurisdiction of such a tribe with respect to the use of such land, including any impacts associated with any use of such lands.

''(g) PROBATE OF PASSIVE TRUST INTERESTS.—An interest in trust or restricted land that is held as a passive trust interest under this section shall be subject to probate by the Secretary pursuant to this Act and other laws applicable to the probate of trust or restricted land. Any interested party may file an application to commence the probate of an interest in trust or restricted land held as a passive trust interest.

''(h) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.''.

(e) PARTITION.—Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, in accordance with this subsection and subject to paragraphs (2), (3), and (4)—

''(A) an Indian tribe may apply to the Secretary for the partition of a parcel of land that is—

''(i) located within the reservation of the Indian tribe; or

''(ii) otherwise under the jurisdiction of the Indian tribe; and

''(B) the Secretary may commence a process for partitioning a parcel of land as provided for in paragraphs (2)(B) and (6)(B), if—

''(i) an Indian tribe owns an undivided interest in the parcel of land and such tribe consents to the partition;

''(ii)(I) the tribe referred to in clause (i) meets the ownership requirement of clauses (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii); and

''(iii) the tribe referred to in paragraph (3), if any, consents to the partition.

For purposes of this subsection, the term 'eligible Indian tribe' means an Indian tribe described in subparagraph (A) and (B)(i).

''(2) TRIBAL OWNERSHIP.—A parcel of land may be partitioned under this subsection if, with respect to the eligible Indian tribe involved—

''(A) the tribe owns an undivided interest in the parcel of land; and

''(B)(i) the tribe owns 50 percent or more of the undivided interest in the parcel;

''(ii) the tribe is the owner of the largest quantity of undivided interest in the parcel; or

''(iii) the owners of undivided interests equal to at least 50 percent of the undivided interests in the parcel (including any undivided interest owned by the tribe) consent or do not object to the partition.

''(3) TRIBAL CONSENT.—A parcel of land that is located within the reservation of an Indian tribe or otherwise under the jurisdiction of an Indian tribe shall be partitioned under this subsection only if the Indian tribe does not object to the partition.

''(4) APPLICABILITY.—This subsection shall not apply to any parcel of land that is the bona fide residence of any person unless the person consents to the partition in writing.

''(5) PARTITION IN KIND.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of land under this paragraph; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii).

''(B) PARTITION PROCESS.—In carrying out any partition, the Secretary shall—

''(i) provide, to each owner of any undivided interest in the parcel to be partitioned, through publication or other appropriate means, notice of the proposed partition;

''(ii) make available to any interested party a copy of any proposed partition plan submitted by an Indian tribe or proposed by the Secretary; and

''(iii) review—

''(I) any proposed partition plan submitted by any owner of an undivided interest in the parcel; and

''(II) any comments or objections concerning a partition, or any proposed plan of partition, submitted by any owner or any other interested party.

''(C) DETERMINATION NOT TO PARTITION.—If the Secretary determines that a parcel of land cannot be partitioned in a manner that is fair and equitable to the owners of the parcel, the Secretary shall inform each owner of the parcel of—

''(i) the determination of the Secretary; and

''(ii) the right of the owner to appeal the determination.

''(D) PARTITION WITH CONSENT OF QUALIFIED INDIAN TRIBE.—If the Secretary determines that a parcel of land may be partitioned in a manner that is fair and equitable to the owners of the parcel, and the Indian tribe meets the applicable ownership requirements under clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i) approve a plan of partition;

''(ii) provide notice to the owners of the parcel of the determination of the Secretary;

''(iii) make a copy of the plan of partition available to each owner of the parcel; and

''(iv) inform each owner of the right to appeal the determination of the Secretary to partition the parcel in accordance with the plan.

''(E) PARTITION WITH CONSENT; IMPLIED CONSENT.—If the Secretary determines that a parcel may be partitioned in a manner that is fair and equitable to the owners of the parcel, but the Indian tribe involved does not meet the applicable ownership requirements under clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i)(I) make a plan of partition available to the owners of the parcel; and

''(II) inform the owners that the parcel will be partitioned in accordance with the plan if the owners of 50 percent or more of undivided ownership interest in the parcel either—

''(aa) consent to the partition; or

''(bb) do not object to the partition by such deadline as may be established by the Secretary;

''(ii) if the owners of 50 percent or more of undivided ownership interest in the parcel consent to the partition or do not object by a deadline established by the Secretary under clause (i)(II)(bb), inform the owners of the parcel that—

''(I) the plan for partition is final; and

''(II) the owners have the right to appeal the determination of the Secretary to partition the parcel; and

''(iii) if the owners of 50 percent or more of the undivided ownership interest in the parcel object to the partition, inform the Indian tribe of the objection.

''(F) SUCCESSIVE PARTITION PLANS.—In carrying out subparagraph (E) in accordance with paragraph (2)(B)(iii), the Secretary may, in accordance with subparagraph (E)—

''(i) approve 1 or more successive plans of partition; and

''(ii) make those plans available to the owners of the parcel.

''(G) PLAN OF PARTITION—A plan of partition approved by the Secretary in accordance with subparagraph (D) or (E)—

''(i) may determine that 1 or more of the undivided interests in a parcel are not susceptible to a partition in kind;

''(ii) may provide for the sale or exchange of those undivided interests to—

''(I) 1 or more of the owners of undivided interests in the parcel; or

''(II) the Secretary in accordance with section 213; and

''(iii) shall provide that the sale of any undivided interest referred to in clause (ii) shall be for not less than the fair market value of the interest.

''(6) PARTITION BY SALE.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of land under this subsection; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (2)(B)(iii).

''(B) PARTITION PROCESS.—In carrying out any partition of a parcel, the Secretary—

''(i) shall conduct a preliminary appraisal of the parcel;

''(ii) shall provide, to the owners of the parcel, through publication or other appropriate means—

''(I) notice of the application of the Indian tribe to partition the parcel; and

''(II) access to the preliminary appraisal conducted in accordance with clause (i);

''(iii) shall inform each owner of the parcel of the right to submit to the Secretary comments relating to the preliminary appraisal;

''(iv) may, based on comments received under clause (iii), modify the preliminary appraisal or provide for the conduct of a new appraisal; and

''(v) shall—

''(I) issue a final appraisal for the parcel;

''(II) provide to the owners of the parcel and the appropriate Indian tribes access to the final appraisal; and

''(III) inform the Indian tribes of the right to appeal the final appraisal.

''(C) PURCHASE BY QUALIFIED INDIAN TRIBE.—If an eligible Indian tribe agrees to pay fair market value for a partitioned parcel, as determined by the final appraisal of the parcel issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), and the Indian tribe meets the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(i) provide to each owner of the parcel notice of the decision of the Indian tribe; and

''(ii) inform the owners of the right to appeal the decision (including the right to appeal any final appraisal of the parcel referred to in subparagraph (B)(v)(III)).

''(D) PARTITION WITH CONSENT; IMPLIED CONSENT.—

''(i) IN GENERAL.—If an eligible Indian tribe agrees to pay fair market value for a partitioned parcel, as determined by the final appraisal of the parcel issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), but does not meet the applicable ownership requirements of clause (i) or (ii) of paragraph (2)(B), the Secretary shall—

''(I) provide notice to the owners of the undivided interest in the parcel; and

''(II) inform the owners that the parcel will be partitioned by sale unless the partition is opposed by the owners of 50 percent or more of the undivided ownership interest in the parcel.

''(ii) FAILURE TO OBJECT TO PARTITION.—If the owners of 50 percent or more of undivided ownership interest in or to a parcel consent to the partition or the parcel, or do not object to the partition by such deadline as may be established by the Secretary, the Secretary shall inform the owners of the parcel of the right to appeal the determination of the Secretary (including the results of the final appraisal issued under subparagraph (B)(v)(I)).

''(iii) OBJECTION TO PARTITION.—If the owners of 50 percent or more of the undivided ownership interest in a parcel object to the partition of the parcel—

''(I) the Secretary shall notify the Indian tribe of the objection; and

''(II) the Indian tribe and the Secretary may agree to increase the amount offered to purchase the undivided ownership interests in the parcel.

''(7) ENFORCEMENT.—

''(A) IN GENERAL.—If, with respect to a parcel, a partition in kind is approved under subparagraph (D) or (E) of paragraph (5), or a partition by sale is approved under paragraph (6)(C), and the owner of an interest in or to the parcel fails or refuses to convey the interest to the Indian tribe, the Indian tribe or the United States may—

''(i) bring a civil action in the United States district court for the district in which the parcel is located; and

''(ii) request the court to issue an appropriate order for the partition in kind, or partition by sale to the Indian tribe, of the parcel.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) no civil action brought under this section shall be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is an indispensable party.''.

SEC. 4. OTHER AMENDMENTS.

(a) OTHER AMENDMENTS.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—The Secretary shall not approve a tribal probate code, or an amendment to such a code, that prevents the devise of an interest in trust or restricted land to—

''(A) an Indian lineal descendant of the original allottee; or

''(B) to an Indian who is not a member of the tribe that exercises jurisdiction over such an interest;

unless the code provides for the renouncing of interests (to eligible devisees pursuant to such a code), the opportunity for a devisee who is the testator's spouse or lineal descendant to reserve a life estate, and payment of fair market value in the manner prescribed under subsection (c)(2).'';

(B) in subsection (c)(1)—

(i) by striking ''section 207(a)(6)(A)'' and inserting ''sections 207(a)(2)(A)(ii), 207(a)(2)(C), and 207(a)(3)''; and

(ii) by striking the last sentence and inserting ''The Secretary shall transfer such payments to any person or persons who would have received an interest in land if the interest had not been acquired by the tribe pursuant to this paragraph.''; and

(C) in subsection (c)(2)—

(i) in subparagraph (A)—

(I) by striking ''(A) IN GENERAL.—Paragraph'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph'';

(II) by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(III) by striking the period and inserting ''; or''; and

(IV) by adding at the end the following:

''(II) the interest is part of a family farm that is devised to a member of the decedent's family if the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—Upon the request of an Indian tribe described in clause (i)(II), a restriction relating to the acquisition by such tribe of an interest in the family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) RULE OF CONSTRUCTION.—Nothing in clause (i)(II) shall be construed to prevent or limit the ability of an owner of land to which that clause applies to mortgage the land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law.

