

Calendar No. 714

106TH CONGRESS
2D SESSION**S. 1586****[Report No. 106-361]**

To reduce the fractionated ownership of Indian lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1999

Mr. CAMPBELL (for himself and Mr. BINGAMAN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

JULY 26, 2000

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**To reduce the fractionated ownership of Indian lands, and
for other purposes.1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*3 **SECTION 1. SHORT TITLE.**4 This Act may be cited as the “Indian Land Consoli-
5 dation Act Amendments of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) in the 1800's and early 1900's, the United
4 States sought to assimilate Indian people into the
5 surrounding non-Indian culture by allotting tribal
6 lands to individual members of Indian tribes;

7 (2) many trust allotments were taken out of
8 trust status and sold by their Indian owners;

9 (3) the trust periods for trust allotments have
10 been extended indefinitely;

11 (4) because of the inheritance provisions in the
12 original treaties or allotment Acts, the ownership of
13 many of the trust allotments that have remained in
14 trust status has become fractionated into hundreds
15 or thousands of interests, many of which represent
16 2 percent or less of the total interests;

17 (5) Congress has authorized the acquisition of
18 lands in trust for individual Indians, and many of
19 those lands have also become fractionated by subse-
20 quent inheritance;

21 (6) the acquisitions referred to in paragraph (5)
22 continue to be made;

23 (7) the fractional interests described in this sec-
24 tion provide little or no return to the beneficial own-
25 ers of those interests and the administrative costs

1 borne by the United States for those interests are
2 inordinate;

3 ~~(8) substantial numbers of fractional interests~~
4 ~~of 2 percent or less of a total interest in trust or re-~~
5 ~~stricted lands have escheated to Indian tribes under~~
6 ~~section 207 of the Indian Land Consolidation Act~~
7 ~~(25 U.S.C. 2206), which was enacted in 1983;~~

8 ~~(9) in Babbitt v. Youpee (117 S Ct. 727~~
9 ~~(1997))~~, the United States Supreme Court found
10 that the application of section 207 of the Indian
11 Land Consolidation Act to the facts presented in
12 that case to be unconstitutional;

13 ~~(10) in the absence of remedial legislation, the~~
14 ~~number of the fractional interests will continue to~~
15 ~~grow; and~~

16 ~~(11) the problem of the fractionation of Indian~~
17 ~~lands described in this section is the result of a pol-~~
18 ~~icy of the Federal Government, cannot be solved by~~
19 ~~Indian tribes, and requires a solution under Federal~~
20 ~~law.~~

21 **SEC. 3. DECLARATION OF POLICY.**

22 It is the policy of the United States—

23 ~~(1) to prevent the further fractionation of trust~~
24 ~~allotments made to Indians;~~

1 (2) to consolidate fractional interests and own-
2 ership of those interests into usable parcels;

3 ~~(3) to consolidate fractional interests in a man-~~
4 ~~ner that enhances tribal sovereignty; and~~

5 (4) to promote tribal self-sufficiency and self-
6 determination.

7 **SEC. 4. AMENDMENTS TO THE INDIAN LAND CONSOLIDA-**
8 **TION ACT.**

9 (a) IN GENERAL.—The Indian Land Consolidation
10 Act ~~(25 U.S.C. 2201 et seq.)~~ is amended—

11 (1) in section 202—

12 (A) in paragraph (1), by striking “(1)
13 ‘tribe’” and inserting “(1) ‘Indian tribe’ or
14 ‘tribe’”;

15 (B) by striking paragraph (2) and insert-
16 ing the following:

17 “(2) ‘Indian’ means any person who is a mem-
18 ber of an Indian tribe or is eligible to become a
19 member of an Indian tribe at the time of the dis-
20 tribution of the assets of a decedent’s estate;”;

21 (C) by striking “and” at the end of para-
22 graph (3);

23 (D) by striking the period at the end of
24 paragraph (4) and inserting “; and”; and

25 (E) by adding at the end the following:

1 “(5) ‘heirs of the first or second degree’ means
2 parents, children, grandchildren, grandparents,
3 brothers and sisters of a decedent.”;

4 (2) by amending section 203 to read as follows:

5 **“SEC. 203. OTHER APPLICABLE PROVISIONS.**

6 “(a) IN GENERAL.—Subject to subsection (b), sec-
7 tions 5 and 7 of the Act of June 18, 1934 (commonly
8 known as the ‘Indian Reorganization Act’) (48 Stat. 985
9 et seq.; chapter 576; 25 U.S.C. 465 and 467) shall apply
10 to all Indian tribes, notwithstanding section 18 of that Act
11 (25 U.S.C. 478).