''(iv) DEFINITION.—In this paragraph, the term 'member of the decedent's family' means the decedent's lineal descendant, a lineal descendant of the grandparent of the decedent, the spouse of any such descendant, or the decedent's spouse.''; and

(ii) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B)'' and inserting ''paragraph (1)''; and

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (c)—

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

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

''(3) ALIENATION OF JOINT TENANCY INTERESTS.—

''(A) IN GENERAL.—With respect to any interest held as a joint tenancy pursuant to this subsection—

''(i) nothing in this subsection shall be construed to alter the ability of the owner of such an interest to convey a life estate in the owner's undivided joint tenancy interest; and

''(ii) only the last remaining owner of such an interest may devise or convey more than a life estate in such an interest.

''(B) APPLICATION OF PROVISION.—This paragraph shall not apply to any conveyance, sale, or transfer that is part of an agreement referred to in subsection (e) or to a co-owner of a joint tenancy interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(4) in section 213 (25 U.S.C. 2212)—

(A) in subsection (a)(2), by striking ''(A) IN GENERAL.—'' and all that follows through ''subparagraph (A), the Secretary'' and inserting ''The Secretary'';

(B) in subsection (b)(4), by inserting before the period the following: ''through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program (established by this Act) though the elimination of duplicate conveyance documents, administrative proceedings, and transactions, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation''; and

(C) in subsection (c)—

(i) in paragraph (1)(A), by striking ''landowner upon payment'' and all that follows through the period and inserting the following: ''landowner—

''(i) upon payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if the Indian referred to in this subparagraph provides assurance that the purchase price will be paid by pledging revenue from any source, including trust resources, and the Secretary determines that the purchase price will be paid in a timely and efficient manner.'';

(ii) in paragraph (1)(B), by inserting ''unless the interest is subject to a foreclosure of a mortgage pursuant to the Act of March 29, 1956 (25 U.S.C. 483a)'' before the period; and

(iii) in paragraph (3), by striking ''10 percent of more of the undivided interests'' and inserting ''an undivided interest'';

(5) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described under subsection (a) until the Secretary provides for the removal of the lien under paragraph (3) or (4).

''(2) REQUIREMENTS.—Until Secretary removes the lien from an interest of land as provided for in paragraph (1)—

''(A) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary;

''(B) any revenue derived from any interest acquired by the Secretary pursuant to section 213 shall be paid into the fund created under section 216; and

''(C) the Secretary may approve a transaction covered under this section on behalf of a tribe notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly referred to as the Indian Reorganization Act, (25 U.S.C. 476)).

''(3) FINDINGS BY SECRETARY.—The Secretary may remove a lien referred to in (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) REMOVAL OF LIEN.—Pursuant to the consultations referred to in section 213(b)(3), the Secretary shall periodically remove the lien referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(6) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), strike paragraph (2) and insert the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation where the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may utilize the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land pursuant to section 205.'';

(7) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using or consolidating, or is applying to, lease, use, or consolidate,''; and

(B) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY TRIBE.—

''(1) IN GENERAL.—Before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe that exercises jurisdiction over such a parcel shall have the opportunity to match any offer contained in such application, or where there is no purchase price offered, to acquire the interest in such land by paying the fair market value of such interest.

''(2) EXCEPTION FOR FAMILY FARMS.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the landowner's family (as defined in section 206(c)(2)(A)(iv)) if the tribe that exercises jurisdiction over the land is afforded the opportunity to purchase the interest if the interest is offered for sale to an entity that is not a member of the family of the owner of the land. Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of the trust or restricted land referred to in the preceding sentence.''; and

(8) in section 219(b)(1)(A) (25 U.S.C. 2219(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 202(2) of the Indian Land Consolidation Act (25 U.S.C. 2201(2)) is amended—

(A) by striking ''means any'' and inserting the following: ''means—

''(A) any'';

(B) by striking ''or any person who has been found to meet'' and inserting the following: ''or

''(B) any person who meets''; and

(C) by striking ''if the Secretary'' and all that follows through the semicolon and inserting '', except that the Secretary may promulgate regulations to exclude any definition if the Secretary determines that the definition is not consistent with the purposes of this Act, or

''(C) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person who meets the definition of Indians of California as contained in section 1 of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress pursuant to section 809(b) of Public Law 94-437 (25 U.S.C. 1679(b));''.

(2) EFFECTIVE DATE.—Any exclusion referred to in the amendment made by paragraph (1)(C) shall apply only to those decedents who die after the Secretary of the Interior promulgates the regulation providing for such exclusion.

(c) MORTGAGES AND DEEDS OF TRUST.—The Act of March 29, 1956 (25 U.S.C. 483a) is amended in the first sentence of subsection (a) by inserting ''(including land owned by any person in passive trust status pursuant to section 207A of the Indian Land Consolidation Act)'' after ''land'' the first place that such appears.

(d) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348) is amended by striking the second proviso and inserting the following: ''Provided, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply thereto after those patents have been executed and delivered:''.

(e) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by striking '', in accordance with'' and all that follows through the colon and inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

SEC. 5. EFFECTIVE DATE.

This amendment made by this Act shall not apply to the estate of an individual who dies prior to the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

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

The bill (S. 1340), as amended, was read the third time and passed.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Rules Committee be discharged from further consideration of the following nomination and that the Senate then proceed to its consideration: Bruce James to be Public Printer. Further, I ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

Bruce R. James, of Nevada, to be Public Printer.

Mr. REID. Mr. President, Bruce James is from Nevada. He was in business and was very successful. He retired in Nevada after having been successful in business. He is a devout Republican. In fact, he ran against me at one time in a primary, but he made the mistake of having JOHN ENSIGN in the primary. He is a fine man. I have been to his home. He has a lovely wife. He really feels he wants to spend some time in public service. He made his money in printing, so he should be a great Public Printer. I wish him and his family the best of luck as they move to Washington.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL FLOOD INSURANCE PROGRAM

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 13, introduced earlier today by Senator SARBANES.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 13) to extend authorization for the national flood insurance program.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

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

The bill (S. 13) was read three times and passed, as follows:

S. 13

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

SECTION 1. AUTHORIZATION FOR THE NATIONAL FLOOD INSURANCE PROGRAM.

The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) in section 1309(a)(2) (42 U.S.C. 4016(a)(2)), by striking ''December 31, 2002'' and inserting ''December 31, 2003'';

(2) in section 1319 (42 U.S.C. 4026), by striking ''December 31, 2002'' and inserting ''December 31, 2003'';

NATIONAL RUNAWAY PREVENTION MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from the consideration of S. Res. 339, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 339) designating November 2002 as ''National Runaway Prevention Month.''

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 339) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 339

Whereas the prevalence of runaway and homeless youth in our Nation is staggering, with studies suggesting that between 1,300,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets are often those who have been ''thrown out'' of their homes by their families, who have been physically, sexually, and emotionally abused at home, who have been discharged by State custodial systems without adequate transition plans, who have lost their parents through death or divorce, and who are too poor to secure their own basic needs;

Whereas effective programs supporting runaway youth and assisting young people in remaining at home with their families succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national responsibility;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support services that address the critical needs of such youth;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the National Network for Youth and National Runaway Switchboard are cosponsoring National Runaway Prevention Month to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

Resolved, That the Senate designates November 2002, as ''National Runaway Prevention Month''.

CONGRATULATING PEOPLE OF BRAZIL ON FREE AND FAIR ELECTIONS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 365 submitted earlier today by Senators Chafee and Dodd.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 365) congratulating the people of Brazil on the completion of peaceful, free and fair elections in Brazil and the election of President da Silva.

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

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc; the motions to reconsider be laid upon the table en bloc, and any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The resolution (S. Res. 365) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 365), with its preamble, reads as follows:

S. RES. 365

Whereas, in October 2002, the people of Brazil completed peaceful, free, and fair elections of a President and other officials of their country;

Whereas Luiz Inacio ''Lula'' da Silva, candidate of Brazil's Worker's Party, was elected President of Brazil on October 27, 2002, receiving 52,793,364 votes, representing 61.27 percent of the votes cast;

Whereas Brazil utilized a new nationwide computerized voting system, which enabled the tallying of approximately 100,000,000 votes in less than 10 hours, including votes cast in areas that are accessible only by boat or plane;

Whereas Brazil has a population of 174,500,000, making it the eighth most populous nation in the world and the most populous nation in Latin America;

Whereas Brazil's diversified economy is the eighth largest in the world, and Brazil's gross domestic product, which was $540,000,000,000 in 2001, is the largest in Latin America;

Whereas Brazil plays a critical regional leadership role in Latin America within the Organization of American States, the Inter-American Treaty of Reciprocal Assistance (commonly known as the ''Rio Treaty''), the Latin American Integration Association, and Mercosur/Mercosul (Southern Common Market), and is one of the guarantors of the Peru-Ecuador peace process;

Whereas Brazil has been a member of the United Nations Security Council four times, most recently from 1998 through 2000, has contributed troops to several United Nations peacekeeping missions, and is an active participant in international cooperation and commerce as a party to numerous international treaties and conventions;

Whereas the economic relationship between Brazil and the United States is substantial and growing, with United States direct foreign investment increasing from less than $19,000,000,000 in 1994 to an estimated $35,000,000,000 in 2000, United States exports to Brazil increasing from $8,100,000,000 in 1994 to $15,900,000,000 in 2001, and United States imports from Brazil increasing from $8,700,000,000 in 1994 to $14,500,000,000 in 2001;

Whereas Brazil will play a critical role in the continuing negotiations related to the creation of a Free Trade Area of the Americans, which the United States and Brazil will co-chair during the next two years;