12 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion is intended to supersede any other provision of Fed-
14 eral law which authorizes, prohibits, or restricts the acqui-
15 sition of land or the creation of reservations for Indians
16 with respect to any specific Indian tribe, reservation, or
17 State.”;

18 (3) in section 205—

19 (A) in the matter preceding paragraph

20 (1)—

21 (i) by striking “Any Indian” and in-
22 serting “(a) IN GENERAL.—Subject to
23 subsection (b), any Indian”;

24 (ii) by striking “per centum of the un-
25 divided interest in such tract” and insert-

ing “percent of the individual interests in such tract. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under the preceding sentence has been met.”;

(iii) by striking “: *Provided, That*—”;

and inserting the following:

“(b) CONDITIONS APPLICABLE TO PURCHASE.—Subsection (a) applies on the conditions that—”;

(B) in paragraph (2)—

(i) by striking “If,” and inserting “if”; and

(ii) by adding “and” at the end; and

(C) by striking paragraph (3) and inserting the following:

“(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 204.”;

1 (4) by striking section 206 and inserting the
2 following:

3 **“SEC. 206. DESCENT AND DISTRIBUTION OF TRUST OR RE-**
4 **STRICTED LANDS; TRIBAL ORDINANCE BAR-**
5 **RING NONMEMBERS OF AN INDIAN TRIBE**
6 **FROM INHERITANCE BY DEVISE OR DE-**
7 **SCENT.**

8 “(a) TRIBAL PROBATE CODES.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of law, any Indian tribe may adopt a tribal
11 probate code to govern descent and distribution of
12 trust or restricted lands that are—

13 “(A) located within that Indian tribe’s res-
14 ervation; or

15 “(B) otherwise subject to the jurisdiction
16 of that Indian tribe.

17 “(2) CODES.—A tribal probate code referred to
18 in paragraph (1) may provide that, notwithstanding
19 section 207, only members of the Indian tribe shall
20 be entitled to receive by devise or descent any inter-
21 est in trust or restricted lands within that Indian
22 tribe’s reservation or otherwise subject to that In-
23 dian tribe’s jurisdiction.

24 “(b) SECRETARIAL APPROVAL.—

1 “(1) IN GENERAL.—Any tribal probate code en-
 2 acted under subsection (a), and any amendment to
 3 such a tribal probate code, shall be subject to the
 4 approval of the Secretary.

5 “(2) REVIEW AND APPROVAL.—

6 “(A) IN GENERAL.—Each Indian tribe
 7 that adopts a tribal probate code under sub-
 8 section (a) shall submit that code to the Sec-
 9 retary for review. Not later than 180 days after
 10 a tribal probate code is submitted to the Sec-
 11 retary under this paragraph, the Secretary shall
 12 review and approve or disapprove that tribal
 13 probate code.

14 “(B) CONSEQUENCE OF FAILURES TO AP-
 15 PROVE OR DISAPPROVE A TRIBAL PROBATE
 16 CODE.—If the Secretary fails to approve or dis-
 17 approve a tribal probate code submitted for re-
 18 view under subparagraph (A) by the date speci-
 19 fied in that subparagraph, the tribal probate
 20 code shall be deemed to have been approved by
 21 the Secretary, but only to the extent that the
 22 tribal probate code is consistent with Federal
 23 law.

24 “(C) CONSISTENCY OF TRIBAL PROBATE
 25 CODE WITH THIS ACT.—The Secretary may not

1 approve a tribal probate code under this para-
 2 graph unless the Secretary determines that the
 3 tribal probate code is consistent with this Act.

4 “(D) EXPLANATION.—If the Secretary dis-
 5 approves a tribal probate code under this para-
 6 graph, the Secretary shall include in a notice of
 7 the disapproval to the Indian tribe a written ex-
 8 planation of the reasons for the disapproval.

9 “(E) AMENDMENTS.—

10 “(i) IN GENERAL.—Each Indian tribe
 11 that amends a tribal probate code under
 12 this paragraph shall submit the amend-
 13 ment to the Secretary for review and ap-
 14 proval. Not later than 60 days after receiv-
 15 ing an amendment under this subpara-
 16 graph, the Secretary shall review and ap-
 17 prove or disapprove the amendment.

18 “(ii) CONSEQUENCE OF FAILURE TO
 19 APPROVE OR DISAPPROVE AN AMEND-
 20 MENT.—If the Secretary fails to approve
 21 or disapprove an amendment submitted
 22 under clause (i), the amendment shall be
 23 deemed to have been approved by the Sec-
 24 retary, but only to the extent that the
 25 amendment is consistent with Federal law.

1 ~~“(3) EFFECTIVE DATES.—A tribal probate code~~
 2 ~~or amendment approved under paragraph (2) shall~~
 3 ~~become effective on the later of—~~

4 ~~“(A) the date specified in section~~
 5 ~~207(e)(1); or~~

6 ~~“(B) 180 days after the date of approval.~~

7 ~~“(4) LIMITATIONS.—~~

8 ~~“(A) TRIBAL PROBATE CODES.—Each trib-~~
 9 ~~al probate code enacted under subsection (a)~~
 10 ~~shall apply only to the estate of a decedent who~~
 11 ~~dies on or after the effective date of the tribal~~
 12 ~~probate code.~~

13 ~~“(B) AMENDMENTS TO TRIBAL PROBATE~~
 14 ~~CODES.—With respect to an amendment to a~~
 15 ~~tribal probate code referred to in subparagraph~~
 16 ~~(A), that amendment shall apply only to the es-~~
 17 ~~tate of a descendant who dies on or after the~~
 18 ~~effective date of the amendment.~~

19 ~~“(5) REPEALS.—The repeal of a tribal probate~~
 20 ~~code shall—~~

21 ~~“(A) not become effective earlier than the~~
 22 ~~date that is 180 days after the Secretary re-~~
 23 ~~ceives notice of the repeal; and~~

1 “(B) apply only to the estate of a decedent
 2 who dies on or after the effective date of the re-
 3 peal.

4 “(c) USE OF PROPOSED FINDINGS BY TRIBAL JUSTICE SYSTEMS.—

6 “(1) TRIBAL JUSTICE SYSTEM DEFINED.—In
 7 this subsection, the term ‘tribal justice system’ has
 8 the meaning given that term in section 3 of the In-
 9 dian Tribal Justice Act (25 U.S.C. 3602).

10 “(2) REGULATIONS.—The Secretary shall pro-
 11 mulgate regulations concerning the use of proposed
 12 findings of fact and conclusions of law, as rendered
 13 by a tribal justice system, in the adjudication of pro-
 14 bate proceedings by the Department of the Interior.

15 “(d) LIFE ESTATES FOR NON-INDIAN SPOUSES AND
 16 CHILDREN WHO WOULD OTHERWISE BE PRECLUDED
 17 FROM INHERITING BY REASON OF THE OPERATION OF
 18 A TRIBAL PROBATE CODE.—

19 “(1) IN GENERAL.—Paragraph (2) shall apply
 20 with respect to a non-Indian spouse or child of an
 21 Indian decedent, if that decedent is subject to a trib-
 22 al probate code that has been approved by the Sec-
 23 retary (or deemed approved) under subsection (b)
 24 and—

25 “(A) dies intestate; and

1 “(B) has devised an interest in trust or re-
 2 stricted lands to that non-Indian spouse or
 3 child, which the spouse or child is otherwise
 4 prohibited from inheriting by reason of that
 5 tribal probate code.