Whereas the United States and Brazil have a long history of friendly relations beginning when the United States became the first country to recognize Brazil's independence in 1822;

Whereas Brazil led the parties to the Inter-American Treaty of Reciprocal Assistance in stating on September 11, 2001, that the attacks on the United States on that date were attacks on all American States;

Whereas there are an estimated 50,000 United States citizens residing in Brazil, and some 150,000 United States citizens visit Brazil each year;

Whereas the United States and Brazil have entered into many agreements together, including the Education Partnership Agreement, the Technical Safeguards Agreement, the Common Agenda on the Environment, and agreements to cooperate in matters relating to energy, the international space station, national parks, and government reform; and

Whereas cooperation between the United States and Brazil on several counter-narcotics efforts, including the United States training of Brazilian counter-narcotics agents and Operation Cobra in northern Brazil, has increased significantly in recent years: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Brazil on successfully completing peaceful, free, and fair elections on October 6, 2002, and October 22, 2002;

(2) congratulates President-elect Luiz Inacio ''Lula'' da Silva on his electoral victory and welcomes him as a democratic partner in the numerous bilateral and multilateral efforts to which the United States and Brazil are parties;

(3) endorses President Bush's invitation of President-elect da Silva to Washington, District of Columbia, which will result in a meeting between the two leaders on December 10, 2002;

(4) urges President Bush and President-elect da Silva to pursue policies on economic, security, drug enforcement, and other matters of mutual interest to Brazil and the United States that will continue to strengthen the relationship between the people and governments of the two countries; and

(5) pledges the Senate's continued support for a strong and friendly economic, political, and cultural relationship between the United States and Brazil based on shared values.

URGING ARAB GOVERNMENTS NOT TO CONTROL TELEVISION STATIONS TO BROADCAST PROGRAMS THAT LEND LEGITIMACY TO PROTOCOLS OF ELDERS OF ZION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 366 introduced earlier today by Senators NELSON of Florida and SMITH of Oregon.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 366) urging the Government of Egypt and other Arab governments not to allow their government-controlled television stations to broadcast any program that lends legitimacy to the Protocols of the Elders of Zion, and for other purposes.

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

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc; the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 366) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 366), with its preamble, reads as follows:

S. RES. 366

Whereas in November 2002, a number of government-controlled television stations in Egypt began broadcasting a multi-part series, ''Horseman Without a Horse'', based on the Protocols of the Elders of Zion and conspiracy myths about Jewish global domination;

Whereas the Protocols of the Elders of Zion are a notorious forgery, written by Russian anti-Semites in the early 20th century, which purport to reveal a plot for Jewish domination of the world;

Whereas the Protocols of the Elders of Zion have been a staple of anti-Semitic and anti-Israel propaganda for decades and have long since been discredited by all reputable scholars;

Whereas the broadcast of this series takes place in the context of a sustained pattern of vitriolic anti-Semitic commentary and depictions in the Egyptian government-sponsored press, which has gone unanswered by the Government of Egypt; and

Whereas the Department of State has urged Egypt and other Arab states not to broadcast this program, saying ''We don't think government TV stations should be broadcasting programs that we consider racist and untrue'': Now, therefore, be it

Resolved, That the Senate—

(1) condemns any publication or program that lends legitimacy to the Protocols of the Elders of Zion;

(2) believes the use of such heinous propaganda, especially in the Arab world, serves to incite popular sentiment against Jewish people and the State of Israel rather than promoting religious tolerance and preparing Arab populations for the prospect of peace with Israel;

(3) commends the Department of State for its denunciation of the ''Horseman Without a Horse'' television series and its efforts to discourage Arab states from broadcasting it; and

(4) urges the Government of Egypt and other Arab governments—

(A) not to allow their government-controlled television stations to broadcast this program or any other racist and untrue material; and

(B) to speak out against such incitement by vigorously and publicly condemning anti-Semitism as a form of bigotry.

Mr. NELSON of Florida. Mr. President, I rise to introduce a resolution dealing with a problem we are facing in the Middle East—that of resurgent anti-Semitism. I am joined by my friend and colleague from Oregon, Sen. SMITH, in offering this resolution.

Right now, throughout this month, a multi-part series is being broadcast on Egyptian state television entitled, ''Horseman Without a Horse.'' This program is based on a notorious anti-Semitic document known as ''The Protocols of the Elders of Zion.''

''The Protocols of the Elders of Zion,'' written in the early 20th century by Russian anti-Semites, purports to be a record of secret meetings at which Jewish leaders hatched a plan for global Jewish domination. All reputable scholars have discredited the document, but it has proven tougher to stamp out than the most resilient weed.

Time and again, various anti-Semitic leaders have used the Protocols of the Elders of Zion to justify outrageous acts of persecution against the Jewish people. The perpetrators of pogroms in Russia cited it. Hitler used it. So did Stalin. It has become a staple of anti-Semitic propaganda.

The places these myths are most likely to surface nowadays are in the Arab world. With depressing regularity, we see Jews portrayed in the Arab media as bloodthirsty, conniving, and manipulative. The editorial cartoons of Jews that appear in Egyptian newspapers alone would be shocking to nearly any American who saw them.

Now comes a television program about Jewish plots to control the world, broadcast nationwide on Egyptian government-sponsored television stations. It is likely the series will air in other Arab countries as well.

Some would argue that this demonizations is an unavoidable hyproduct of the Arab-Israeli conflict. But perpetrating anti-Semitic myths is never acceptable. Arab governments can be expected to have their differences with Israel, and to seek to resolve those differences through negotiations. They can even be expected to criticize Israeli policies. But the gratuitous demonization of Jews serves on to incite popular sentiment against Jewish people, and by extension, the State of Israel. Instead, these governments should be seeking to promote religious tolerance, and to prepare their populations for peace with Israel.

Egypt is a friend and ally of the United States. It is a significant recipient of U.S. foreign assistance because successive administrations of both parties have found the alliance to serve our national interests. But we have a right to expect better from our friends. We have a right to expect that they will not intentionally promote false and racist views that incite religious intolerance. As the State Department spokesman, Richard Boucher, said recently, ''We don't think government TV stations should be broadcasting programs that we consider racist and untrue.''

Anti-Semitism is a form of racism, and we need to condemn it whenever it occurs. The resolution I am offering today with Sen. SMITH condemns any effort that lends legitimacy to the Protocols of the Elders of Zion, supports the State Department's criticism of the Egyptian television series ''Horseman Without a Horse'', and urges the Government of Egypt and other Arab governments to refrain from broadcasting racist and untrue material, and to speak out against such incitement.

I look forward to working with my colleagues to pass this import resolution.

ARCHIE EDWARDS BLUES HERITAGE FOUNDATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 367 introduced earlier today by Senators HATCH and BARKLEY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 367) recognizing the community services of the Archie Edwards Blues Heritage Foundation, designating the fortnight beginning November 29, 2002, as the ''Blues Heritage Appreciation Fortnight'', and designating Friday, November 29, 2002, as ''Blues Friday.''

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

Mr. REID. I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 367) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 367), with its preamble, reads as follows:

S. RES. 367

Whereas Mr. Archie Edwards was a talented musician who devoted his life to playing the blues and inspiring others to learn and appreciate music;

Whereas Mr. Archie Edwards was a self-taught musician whose music was acclaimed throughout the United States, Canada, and Europe;

Whereas Mr. Archie Edwards, for 40 years, provided a haven in the District of Columbia for all those who loved the blues to play, listen, and socialize;

Whereas the Archie Edwards Blues Heritage Foundation is a nonprofit organization dedicated to preserving Mr. Edwards' memory and extending the positive influence of his music in the Washington, D.C. community;

Whereas the Archie Edwards Blues Heritage Foundation is committed to carrying on Mr. Edwards' legacy by maintaining an open forum for people in the community to meet, learn, and share the music he loved;

Whereas the Archie Edwards Blues Heritage Foundation supports and expands community outreach programs that provide entertainment and promote the blues to citizens in nursing homes, schools, hospitals, and other venues; and

Whereas the Archie Edwards Blues Heritage Foundation recognizes the importance that the blues has played in our country's heritage and has preserved and promoted the blues as a unique American art form: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the community services of the Archie Edwards Blues Heritage Foundation;

(2) recognizes the importance of blues in the history of American culture;

(3) designates the fortnight beginning November 29, 2002, as the ''Blues Heritage Appreciation Fortnight''; and

(4) designates Friday, November 29, 2002, as ''Blues Friday''.

CALLING FOR EFFECTIVE MEASURES TO END SEXUAL EXPLOITATION OF REFUGEES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 349.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 349) calling for effective measures to end sexual exploitation of refugees.

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

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 349) was agreed to.

The preamble was agreed to.

DECLINING WORLD COFFEE PRICES

Mr. REID. I ask consent that the Senate proceed to the consideration of S. Res. 368, introduced earlier today by Senators LEAHY, DODD, SPECTER, and FEINSTEIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S.R. 368) expressing the sense of the Senate concerning the decline of world coffee prices and its impact on developing nations.

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

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 368) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 368

Whereas since 1997 the price of coffee has declined nearly 70 percent on the world market and has recently reached its lowest level in a century;

Whereas the collapse of coffee prices has resulted in a widespread humanitarian crisis for 25,000,000 coffee growers and for more than 50 developing countries where coffee is a critical source of rural employment and foreign exchange earnings;

Whereas, according to a recent World Bank report, 600,000 permanent and temporary coffee workers in Central America have been left unemployed in the last two years;

Whereas the World Bank has referred to the coffee crisis as 'the silent Mitch', equating the impact of record-low coffee prices upon Central American countries with the damage done to such countries by Hurricane Mitch in 1998;

Whereas 6 of 14 immigrants who died in the Arizona desert in may 2001 were small coffee farmers from Veracruz, Mexico;

Whereas The Washington Post, The New York Times, and The Wall Street Journal report that cultivation of illicit crops such as coca and opium poppy is increasing in traditional coffee-growing countries, such as Colombia and Peru, which have been adversely affected by low international coffee prices;

Whereas the economies of some of the poorest countries in the world, particularly those in Africa, are highly dependent on trade in coffee;

Whereas coffee accounts for approximately 80 percent of export revenues for Burundi, 54 percent of export revenues for Ethiopia, 34 percent of export revenues for Uganda, and 31 percent of export revenues for Rwanda;

Whereas, according to the Oxfam International Report 'Mugged: Poverty in your Coffee Cup', in the Dak Lak province of Vietnam, one of the lowest-cost coffee producers in the world, the price farmers receive for their product covers as little as 60 percent of their costs of production;

Whereas on February 1, 2002, the International Coffee Organization (ICO) passed Resolution 407, which calls on exporting member countries to observe minimum standards for exportable coffee and to provide for the issuance of ICO certificates of origin according to those standards and also calls on importing member countries to 'make their best endeavors to support the objectives of the programme';

Whereas both the Specialty Coffee Association of America (SCAA) and the National Coffee Association (NCA) support ICO Resolution 407 and have publicly advocated for the United States to rejoin the International Coffee Organization;

Whereas the United States Agency for International Development (USAID) has already established coffee sector assistance programs for Colombia, Bolivia, the Dominican Republic, East Timor, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Rwanda, Tanzania, and Uganda; and

Whereas House Report 107–663, highlights the coffee price crisis as a global issue and 'urges USAID to focus its rural development and relief programs on regions severely affected by the coffee crisis, especially in Colombia': Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the United States should adopt a global strategy to respond to the coffee crisis with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of countries adversely affected by the collapse of coffee prices; and

(B) the President should explore measures to support and complement multilateral efforts to respond to the global coffee crisis; and

(2) the Senate urges private sector coffee buyers and roasters to work with the United States Government to find a solution to the crisis which is economically, socially, and environmentally sustainable for all interested parties, and that will address the fundamental problem of oversupply in the world coffee market.

PROTECTION OF FAMILY FARMERS ACT OF 2002

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 628, H.R. 5472.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5472) to extend for 6 months the period for which chapter 12 title 11 of the United States Code is enacted.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing H.R. 5472, to extend family farmer bankruptcy protection until July 1, 2003.

Unfortunately, too many family farmers have been left in legal limbo in bankruptcy courts across the country because Chapter 12 of the Bankruptcy Code is still a temporary measure. This is the fifth time that this Congress must act to restore or extend basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

In 2000 and 2001, for example, the Senate, then controlled by the other party, failed to take up a House-passed bill to retroactively renew Chapter 12 and, as a result, family farmers lost Chapter 12 bankruptcy protection for 8 months. Another lapse of Chapter 12 lasted more than 6 months in this Congress. Enough is enough. It is time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our nation's family farmers.

I strongly supported Senator CARNAHAN's bipartisan amendment to make Chapter 12 a permanent part of the Bankruptcy Code as part of the Senate-passed farm bill. The Senate unanimously approved the Carnahan amendment by a 93–0 vote. Unfortunately, the House majority objected to including the Carnahan amendment in the farm bill conference report and agreed to an extension of Chapter 12 only through the end of this year.

In the bipartisan bankruptcy reform conference, we again tried to make Chapter 12 permanent and update and expand its coverage. During our conference negotiations, we adopted most of the Senate-passed provisions, including those authored by Senator GRASSLEY to make Chapter 12 permanent and those authored by Senator FEINGOLD to strengthen Chapter 12 to help our family farmers with the difficulties they face. Just last week, however, the House majority again scuttled our bipartisan efforts by failing to pass the rule to consider the bipartisan conference report on the Bankruptcy Abuse Prevention and Consumer Protection Act.

This week, Senator GRASSLEY and I introduced the family farmer provisions in the bipartisan bankruptcy conference report in S. 3174, the ''Protection of Family Farmers and Family Fisherman Act of 2002.'' Our bipartisan bill makes Chapter 12 a permanent part of the Bankruptcy Code so family farmer bankruptcy protection will no longer lapse and force farmers into a legal limbo. Family farmers deserve these enhanced and permanent protections to help them prevent foreclosures and forced auctions. I know Senator GRASSLEY, Senator CARNAHAN, Senator FEINGOLD and others on both sides of the aisle strongly support permanent and expanded bankruptcy protection for family farmers. I hope the Senate and the House will quickly pass

our bipartisan bill in the next Congress.

In the meantime, I look forward to the President signing into law this legislation to extend basic bankruptcy protection for our family farmers through the first six months of next year.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 5472) was read the third time and passed.

DESIGNATING RECEIPTS COLLECTED FROM MINERAL LEASING

Mr. REID. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 2187 and the Senate now proceed to the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2187) to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

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

Mr. REID. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (H.R. 2187) was read the third time and passed.

CONSENTING TO CERTAIN AMENDMENTS TO THE NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 760, H.R. 3180.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3180) to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (H.R. 3180) was read the third time and passed.

Mr. LEAHY. Mr. President. I am very pleased that H.R. 3180, legislation to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, has been adopted by the Senate. This legislation was passed out of the Senate Judiciary Committee last week and I am pleased my colleagues have joined me in supporting its passage today.

There are a handful of Vermont communities that share a school district with their neighbors across the border in New Hampshire. Congress first approved of the New Hampshire-Vermont Interstate School Compact in 1969 to allow these interstate districts to be put in place. H.R. 3180 amends the original Compact by providing these interstate districts with local flexibility regarding how to conduct bond votes for their school construction projects.

Last year, residents of the Dresden School District, one of two interstate school districts formed under this Compact, voted to change the way bond votes are conducted in their communities. The Vermont and New Hampshire Legislatures approved these changes, as did the U.S. House of Representatives when it passed H.R. 3180, sponsored by Representative CHARLIE BASS of New Hampshire and my colleague from Vermont, Representative BERNIE SANDERS, after a 425 to 0 vote to suspend the rules.

This bill will allow local schools to make local choices about the best way to spend their dollars. While I regret that this simple piece of legislation was not agreed to sooner, I applaud its passage today.

INDIAN PROGRAMS REAUTHORIZATION AND TECHNICAL AMENDMENT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 556, S. 2711.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2711) to reauthorize and improve programs relating to Native Americans.

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.

Mr. REID. Mr. President, I ask unanimous consent the committee substitute amendment be withdrawn and a substitute amendment by Senator INOUYE at the desk be considered, the Inouye amendment to the Inouye substitute amendment be considered and agreed to, the Inouye substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid on the table, all with no intervening action or debate, and any statements be printed.

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

The committee amendment in the nature of a substitute was withdrawn.

The Senate proceeded to consider amendment No. 4980, in the nature of a substitute.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 4981) to amendment No. 4980 was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 4980), in the nature of a substitute as amended, was agreed to.

The bill (S. 2711), as amended, was read the third time and passed, as follows:

[The bill will be printed in a future edition of the RECORD].

FISHERIES CONSERVATION ACT OF 2002

Mr. REID. I ask unanimous consent the Senate proceed to Calendar No. 753, H.R. 1989.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1989) to reauthorize various fishing conservation management programs, and for other purposes.

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

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

H.R. 1989

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 ''Fisheries Conservation Act of 2001''.

[TITLE I—INTERJURISDICTIONAL FISHERIES ACT OF 1986

[SEC. 101. REAUTHORIZATION OF INTERJURISDICTIONAL FISHERIES ACT OF 1986.

[Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

[(1) by amending subsection (a) to read as follows:

[''(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

[''(1) $4,900,000 for fiscal year 2002;

[''(2) $5,400,000 for each of fiscal years 2003 and 2004; and

[''(3) $5,900,000 for each of fiscal years 2005 and 2006.''; and

[(2) in subsection (c) by striking ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000'' and inserting ''$800,000 for fiscal year 2002, $850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006''.

[SEC. 102. PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

[Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking ''and'' after the semicolon at the end of paragraph (1), striking

the period at the end of paragraph (2) and inserting ''; and'', and adding at the end the following:

[''(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.''.

[TITLE II—ANADROMOUS FISH CONSERVATION ACT

[SEC. 201. REAUTHORIZATION OF ANADROMOUS FISH CONSERVATION ACT.

[Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

[''AUTHORIZATION OF APPROPRIATIONS

[''SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

[''(A) $4,500,000 for fiscal year 2002;

[''(B) $4,750,000 for each of fiscal years 2003 and 2004; and

[''(C) $5,000,000 for each of fiscal years 2005 and 2006.

[''(2) Sums appropriated under this subsection are authorized to remain available until expended.

[''(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.''.

[SEC. 202. RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO THE CONSERVATION AND MANAGEMENT.

[The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting ''(1)'' after ''(b)'', and by adding at the end the following:

[''(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.''.

[TITLE III—ATLANTIC COASTAL FISHERIES

[SEC. 301. REAUTHORIZATION OF ATLANTIC STRIPED BASS CONSERVATION ACT.

[Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking ''and 2003'' and inserting ''2003, 2004, 2005, and 2006''.

[SEC. 302. REAUTHORIZATION OF ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.

[Section 811(a) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5108) is amended by striking ''2005'' and inserting ''2006''.

[SEC. 303. AMENDMENTS TO ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.

[(a) FINDINGS.—Section 802(a) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101(a)) is amended by adding at the end the following:

[''(7) The understanding of the interactions of species in the maritime environment and the development of ecosystems-based approaches to fishery conservation and management lead to better stewardship and sustainability of coastal fishery resources.

[''(8) Federal and State scientists should gather information on the interaction of species in the marine environment and provide this scientific information to Federal and State managers.''.

[(b) PURPOSE.—Section 802(b) of such Act (16 U.S.C. 5101(b)) is amended to read as follows:

[''(b) PURPOSE.—The purpose of this title is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources through the use of sound science and multispecies, adaptive, and ecosystem-based management measures.''.