6 ~~“(2) LIFE ESTATES.—~~

7 ~~“(A) IN GENERAL.—~~A surviving non-In-
 8 dian spouse or child of the decedent described
 9 in paragraph (1) may elect to receive a life es-
 10 tate in the portion of the trust or restricted
 11 lands to which that individual would have been
 12 entitled under the tribal probate code, if that
 13 individual were an Indian.

14 ~~“(B) REMAINDER OF INTEREST.—~~If a
 15 non-Indian spouse or child elects to receive a
 16 life estate described in subparagraph (A), the
 17 remainder of the interest of the Indian decedent
 18 shall vest in the Indians who would otherwise
 19 have been heirs, but for that spouse’s or child’s
 20 election to receive a life estate.”;

21 (5) by striking section 207 and inserting the
 22 following:

1 **“SEC. 207. DESCENT AND DISTRIBUTION; ESCHEAT OF**
 2 **FRACTIONAL INTERESTS.**

3 “(a) DESCENT AND DISTRIBUTION.—Except as pro-
 4 vided in this section, interests in trust or restricted lands
 5 may descend by testate or intestate succession only to—

6 “(1) the decedent’s heirs-at-law or relatives
 7 within the first and second degree;

8 “(2) a person who owns a preexisting interest
 9 in the same parcel of land conveyed by the decedent;

10 “(3) members of the Indian tribe with jurisdic-
 11 tion over the lands devised; or

12 “(4) the Indian tribe with jurisdiction over the
 13 lands devised.

14 “(b) SPECIAL RULE.—A decedent that does not have
 15 a relative who meets the description under subsection
 16 (a)(1) or a relative who is a member described in sub-
 17 section (a)(3) may devise that decedent’s estate or any
 18 asset of that estate to any relative.

19 “(c) DEVISE OF INTERESTS IN THE SAME PARCEL
 20 TO MORE THAN 1 PERSON.—

21 “(1) JOINT TENANCY WITH RIGHT OF SURVI-
 22 VORSHIP.—If a testator devises interests in the same
 23 parcel of trust or restricted land to more than 1 per-
 24 son, in the absence of express language in the devise
 25 to the contrary, the devise shall be presumed to cre-
 26 ate a joint tenancy with right of survivorship.

1 ~~“(2) ESTATES PASSING BY INTESTATE SUCCESSION.—~~
 2 ~~With respect to an estate passing by intestate succession, only a spouse and heirs of the first~~
 3 ~~or second degree may inherit an interest in trust or~~
 4 ~~restricted lands.~~

6 ~~“(3) ESCHEAT.—If no individual is eligible to~~
 7 ~~receive an interest in trust or restricted lands, the~~
 8 ~~interest shall escheat to the Indian tribe having jurisdiction over the trust or restricted lands, subject~~
 9 ~~to any life estate that may be created under section~~
 10 ~~206(d).~~

12 ~~“(4) NOTIFICATION TO INDIAN TRIBES.—Not~~
 13 ~~later than 180 days after the date of enactment of~~
 14 ~~the Indian Land Consolidation Act Amendments of~~
 15 ~~1999, the Secretary shall, to the extent that the Secretary considers to be practicable, notify Indian~~
 16 ~~tribes and individual landowners of the amendments~~
 17 ~~made by the Indian Land Consolidation Act Amendments of 1999. The notice shall list estate planning~~
 18 ~~options available to the owners.~~

21 ~~“(5) DESCENT OF OFF-RESERVATION LANDS.—~~

22 ~~“(A) INDIAN RESERVATION DEFINED.—~~
 23 ~~For purposes of this paragraph, the term ‘Indian reservation’ includes lands located~~
 24 ~~within—~~
 25

1 “(i) Oklahoma; and

2 “(ii) the boundaries of an Indian
3 tribe’s former reservation (as defined and
4 determined by the Secretary).

5 “(B) DESCENT.—Upon the death of an in-
6 dividual holding an interest in trust or re-
7 stricted lands that are located outside the
8 boundaries of an Indian reservation and that
9 are not subject to the jurisdiction of any Indian
10 tribe, that interest shall descend either—

11 “(A) by testate or intestate succession in
12 trust to an Indian; or

13 “(B) in fee status to any other devisees or
14 heirs.