[(c) STATE-FEDERAL COOPERATION IN MULTISPECIES AND ECOSYSTEMS INTERACTION RESEARCH.—Section 804(a) of such Act (16 U.S.C. 5103(a)) is amended by inserting ''multispecies and ecosystems interaction research;'' after ''biological and socioeconomic research;''.

[(d) ASSISTANCE FOR RESEARCH REGARDING INTERRELATIONSHIPS AMONG ATLANTIC COASTAL FISHERY RESOURCES AND THEIR ECOSYSTEMS.—Section 808 of such Act (16 U.S.C. 5107) is amended by striking ''and'' after the semicolon at the end of paragraph (1), redesignating paragraph (2) as paragraph (3), and inserting after paragraph (1) the following:

[''(2) research to understand the interrelationships among Atlantic coastal fishery resources and their ecosystems; and''.

[TITLE IV—ATLANTIC TUNAS CONVENTION ACT OF 1975

[SEC. 401. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

[Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

[''AUTHORIZATION OF APPROPRIATIONS

[''SEC. 10. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

[''(1) For each of fiscal years 2002, 2003, and 2004, $5,480,000.

[''(2) For each of fiscal years 2005 and 2006, $5,495,000.

[''(b) ALLOCATION.—Of amounts available under this section for each fiscal year—

[''(1) $150,000 are authorized for the advisory committee established under section 4 and the species working groups established under section 4A; and

[''(2) $4,240,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).''.

[TITLE V—NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

[SEC. 501. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

[Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking ''2001'' and inserting ''2006''.

[TITLE VI—EXTENSION OF DEADLINE FOR SUBMISSION OF OCEAN POLICY REPORT

[SEC. 601. EXTENSION OF DEADLINE.

[(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106–256) is amended—

[(1) in section 3(f)(1) (114 Stat. 647) by striking ''18 months'' and inserting ''27 months'';

[(2) in section 3(i) (114 Stat. 648) by striking ''30 days'' and inserting ''90 days''; and

[(3) in section 4(a) (114 Stat. 648; 33 U.S.C. 857–19 note) by striking ''120 days'' and inserting ''90 days''.

[(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking ''$6,000,000'' and inserting ''$8,500,000''.

[(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

[(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

[(2) by inserting immediately after such period the following:

[''(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—''; and

[(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fisheries Conservation Act of 2002''.

TITLE I—INTERJURISDICTIONAL FISHERIES ACT OF 1986

SEC. 101. REAUTHORIZATION OF INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

''(1) $4,900,000 for fiscal year 2002;

''(2) $5,400,000 for each of fiscal years 2003 and 2004; and

''(3) $5,900,000 for each of fiscal years 2005 and 2006.''; and

(2) in subsection (c) by striking ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000'' and inserting ''$800,000 for fiscal year 2002, $850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006''.

SEC. 102. PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (1);

(2) by striking ''range.'' in paragraph (2) and inserting ''range; and''; and

(3) adding at the end the following:

''(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.''.

TITLE II—ANADROMOUS FISH CONSERVATION ACT

SEC. 201. REAUTHORIZATION OF ANADROMOUS FISH CONSERVATION ACT.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

''(A) $4,500,000 for fiscal year 2002;

''(B) $4,750,000 for each of fiscal years 2003 and 2004; and

''(C) $5,000,000 for each of fiscal years 2005 and 2006.

''(2) Sums appropriated under this subsection are authorized to remain available until expended.

''(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.''.

SEC. 202. RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO THE CONSERVATION AND MANAGEMENT.

The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting ''(1)'' after ''(b)'', and by adding at the end the following:

''(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.''.

TITLE III—ATLANTIC TUNAS CONVENTION ACT OF 1975

SEC. 301. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 10. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States

share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

''(1) For each of fiscal years 2002, 2003, and 2004, $5,480,000.

''(2) For each of fiscal years 2005 and 2006, $5,495,000.

''(b) ALLOCATION.—Of amounts available under this section for each fiscal year—

''(1) $150,000 are authorized for the advisory committee established under section 4 and the species working groups established under section 4A; and

''(2) $4,240,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).''.

TITLE IV—NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

SEC. 401. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking ''2001'' and inserting ''2006''.

TITLE V—EXTENSION OF DEADLINE FOR SUBMISSION OF OCEAN POLICY REPORT

SEC. 501. EXTENSION OF DEADLINE.

(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106–256) is amended—

(1) in section 3(i) (114 Stat. 648) by striking ''30 days'' and inserting ''90 days''; and

(2) in section 4(a) (114 Stat. 648; 33 U.S.C. 857–19 note) by striking ''120 days'' and inserting ''90 days''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking ''$6,000,000'' and inserting ''$8,500,000''.

(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) by striking ''it:'' in paragraph (1) and inserting ''it.'';

(2) by inserting immediately after such period the following:

''(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—''; and

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

Ms. SNOWE. Mr. President, I am pleased that today the Senate is considering passage of H.R. 1989 and urge my colleagues to join me in supporting this bill.

The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., the ''Act'', and the National Standards Guidelines developed and implemented by the Secretary of Commerce set forth specific standards for establishing, amending, and re-setting fishery rebuilding plans and timelines developed under that Act's rebuilding provisions, codified in, among other provisions, 16 U.S.C. 1854(e). New information and scientific analyses become available through time, and there can be a need to amend and adjust rebuilding plans and timelines based on such new information and analyses. In certain instances, such information and analyses indicating that biomass rebuilding targets can and should be substantially increased. These increases in biomass targets, especially in the midst of an on-going rebuilding plan, may, in appropriate circumstances, require flexibility to ensure that the rebuilding program accomplishes the full range of the Act's goals and national standards. The Secretary of Commerce, who is charged with implementing the Act, has the discretion to provide flexibility in a rebuilding plan or timeline when the biomass target for a fish species or stock is substantially increased. The flexibility confirmed in Section 604 of H.R. 1989 clarifies the Secretary's discretion contained in the Act and does not limit or otherwise constrain additional areas for flexibility in rebuilding contained within the Act.

This section clarifies the flexibility that Congress provided the Secretary in the Sustainable Fisheries Act of 1996. This flexibility is necessary due to the unanticipated event of biomass targets being substantially increased during a rebuilding period. Schedules for ending overfishing and rebuilding overfished fisheries are required by the Sustainable Fisheries Act and must be specified. The Sustainable Fisheries Act does, however, provide the Councils and the Secretary with a significant degree of flexibility in determining time frames for ending overfishing and rebuilding depleted fisheries.

For instance, the requirement that schedules for ending overfishing and rebuilding fisheries be ''as short as possible'' and the conditional 10-year rebuilding period deadline provide valuable standards to help guide the councils in the development of plans to end overfishing and rebuild fisheries. In drafting this provision, however, Congress clearly understood that fisheries are not managed in a vacuum and that rebuilding schedules should be based not only on the biological and ecological conditions of the fishery, but also on the needs of fishing communities as well as any international management measures that may apply. The relative weight of a particular factor would depend on the circumstances facing a fishery and would be determined by the councils, but the biology and life history characteristics of a species will always be very important in determining the ultimate rebuilding schedule.

Properly construed, the Sustainable Fisheries Act rebuilding provisions permit the councils to set a longer rebuilding schedule in cases where the stock or stocks at issue grow relatively slowly, and/or the size of the stock is sufficiently small that even under conditions of moderate or no fishing mortality, rebuilding will necessarily take a significantly longer period of time.

In the case of a slower-growing species, the Sustainable Fisheries Act provisions allow a council to establish a rebuilding schedule longer than 10 years to accommodate the life history characteristics, including growth rates, of the species. The term ''biology of the stock of fish'' was included in section 304(e)(4)(A)(ii) so that councils would have the ability to devise individual rebuilding schedules in harmony with the biological parameters of a fish population's growth capacity.

Section 304(e)(4)(A)(ii) also enables the Councils to establish rebuilding schedules longer than 10 years if the stock or stocks in question are managed under an international agreement to which the U.S. is a party, and any management measures or recommendations approved pursuant to such an agreement contain a rebuilding schedule longer than 10 years. In such circumstances, the rebuilding schedule developed under Section 304(e)(4), as well as other management provisions under the Magnuson-Stevens Act, must be consistent with the rebuilding schedule and associated management measures and recommendations under the international agreement.

In drafting section 304(e)(4)(A), Congress wanted to ensure that U.S. harvesters of species managed under an international regime were not saddled with a disproportionate conservation burden and not placed at a competitive disadvantage compared to their counterparts from other countries that are parties to the regime.

Mr. REID. Mr. President, it is my understanding Senators KERRY and HOLLINGS have two amendments at the desk. I ask it be in order to consider the amendments en bloc; the amendments be agreed to en bloc; the motions to reconsider be laid on the table en bloc; the committee-reported substitute amendment, as amended, be agreed to; the motion to reconsider be laid on the table; the bill as amended, be read three times, passed, the motion to reconsider be laid on the table; and consideration of these amendments appear separately in the RECORD and any statements be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 4982) was agreed to, as follows:

AMENDMENT NO. 4982

(Purpose: To provide authority for the acceptance of voluntary services)

At the appropriate place, add the following:

SEC. __. AUTHORITY TO ACCEPT VOLUNTEER SERVICES.

Section 303 (33 U.S.C. 892a), is amended by adding at the end the following:

''(d) AUTHORITY TO ACCEPT VOLUNTEER SERVICES.—To help fulfill the duties of the Administrator, including authorities under the Act of 1947 (33 U.S.C. 883a et seq.), this Act, or in response to a maritime emergency, the Administrator may—

''(1) establish a volunteer program;

''(2) enter into special agreements with qualified organizations to assist in the implementation of a volunteer program; and

''(3) provide funding under the special agreement to the qualified organization for the purposes of assisting in the administration of the volunteer programs and for procuring and maintaining insurance or other coverage for the organization and its members when conducting volunteer activities.

''(e) LEGAL STATUS OF VOLUNTEERS.—Paragraphs (1) through (5) of section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)) shall apply to volunteers providing services to the Administrator under subsection (c) of this section, except that any reference in that section to the Secretary of the Interior or the Secretary of Commerce shall be deemed to refer to the Administrator.

''(f) QUALIFIED ORGANIZATION.—In this section, the term 'qualified organization' means

a non-governmental, not-for-profit organization, determined by the Administrator to have demonstrated expertise in boating safety and a commitment to improving the quality of hydrographic services and related oceanographic and meteorological information that is made available to mariners.''.

Mr. KERRY. Mr. President, I rise this evening as Chairman of the Oceans, Atmosphere and Fisheries Subcommittee to offer a few remarks concerning H.R. 1989, to which I am offering a Senate amendment, along with the ranking member of the Subcommittee Ms. SNOWE.

The Senate amendment includes a number of provisions that will help fishermen around this country. Our amendment contains two important provisions that will help identify and address overcapacity in our fisheries. The first is a report from the Secretary of Commerce identifying the top 20 fisheries in the United States with excess capacity. In order to restore and maintain sustainable fisheries, we need to ensure we understand and develop a plan to address overcapacity that may be undermining our efforts to rebuild our stocks. By ranking the fisheries with the most serious capacity problems, we can target resources at reducing capacity in these fisheries and allow some fishermen to retire with dignity.

This amendment also includes a provision that would require the Secretary of Commerce in coordination with the New England Fisheries Management Council to provide technical assistance and use all tools at his disposal—including the Coastal Zone Management Act planning procedures—to help industry develop a capacity reduction program for New England groundfish. Funding has already been provided for such an industry-funded buyout, but now our industry must consider what kind of plan makes sense for our fishing communities. We simply have too many fishermen chasing too few fish in New England. I know the entire New England delegation has enormous sympathy for our hard-working fishermen, and we want to help these families as they struggle against a tide of regulations. The first step to assisting these families is to evaluate and plan for the opportunities that will be available once our fisheries are rebuilt. Then people can make some informed decisions about retiring from the fishery. It is my hope that the Secretary in coordination with New England Fishery Management Council can develop such a plan.

This amendment also contains a provision that clarifies the flexibility that Congress provided the Secretary of Commerce in the 1996 reauthorization of the Magnuson-Stevens Act. Current law requires stocks identified as overfished to be rebuilt within 10 years, except that additional time is provided where the biology of the stocks, other environmental conditions, or international management measures dictate otherwise. Ms. SNOWE and I have included a provision clarifying that under existing law the Secretary of Commerce may extend rebuilding beyond 10 years if the rebuilding target we are working towards increases by 100 percent or more over the original target set by the Secretary at the start of the rebuilding plan. The extension should only be granted as long as the fishery meets or exceeds the original target and if the Secretary certifies that the overfishing requirements of the Act are met and that rebuilding will continue to occur.

We are not endorsing any backsliding on conservation, nor encouraging overfishing, but trying to deal with primarily a logistical problem: a mid-course increase in the targets based on new scientific information. Recently the National Marine Fisheries Service re-analysis of biological reference points resulted in more than doubling our rebuilding targets on several species in the Northeast multispecies fishery during year 3 of a 10-year rebuilding plan. This development generated confusion in the region, but we believe there is a simple response. Under the law, we believe the Secretary of Commerce has the authority to provide a biologically-based and reasonable time extension for these stocks, provided it is as short as possible, rebuilding continues, overfishing does not occur, and the original targets are met. This is only a commonsense response to this situation—a transition rule, if you will. A substantial change in biomass targets in the middle of a rebuilding plan was never envisioned when NMFS wrote the implementing regulations, but such a response would be consistent with the Act.

This amendment also contains a provision that would aid in implementing the industry-funded buyout in the West Coast groundfish fishery which Congress authorized last year. I know that my colleagues from Oregon, Washington and California care very much about this provision. I am happy that we could accommodate them with this legislation and help the fishing communities on the West Coast that are reeling from severe overfishing on stocks that are long lived, slow growing and slow to reproduce.

Finally, this amendment includes important provisions authorizing national approaches to cooperative research, independent peer review of data collection and assessment methods, fisheries training and outreach, and cooperative enforcement. All of these proposals are based on programs that have worked in practice or from recommendations made to Congress by the National Research Council. These provisions will improve the management of our fisheries by improving the science that underlies fishery management decisions or by enhancing local law enforcement efforts. These provisions will also ensure that the fishing industry has a seat at the table in discussions about fishery science and management. We have long supported the need to bridge the science gap so that scientists and fishermen can engage in productive dialogue on fishery management. This is essential to developing cooperative plans to achieving a common goal: sustainable fisheries for our communities.

The amendment (No. 4983) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

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

The bill (H.R. 1989), as amended, was read the third time and passed.

Mr. REID. Mr. President, I yield to my friend, the junior Senator from Illinois, Mr. FITZGERALD.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I ask unanimous consent to make a statement on the passage of the Holocaust Restitution and Tax Fairness Act of 2002.

Mr. REID. How long is that statement going to take?

Mr. FITZGERALD. I think it is just a page and a half.

Mr. REID. I think you can have that.

Mr. FITZGERALD. I appreciate the accommodation of my great friend from the State of Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will proceed.

HOLOCAUST RESTITUTION TAX FAIRNESS ACT OF 2002

Mr. FITZGERALD. Mr. President, this year we mark the 57th anniversary of the end of the Holocaust. There are as many as 10,000 survivors of the Holocaust in my home State of Illinois, and over 100,000 in the entire United States, with an average age of over 80.

Last year, Congress passed legislation I introduced exempting restitution paid to Holocaust victims and their families from Federal income tax. Unfortunately, this had to be done as an amendment to the 2001 tax relief bill, all of the provisions of which expire at the end of the year 2010. In other words, under current law, the tax exemption afforded to Holocaust restitution payments by last year's legislation will expire on December 21, 2010.

According to current estimates, there will be over 90,000 Holocaust survivors in the year 2010, and over 35,000 in 2020. Without the assurance of permanence in Federal tax policy towards Holocaust restitution payments, victims of the Holocaust and their families will suffer significant risk and uncertainty in tax planning and other important personal decisions.

The Federal Government should not make one dime on Holocaust restitution, ever. The legislation we pass today—the Holocaust Restitution Tax Fairness Act of 2002—addresses this problem by ensuring that Holocaust restitution and compensation payments will never be taxed by the federal government.

I want to thank the sixteen Senators who cosponsored this bill, as well as Representative CLAY SHAW, who spearheaded House passage of the House version of this bill earlier this year. I also want to thank the Anti-Defamation League, B'nai B'rith International, the Conference on Jewish Material Claims, the International Commission on Holocaust Era Insurance Claims, the American Jewish Committee, the Union of Orthodox Jewish Congregations of America, the Jewish Council for Public Affairs, and the American Gathering of Jewish Holocaust Survivors—the largest organization of Holocaust survivors in America. The support of these groups was critical in shepherding this legislation through the Senate.

After more than 50 years of injustice, Holocaust survivors and their families are reclaiming what is rightfully theirs. In passing this legislation today, Congress has done its part to protect the proceeds—and make that protection permanent.

REPEALING THE SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2577 and that the Senate proceed to the immediate consideration of S. 2577 and H.R. 4823 en bloc.

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

The clerk will read the bills by title en bloc.

The legislative clerk read as follows:

A bill (S. 2577) to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime;

A bill (H.R. 4823) to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

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

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the bills be read a third time and passed, the motion to reconsider be laid upon the table en bloc, with no intervening action or debate, that any statements related to the bill be printed in the RECORD, and that the consideration of these items appear separately in the RECORD.

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

The bill (S. 2577) was read the third time and passed, as follows:

S. 2577

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 ''Holocaust Restitution Tax Fairness Act of 2002''.

SEC. 2. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO EXCLUSION FROM FEDERAL INCOME TAX FOR RESTITUTION RECEIVED BY VICTIMS OF NAZI REGIME.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates).''.

The bill (H.R. 4823) was read the third time and passed.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I congratulate my friend on the passage of this legislation. I appreciate the Senator's persistence. It is very important legislation. There are a lot of happy old people today who have been waiting for a continuation of these benefits for a long time. So I thank the Senator very much for his work.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that the staff of Senator THURMOND be granted floor privileges for the next half hour.

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

HYDROGRAPHIC SERVICES IMPROVEMENT ACT AMENDMENTS OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4883, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4883) to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

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

Mr. HOLLINGS. Mr. President, I rise today to comment on H.R. 4883, a bill to reauthorize the Hydrographic Services Improvement Act of 1998. This legislation authorizes programs supporting NOAA's strategic missions to promote safe navigation and sustain healthy coasts. I am especially supportive of this bill because it improves the hydrographic services around our Nation and authorizes the activities of the Commissioned Corps of the National Oceanic and Atmospheric Administration, NOAA Corps.

Last week Congress approved the conference report on the Maritime Transportation Security Act, which will enhance security in our Nation's ports. H.R. 4883 authorizes some key provisions to support that effort by authorizing and increasing the number of officers in our NOAA Corps and supporting establishment of real time hydrographic monitoring systems to enhance navigation and safety. NOAA's hydrographic programs share data and work closely with the U.S. Coast Guard and U.S. Navy, and such collaborations have increased since September 11, 2001. Accurate navigation information supports safe and efficient military deployment and seaport evacuation. About 90 percent of all military equipment and supplies for overseas operations are shipped out of U.S. ports.

Seaports have always been an integral part of our Nation's commerce. Today, more than 95 percent of foreign trade by weight moves by sea, and trade is projected to double by 2020. Vessels are twice as large as they were 50 years ago, testing the capabilities of many ports. Increased ferry, cruise line, and recreational boating activities contribute a rise in seaport congestion. Each year there are about 3,500 commercial and 7,000 recreational boating accidents.

The safe and efficient movement of products depends upon the marine transportation system. Advanced, highly accurate hydrographic, oceanographic and related data improve mariners' situational, three-dimensional awareness, which increases efficiency, reduces risk, and safeguards the marine environment. Such advanced data and services are an integral part of implementing an internationally compliant electronic chart display and information system.