15 “(6) NOTICE TO INDIANS.—

16 “(A) IN GENERAL.—The Secretary shall
17 provide notice to each Indian that has an inter-
18 est in trust or restricted lands of that interest.
19 The notice shall specify that if such interest is
20 in 2 percent or less of the total acreage in a
21 parcel of trust or restricted lands, that interest
22 may escheat to the Indian tribe of that Indian.

23 “(B) LIMITATION.—Subsections (a) and
24 (d) shall not apply to the probate of any inter-
25 est in trust or restricted lands of an Indian de-

1 cedent if the Secretary failed to provide notice
 2 under subparagraph (A) to that individual be-
 3 fore the date that is 180 days before the death
 4 of the decedent.

5 ~~“(d) ESCHEATABLE FRACTIONAL INTERESTS.—~~

6 ~~“(1) IN GENERAL.—~~Notwithstanding subsection
 7 ~~(a),~~ no undivided interest which represents 2 percent
 8 or less of the total acreage in a parcel of trust or
 9 restricted land shall pass by intestacy.

10 ~~“(2) ESCHEAT.—~~An undivided interest referred
 11 to in paragraph (1) shall escheat—

12 ~~“(A) to the Indian tribe on whose reserva-~~
 13 tion the interest is located; or

14 ~~“(B) if that interest is located outside of a~~
 15 reservation, to the recognized tribal government
 16 possessing jurisdiction over the land.”; and

17 ~~(6) by adding at the end the following:~~

18 **~~“SEC. 213. ACQUISITION OF FRACTIONAL INTERESTS.~~**

19 ~~“(a) IN GENERAL.—~~The Secretary may acquire, in
 20 the discretion of the Secretary, with the consent of its
 21 owner and at fair market value, any fractional interest in
 22 trust or restricted lands. The Secretary shall give priority
 23 to the acquisition of fractional interests representing 2
 24 percent or less of a parcel of trust or restricted land. The
 25 Secretary shall hold in trust for the Indian tribe that has

1 jurisdiction over the fractional interest in trust or re-
 2 stricted lands the title of all interests acquired under this
 3 section.

4 “(b) PROGRAM OF ACQUISITION.—Any Indian tribe
 5 that has in effect a consolidation plan that has been ap-
 6 proved by the Secretary under section 204 may request
 7 the Secretary to enter into an agreement with the Indian
 8 tribe to implement a program to acquire fractional inter-
 9 ests, as authorized by subsection (a) using funds appro-
 10 priated pursuant to this Act.

11 **“SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL**
 12 **INTERESTS, DISPOSITION OF PROCEEDS.**

13 “(a) IN GENERAL.—Subject to the conditions de-
 14 scribed in subsection (b)(1), an Indian tribe receiving a
 15 fractional interest under section 207 or 213 may, as a ten-
 16 ant in common with the other owners of the trust or re-
 17 stricted lands, lease the interest, sell the resources, con-
 18 sent to the granting of rights-of-way, or engage in any
 19 other transaction affecting the trust or restricted land au-
 20 thorized by law.

21 “(b) CONDITIONS.—

22 “(1) IN GENERAL.—The conditions described in
 23 this paragraph are as follows:

24 “(A) Until the purchase price paid by the
 25 Secretary for the interest referred to in sub-

1 section (a) has been recovered, any lease, re-
2 source sale contract, right-of-way, or other
3 transaction affecting the document providing
4 for the disposition of the interest under that
5 subsection shall contain a clause providing that
6 all revenue derived from the interest shall be
7 paid to the Secretary.

8 “(B) The Secretary shall deposit any rev-
9 enue derived from interest paid under subpara-
10 graph (A) in the Acquisition Fund created
11 under section 216.

12 “(C) The Secretary shall deposit any rev-
13 enue derived from the interest that is paid
14 under subparagraph (A) that is in an amount
15 in excess of the purchase price of the fractional
16 interest involved to the credit of the Indian
17 tribe that receives the fractional interest under
18 section 213.