I am especially supportive and pleased that this bill includes language to reauthorize the NOAA Corps. The NOAA Corps, the smallest of the seven uniformed services of the United States, plays a very important role at NOAA and for the Nation. The service, consisting of approximately 265 commissioned officers, provides NOAA with professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries, science, and other related disciplines. The officers serve in assignments within the five major line offices of NOAA: National Ocean Service, NOS; National Weather Service, NWS; National Marine Fisheries Service, NMFS; Oceanic and Atmospheric Research OAR; and National Environmental Satellite, Data, and Information Service, NESDIS. Officers operate ships, fly aircraft into hurricanes, lead mobile field parties, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA. In addition they conduct hydrographic surveys along our Nation's coast in order to make our waters safe for marine commerce.

The NOAA Corps is essential to NOAA's coverage of our seas and our skies; in hours of crisis, NOAA employees have been found issuing the tornado warnings that saved hundreds of lives from a deadly storm, flying into the eyes of hurricanes to gather information about possible landfall, fighting to free three gray whales trapped in the ice, fielding a massive scientific operation to guide the recovery from an oil spill, and monitoring via satellites the movement of hurricanes and other severe storms, volcanic ash and wildfires that threaten communities.

As marine professionals, the NOAA Corps personnel may be transferred to the military services in times of national emergency, and this bill describes a number of technical areas designed to bring the NOAA Corps into line with Department of Defense standards in terms of rank, promotion and pay grade. This bill authorizes a gradual increase in the number of officers to accommodate the growing needs associated with new Navigation Response Teams that will be established and located in ports around the country.

Finally, this legislation amends the Oceans Act of 2000 to ensure that the commission remains in existence 90 days after the date of the final submission of the report. This will allow the commission to provide advice to Congress on its report and on the President's implementation plan, but will not affect the due date established in the Act for submission of the Commission's report. The amendment would also authorize appropriations of $8.5 million; this increase reflects the resources necessary to hold nine regional meetings—three more than mandated by the Oceans Act. These regional meetings are essential to ensuring the views of all citizens are reflected in the work of the Commission, and I have fully supported this regional outreach effort, and the excellent work of the Ocean Commission and its staff.

I want to thank my colleagues in the House of Representatives for working with me to create a bill that does so much to enhance the safety and navigation along our coasts.

Mr. SARBANES. Mr. President, the legislation before the Senate, H.R. 4883, the Hydrographic Services Improvement Act Amendments of 2002, includes important provisions to reauthorize the NOAA Chesapeake Bay Office, NCBO. This office which was first established in 1992 pursuant to Public Law 102–567, has been the focal point for all of NOAA's activities within the Chesapeake Bay watershed and a vital part of the effort to achieve the long-term goal of the Bay Program—restoring the Bay's living resources to healthy and balanced levels.

During the past 10 years, the NCBO has made great strides in realizing the objectives of the NOAA Authorization Act of 1992 and the overall Bay Program living resource goals. Working with other Bay Program partners, important progress has been made in surveying and assessing fishery resources in the Bay, developing fishery management plans for selected species, undertaking habitat restoration projects, removing barriers to fish passage, and undertaking important remote sensing and data analysis activities. But NOAA's responsibilities to the Bay restoration effort are far from complete. Some populations of major species of fish and shellfish in Chesapeake Bay such as shad and oysters, remain severely depressed, while others, such as blue crab are at risk. Baywide, some 16 of 25 ecologically important species are in decline or severe decline, due to disease, habitat loss, overfishing and other factors. The underwater grasses that once sustained these fisheries are only at a fraction of their historic levels. Research and monitoring must be continued and enhanced to track living resource trends, evaluate the responses of the estuary's biota to changes in their environment and establish clear management goals and progress indicators for restoring the productivity, diversity and abundance of these species. Likewise, education to improve understanding by elementary and secondary students and teachers of the living resources in the Chesapeake Bay ecosystem is a top priority.

In order to ensure NOAA's continued full participation in the Bay's restoration and in meeting with goals and objectives of Chesapeake 2000, in the 106th Congress I introduced legislation, together with several of my colleagues, to reauthorize the NOAA Bay Program office and provide the office with additional resources and authority. No action was taken on that legislation so in the 107th Congress, Senators WARNER, MIKULSKI, ALLEN and I introduced new legislation to reauthorize the NCBO. A similar measure was introduced in the House by Representative GILCHREST and the entire Maryland House delegation and provisions of these bills are included in section 401 of the legislation before us. The provisions authorize and direct NOAA to undertake a special 5-year study, in cooperation with the scientific community of the Chesapeake Bay and appropriate other Federal agencies, to develop the knowledge base required for understanding multispecies interactions and developing multispecies management plans. NOAA is also authorized to carry out a small-scale fishery and habitat restoration grant and technical assistance program to help citizens organizations and local governments in the Chesapeake Bay watershed undertake habitat, fish, and shellfish restoration projects. The legislation authorizes $6 million a year specifically to fund the NOAA Chesapeake Bay office and carry out these two activities. And I want to emphasize that this authorization level is intended to address only NCBO's base budget and these two initiatives and that additional funds are provided for the work that the NCBO conducts in oyster reef restoration, oyster disease research, education and training and blue crab research.

I am disappointed however that the legislation did not include two other provisions which we sought to create an internet-based Coastal Predictions Center for the Chesapeake Bay and to formally authorize the NOAA Chesapeake Bay Office's Bay Watershed Education and Training, B–WET, Program that we established last year. Moreover, it is critical that the funding levels for the NOAA Bay Program activities continue to grow to meet these needs and NOAA's responsibilities in oyster and SAV restoration efforts, among other initiatives. If we are to achieve the ultimate, long-term goal of the Bay Program—protecting, restoring and maintaining the health of the living resources of the Bay—additional financial resources must be provided. I plan to introduce new legislation in the 108th Congress to address these shortcomings and look forward to working with my colleagues on the Commerce Committee in this regard.

Mr. KERRY. Mr. President, I rise today to offer a few comments concerning H.R. 4883, a bill to reauthorize the Hydrographic Services Improvement Act of 1998. I am especially supportive of this bill's inclusion of language to reauthorize the Commissioned Corps of the National Oceanic and Atmospheric Administration, NOAA Corps. The NOAA Corps plays a very important role in NOAA and to our Nation.

The NOAA Corps is the smallest of the seven uniformed services of the United States. The service, consisting of approximately 299 commissioned officers, is an integral part of NOAA, an agency under the U.S. Department of Commerce.

The NOAA Corps traces its roots back to the former U.S. Coast and Geodetic Survey, which dates back to 1807 and President Thomas Jefferson. The NOAA Corps today provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines. The officers serve in assignments within the five major Line Offices of NOAA: National Ocean Service, NOS; National Weather Service, NWS; National Marine Fisheries Service, NMFS; Oceanic and Atmospheric Research, OAR; and National Environmental Satellite, Data, and Information Service, NESDIS. Officers operate ships, fly aircraft into hurricanes, lead mobile field parties, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA. In addition they conduct hydrographic surveys along our nation's coast in order to make our waters safe for marine commerce.

As Chairman of the Oceans, Atmosphere and Fisheries Subcommittee allow me to explain a little about NOAA. NOAA provides timely and precise weather, water and climate forecasts, to monitoring the environment, to managing fisheries and building healthy coastlines, to making our nation more competitive through safe navigation and examining changes in the oceans, NOAA is on the front lines for America.

In hours of crisis, NOAA employees have been found issuing the tornado warnings that saved hundreds of lives from a deadly storm, flying into the eyes of hurricanes to gather information about possible landfall, fighting to free three grey whales trapped in the ice, fielding a massive scientific operation on the shores to guide the comeback from an oil spill, and monitoring by satellites the movement of hurricanes and other severe storms, volcanic

ash and wildfires that threaten communities.

In 1882 the U.S.S. ALBATROSS, the first government research vessel built exclusively for fisheries and oceanographic research, launched both a future for NOAA's research programs and a fleet of research vessels. Today, NOAA scientists along with their university partners, work to better understand the world in which we live. NOAA research is where much of the work is done that results in better weather forecasts, longer warning lead times for natural disasters, new products from the sea, and a greater understanding of our climate, atmosphere and oceans. NOAA research is done not only in what many would consider traditional laboratories, but also aboard ships, aloft in planes, and beneath the sea in the world's only undersea habitat. NOAA research tools can be as high-tech as supercomputers or as basic as rain gauges. The officers of the NOAA Corps operate NOAA's fleet of research vessels and aircraft. Those of us on the Commerce Committee like to think of NOAA as the little agency that does a lot. The NOAA Corps is an integral part of the NOAA team that brings all of these valuable services to the American public.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 4883) was read the third time and passed.

COMMEMORATING THE 30TH ANNIVERSARY OF THE FOUNDING OF THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

Mr. REID. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 321, and that the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 321) commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium (AIHEC).