19 “(D) Notwithstanding any other provision
20 of law, including section 16 of the Act of June
21 18, 1934 (commonly referred to as the ‘Indian
22 Reorganization Act’) (48 Stat. 987, chapter
23 576; 25 U.S.C. 476), during such time as an
24 Indian tribe is a tenant in common with indi-
25 vidual Indian landowners on land acquired

1 under section 207 or 213, the Indian tribe may
 2 not refuse to enter into any transaction covered
 3 under this section if landowners owning a ma-
 4 jority of the undivided interests in the parcel
 5 consent to the transaction.

6 “(E) If the Indian tribe does not consent
 7 to enter into a transaction referred to in sub-
 8 paragraph (D), the Secretary may consent on
 9 behalf of the Indian tribe.

10 “(F) For leases of allotted land that are
 11 authorized to be granted by the Secretary, the
 12 Indian tribe shall be treated as if the Indian
 13 tribe were an individual Indian landowner.

14 “(2) EXCEPTION.—Paragraph (1)(A) shall not
 15 apply to any revenue derived from an interest in a
 16 parcel of land acquired by the Secretary under sec-
 17 tion after an amount equal to the purchase price of
 18 that interest in land has been paid into the Acquisi-
 19 tion Fund created under section 216.

20 **“SEC. 215. ESTABLISHING FAIR MARKET VALUE.**

21 “For the purposes of this Act, the Secretary may de-
 22 velop a reservation-wide system (or system for another ap-
 23 propriate geographical unit) for establishing the fair mar-
 24 ket value of various types of lands and improvements.
 25 That system may govern the amounts offered for the pur-

1 chase of interests in trust or restricted lands under section
2 213.

3 **~~“SEC. 216. ACQUISITION FUND.~~**

4 ~~“(a) IN GENERAL.—~~The Secretary shall establish an
5 Acquisition Fund to—

6 ~~“(1) disburse appropriations authorized to ac-~~
7 ~~complish the purposes of section 213; and~~

8 ~~“(2) collect all revenues received from the lease,~~
9 ~~permit, or sale of resources from interests in trust~~
10 ~~or restricted lands transferred to Indian tribes by~~
11 ~~the Secretary under section 213.~~

12 ~~“(b) DEPOSITS; USE.—~~

13 ~~“(1) IN GENERAL.—~~Subject to paragraph (2),
14 all proceeds from leases, permits, or resource sales
15 derived from an interest in trust or restricted lands
16 described in subsection (a)(2) shall—

17 ~~“(A) be deposited in the Acquisition Fund;~~
18 ~~and~~

19 ~~“(B) as specified in advance in appropria-~~
20 ~~tions Acts, be available for the purpose of ac-~~
21 ~~quiring additional fractional interests in trust~~
22 ~~or restricted lands.~~

23 ~~“(2) MAXIMUM DEPOSITS OF PROCEEDS.—~~With
24 respect to the deposit of proceeds derived from an
25 interest under paragraph (1), the aggregate amount

1 deposited under that paragraph shall not exceed the
 2 purchase price of that interest under section 213.

3 **“SEC. 217. DETERMINATION OF RESERVATION BOUND-**
 4 **ARIES AND TRIBAL JURISDICTION.**

5 ~~“(a) DETERMINATION OF JURISDICTION.—~~

6 ~~“(1) IN GENERAL.—The Secretary shall deter-~~
 7 ~~mine whether a parcel of land is—~~

8 ~~“(A) within an Indian reservation; or~~

9 ~~“(B) otherwise subject to an Indian tribe’s~~
 10 ~~jurisdiction.~~

11 ~~“(2) REVIEW.—The United States District~~
 12 ~~Court for the district where land that is subject to~~
 13 ~~a determination under paragraph (1) is located may~~
 14 ~~review the determination under chapter 7 of title 5,~~
 15 ~~United States Code.~~

16 ~~“(b) RULE OF CONSTRUCTION.—Nothing in this Act~~
 17 ~~may be construed to affect section 2409a of title 28,~~
 18 ~~United States Code.~~

19 **“SEC. 218. TRUST AND RESTRICTED LAND TRANSACTIONS.**

20 ~~“(a) POLICY.—It is the policy of the United States~~
 21 ~~to encourage and assist the consolidation of land owner-~~
 22 ~~ship through transactions involving individual Indians in~~
 23 ~~a manner consistent with the policy of maintaining the~~
 24 ~~trust status of allotted lands.~~

1 “(b) VALUATION OF SALES AND EXCHANGES.—Not-
2 withstanding any other provision of law—

3 “(1) the sale of an interest in trust or restricted
4 land may be made for an amount that is less than
5 the fair market value of that interest; and

6 “(2) the exchange of an interest in trust or re-
7 stricted lands may be made for an interest of a value
8 less than the fair market value of the interest in
9 those lands.

10 “(c) STATUS OF LANDS.—The sale or exchange of
11 an interest in trust or restricted land under this section
12 shall not affect the status of that land as trust or re-
13 stricted land.

14 “(d) GIFT DEEDS.—

15 “(1) IN GENERAL.—An individual owner of an
16 interest in trust or restricted land may convey that
17 interest by gift deed to—

18 “(A) an individual Indian who is a member
19 of the Indian tribe that exercises jurisdiction
20 over the land;

21 “(B) the Indian tribe that exercises juris-
22 diction over that land; or

23 “(C) any other person whom the Secretary
24 determines may hold the land in trust or re-
25 stricted status.

1 ~~“(2) SPECIAL RULE.—~~With respect to any gift
 2 deed conveyed under this section, the Secretary shall
 3 not require an appraisal.

4 **~~“SEC. 219. REPORTS TO CONGRESS.~~**

5 ~~“(a) IN GENERAL.—~~Not later than the date that is
 6 ~~3~~ years after the date of enactment of the Indian Land
 7 Consolidation Act Amendments of 1999, and annually
 8 thereafter, the Secretary shall submit to Congress a report
 9 that indicates, for the period covered by the report—

10 ~~“(1) the number of fractional interests in trust~~
 11 or restricted lands acquired; and

12 ~~“(2) the impact of the resulting reduction in~~
 13 the number of such fractional interests on the finan-
 14 cial and realty recordkeeping systems of the Bureau
 15 of Indian Affairs.

16 ~~“(b) RECOMMENDATIONS FOR LEGISLATION.—~~The
 17 Secretary, after consultation with the Indian tribes, shall
 18 make recommendations for such legislation as is necessary
 19 to make further reductions in the fractional interests re-
 20 ferred to in subsection (a).

21 **~~“SEC. 220. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND~~**
 22 **~~SALES OF NATURAL RESOURCES.~~**

23 ~~“(a) IN GENERAL.—~~The Secretary may approve any
 24 lease, right-of-way, sale of natural resources, or any other

1 transaction affecting individually owned trust or restricted
 2 lands that requires approval by the Secretary, if—

3 “(1) the owners of a majority interest in the
 4 trust or restricted lands consent to the transaction;
 5 and

6 “(2) the Secretary determines that approval of
 7 the transaction is in the best interest of the Indian
 8 owners.

9 “(b) BINDING TRANSACTIONS.—Upon the approval
 10 of a transaction referred to in subsection (a), the trans-
 11 action shall be binding upon the owners of the minority
 12 interests in the trust or restricted land, and all other par-
 13 ties to the transaction to the same extent as if all of the
 14 Indian owners had consented to the transaction.

15 **“SEC. 221. REAL ESTATE TRANSACTIONS INVOLVING NON-**
 16 **TRUST LANDS.**

17 “(a) IN GENERAL.—Notwithstanding any other pro-
 18 vision of law, any Indian tribe may on the same basis as
 19 any other person, buy, sell, mortgage, or otherwise acquire
 20 or dispose of lands or interests in land described in sub-
 21 section (b), without an Act of Congress or the approval
 22 of the Secretary.

23 “(b) LANDS.—Lands described in this subsection are
 24 lands that are—

1 “(1) acquired after the date of enactment of the
2 Indian Land Consolidation Act Amendments of
3 1999; and

4 “(2) not held in trust or subject to a pre-
5 existing Federal restriction on alienation imposed by
6 the United States.

7 “(c) NO LIABILITY ON PART OF THE UNITED
8 STATES.—The disposition of lands described in subsection
9 (b) shall create no liability on the part of the United
10 States.”.