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 321) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 321

Whereas the United States of America and Indian Tribes have a unique legal and political relationship as expressed in the U.S. Constitution, treaties, Federal statutes and Executive orders, court decisions, and course of dealing;

Whereas the United States has committed itself to national education excellence including excellence in institutions that educate American Indian and Alaska Native children and adults;

Whereas tribal colleges and universities are fully accredited community-based educational institutions devoted to the education, welfare, and economic advancement of American Indian communities;

Whereas the populations in the communities served by tribal colleges and universities are among the poorest of the Nation, and the services provided by the tribal colleges and universities enable students to train for and obtain jobs that offer social and economic stability, and serve to reduce welfare dependence in these communities;

Whereas tribal colleges and universities are chronically underfunded, and in addition to offering their communities higher education opportunities, also function as community centers, libraries, childcare centers, tribal archives, career and business centers, economic development centers, and public meeting places;

Whereas in 1970 President Nixon issued his now-famous ''Special Message to Congress on Indian Affairs'' rejecting the failed policies of assimilation and termination and heralding the new era of Indian Self Determination;

Whereas in 1972 six tribal colleges established the American Indian Higher Education Consortium to empower its member institutions through collective action, construct a national support and communications network, and assist Indian communities and Native people in the field of educational achievement, while nurturing, advocating, and protecting American Indian history, culture, art and language;

Whereas the American Indian Higher Education Consortium consists of 32 tribal colleges and universities located in 12 states that enroll approximately 30,000 full- and part-time students from over 250 Federally-recognized Indian Tribes;

Whereas on July 3, 2002, President Bush issued Executive Order 13270 ensuring that tribal colleges and universities are more fully recognized and integrated into the American family of institutions of higher education;

Whereas tribal colleges and universities provide access to information technology critical to full participation in American economic, political and social life, bridging great distances and transforming learning environment; and

Whereas tribal colleges and universities and their Native communities continue to play an integral role in American Indian education including assisting in the implementation of the No Child Left Behind Act of 2002: Now, therefore, be it

Resolved, that the Senate of the United States recognizes the essential role tribal colleges and universities play in American Indian communities, honors the vision and commitment of the founders of the American Indian Higher Education Consortium, and celebrates 30 successful years of implementing that vision for the benefit of American Indian peoples across the United States.

AMENDING THE AGRICULTURAL ADJUSTMENT ACT OF 1938

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 14, which was introduced earlier today by Senator THURMOND.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 14) to amend the Agricultural Adjustment Act of 1938 to extend the farm reconstitution provision to the 2003 and 2004 crops.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 14) was read the third time and passed, as follows:

S. 14

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

SECTION 1. FARM RECONSTITUTIONS.

Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended in the last sentence by striking ''2002 crop'' and inserting ''2002, 2003, and 2004 crops''.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO SELL OR EXCHANGE ALL OR PART OF CERTAIN ADMINISTRATIVE SITES

Mr. REID. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2063, and that the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2063) to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 2063) was read the third time and passed, as follows:

S. 2063

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

SECTION 1. SALE OR EXCHANGE OF LAND.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) In the Ouachita National Forest—

(A) tract 1, ''Work Center and two Residences'' (approximately 12.4 acres), as identified on the map entitled ''Ouachita National Forest, Waldron, Arkansas, Work Center and Residences'' and dated July 26, 2000;

(B) tract 2, ''Work Center'' (approximately 10 acres), as identified on the map entitled ''Ouachita National Forest, Booneville, Arkansas, Work Center'' and dated July 26, 2000;

(C) tract 3, ''Residence'' (approximately ½ acre), as identified on the map entitled ''Ouachita National Forest, Glenwood, Arkansas, Residence'' and dated July 26, 2000;

(D) tract 4, ''Work Center'' (approximately 10.12 acres), as identified on the map entitled ''Ouachita National Forest, Thornburg, Arkansas, Work Center'' and dated July 26, 2000;

(E) tract 5, ''Office Building'' (approximately 1.5 acres), as identified on the map entitled ''Ouachita National Forest, Perryville, Arkansas, Office Building'' and dated July 26, 2000;

(F) tract 6, ''Several Buildings, Including Office Space and Equipment Depot'' (approximately 3 acres), as identified on the map entitled ''Ouachita National Forest, Hot Springs, Arkansas, Buildings'' and dated July 26, 2000;

(G) tract 7, ''Isolated Forestland'' (approximately 120 acres), as identified on the map entitled ''Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland'' and dated July 26, 2000;

(H) tract 8, ''Isolated Forestland'' (approximately 40 acres), as identified on the map entitled ''Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland'' and dated July 26, 2000;

(I) tract 9, ''Three Residences'' (approximately 9.89 acres), as identified on the map entitled ''Ouachita National Forest, Heavener, Oklahoma, Three Residences'' and dated July 26, 2000;

(J) tract 10, ''Work Center'' (approximately 38.91 acres), as identified on the map entitled ''Ouachita National Forest, Heavener, Oklahoma, Work Center'' and dated July 26, 2000;

(K) tract 11, ''Residence #1'' (approximately 0.45 acres), as identified on the map entitled ''Ouachita National Forest, Talihina, Oklahoma, Residence #1'' and dated July 26, 2000;

(L) tract 12, ''Residence #2'' (approximately 0.21 acres), as identified on the map entitled ''Ouachita National Forest, Talihina, Oklahoma, Residence #2'' and dated July 26, 2000;

(M) tract 13, ''Work Center'' (approximately 5 acres), as identified on the map entitled ''Ouachita National Forest, Big Cedar, Oklahoma, Work Center'' and dated July 26, 2000;

(N) tract 14, ''Residence'' (approximately 0.5 acres), as identified on the map entitled ''Ouachita National Forest, Idabel, Oklahoma, Residence'' and dated July 26, 2000;

(O) tract 15, ''Residence and Work Center'' (approximately 40 acres), as identified on the map entitled ''Ouachita National Forest, Idabel, Oklahoma, Residence and Work Center'' and dated July 26, 2000; and

(P) tract 16, ''Isolated Forestland'' at sec. 30, T. 2 S., R. 25 W. (approximately 2.08 acres), as identified on the map entitled ''Ouachita National Forest, Mt. Ida, Arkansas, Isolated Forestland'' and dated August 27, 2001.

(2) In the Ozark-St. Francis National Forest—

(A) tract 1, ''Tract 750, District 1, Two Residences, Administrative Office'' (approximately 8.96 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Mountain View, Arkansas, Tract 750, District 1, Two Residences, Administrative Office'' and dated July 26, 2000;

(B) tract 2, ''Tract 2736, District 5, Mountainburg Work Center'' (approximately 1.61 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Mountainburg, Arkansas, Tract 2736, District 5, Mountainburg Work Center'' and dated July 26, 2000;

(C) tract 3, ''Tract 2686, District 6, House'' (approximately 0.31 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2686, District 6 House'' and dated July 26, 2000;

(D) tract 4, ''Tract 2807, District 6, House'' (approximately 0.25 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2807, District 6, House'' and dated July 26, 2000;

(E) tract 5, ''Tract 2556, District 3, Dover Work Center'' (approximately 2.0 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Dover, Arkansas, Tract 2556, District 3, Dover Work Center'' and dated July 26, 2000;

(F) tract 6, ''Tract 2735, District 2, House'' (approximately 0.514 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2735, District 2, House'' and dated July 26, 2000; and

(G) tract 7, ''Tract 2574, District 2, House'' (approximately 0.75 acres), as identified on the map entitled ''Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2574, District 2, House'' and dated July 26, 2000.

(b) APPLICABLE AUTHORITIES.—Except as otherwise provided in this Act, any sale or exchange of land described in subsection (a) shall be subject to laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(c) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept cash equalization payments in excess of 25 percent of the total value of the land described in subsection (a) from any exchange under subsection (a).

(d) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—In carrying out this Act, the Secretary may use solicitations of offers for sale or exchange under this Act on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer under this Act if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 2. DISPOSITION OF FUNDS.

Any funds received by the Secretary through sale or by cash equalization from an exchange—

(1) shall be deposited into the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(2) shall be available for expenditure, without further Act of appropriation, for the acquisition, construction, or improvement of administrative facilities, land, or interests in land for the national forests in the States of Arkansas and Oklahoma.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

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

ANDERSONVILLE NATIONAL HISTORIC SITE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4692.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4692) to amend the Act entitled ''An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes'', to provide for the addition of certain donated lands to the Andersonville National Historic Site.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid on the table, and any statements related thereto be printed in the RECORD.

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

The bill (H.R. 4692) was read the third time and passed.

TO AMEND THE OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. REID. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 1606 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1606) to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations, and for other purposes.

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

Mr. REID. Mr. President, I understand Senator BINGAMAN has a technical amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid on the table, the bill be read three times, passed, the motion to reconsider be laid on the table, and any statements related thereto be printed in the RECORD.

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

The amendment (No. 4984) was agreed to, as follows:

On page 3, line 14, strike ''such sums as may be necessary'' and insert ''a total of $10 million for fiscal years 2003 and 2004.''

The bill (H.R. 1606), as amended, was read the third time and passed.

COMMUNITY RENEWAL ACT

Mr. REID. Mr. President, a bill that should have passed this year is H.R. 3100, the Community Renewal Act. We could pass this bill tonight. We could have passed it last night or the night

before. But some in the minority have objected to its consideration. This is too bad.

I will not offer the UC tonight, other than to say that Senator CLINTON has worked very hard on this bill to get it cleared on our side. It is a bipartisan bill that would allow HUD-designated renewal communities to take advantage of more recent 2000 census data in determining their boundaries.

This bill is important for more States than New York. Senator CLINTON has been the leader on this issue, but it is an important piece of legislation. It affects not only New York but Tennessee, Alabama, Kentucky, Colorado, Louisiana, Ohio, Texas, Mississippi, Washington, and other States.

Senator CLINTON cleared this bill with the chairman and ranking member of the Finance Committee, Senators BAUCUS and GRASSLEY. That was not enough. It is regrettable despite all our efforts Republicans could not clear this fine legislation. I commend the Senator from New York for her good work.

ORDER FOR ADJOURNMENT SINE DIE OR RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in adjournment sine die under the provisions of S. Con. Res. 160 or in recess until Friday, November 22, at 2 p.m., if the House has not acted on the adjournment resolution.

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

Mr. REID. We expect the House to act on the adjournment resolution this coming Friday. Therefore, we expect the Senate will reconvene at 12 noon, January 7, 2003.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THURMOND). Without objection, it is so ordered.

ADJOURNMENT SINE DIE

Mr. DASCHLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of S. Con. Res. 160.

There being no objection, at 6:12 p.m., the Senate adjourned sine die.

CONFIRMATION

Executive nomination confirmed by the Senate November 20, 2002:

GOVERNMENT PRINTING OFFICE

BRUCE R. JAMES, OF NEVADA, TO BE PUBLIC PRINTER.