11 (b) EFFECTIVE DATE; APPLICABILITY.—

12 (1) EFFECTIVE DATE OF AMENDMENTS TO SEC-
13 TION 207 OF THE INDIAN LAND CONSOLIDATION
14 ACT.—Except with respect to the notification under
15 section 207(c) (4) and (6) of the Indian Land Con-
16 solidation Act (25 U.S.C. 2206(c) (4) and (6)), the
17 amendments made by subsection (a) to section 207
18 of the Indian Land Consolidation Act (25 U.S.C.
19 2206) shall become effective on the date that is 2
20 years after the date of enactment of this Act.

21 (2) APPLICABILITY.—The amendments made
22 by subsection (a) to section 207 of the Indian Land
23 Consolidation Act shall apply only to the estates of
24 decedents that die on or after the date specified in
25 paragraph (1).

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

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

4 **SECTION 1. SHORT TITLE.**

5 *This Act may be cited as the “Indian Land Consolida-*
6 *tion Act Amendments of 2000”.*

7 **SEC. 2. FINDINGS.**

8 *Congress finds that—*

9 *(1) in the 1800’s and early 1900’s, the United*
10 *States sought to assimilate Indian people into the*
11 *surrounding non-Indian culture by allotting tribal*
12 *lands to individual members of Indian tribes;*

13 *(2) as a result of the allotment Acts and related*
14 *Federal policies, over 90,000,000 acres of land have*
15 *passed from tribal ownership;*

16 *(3) many trust allotments were taken out of trust*
17 *status, often without their owners’ consent;*

18 *(4) without restrictions on alienation, allotment*
19 *owners were subject to exploitation and their allot-*
20 *ments were often sold or disposed of without any tan-*
21 *gible or enduring benefit to their owners;*

22 *(5) the trust periods for trust allotments have*
23 *been extended indefinitely;*

24 *(6) because of the inheritance provisions in the*
25 *original treaties or allotment Acts, the ownership of*
26 *many of the trust allotments that have remained in*

1 *trust status has become fractionated into hundreds or*
2 *thousands of interests, many of which represent 2 per-*
3 *cent or less of the total interests;*

4 *(7) Congress has authorized the acquisition of*
5 *lands in trust for individual Indians, and many of*
6 *those lands have also become fractionated by subse-*
7 *quent inheritance;*

8 *(8) the acquisitions referred to in paragraph (7)*
9 *continue to be made;*

10 *(9) the fractional interests described in this sec-*
11 *tion provide little or no return to the beneficial own-*
12 *ers of those interests and the administrative costs*
13 *borne by the United States for those interests are in-*
14 *ordinately high;*

15 *(10) in Babbitt v. Youpee (117 S Ct. 727*
16 *(1997)), the United States Supreme Court found that*
17 *the application of section 207 of the Indian Land*
18 *Consolidation Act (25 U.S.C. 2206) to the facts pre-*
19 *sented in that case to be unconstitutional, forcing the*
20 *Department of the Interior to address the status of*
21 *thousands of undivided interests in trust and re-*
22 *stricted lands;*

23 *(11)(A) on February 19, 1999, the Secretary of*
24 *Interior issued a Secretarial Order which officially*
25 *reopened the probate of all estates where an interest*

1 *in land was ordered to escheat to an Indian tribe*
 2 *pursuant to section 207 of the Indian Land Consoli-*
 3 *dation Act (25 U.S.C. 2206); and*

4 *(B) the Secretarial Order also directed appro-*
 5 *priate officials of the Bureau of Indian Affairs to dis-*
 6 *tribute such interests “to the rightful heirs and bene-*
 7 *ficiaries without regard to 25 U.S.C. 2206”;*

8 *(12) in the absence of comprehensive remedial*
 9 *legislation, the number of the fractional interests will*
 10 *continue to grow exponentially;*

11 *(13) the problem of the fractionation of Indian*
 12 *lands described in this section is the result of a policy*
 13 *of the Federal Government, cannot be solved by In-*
 14 *dian tribes, and requires a solution under Federal*
 15 *law.*

16 *(14) any devise or inheritance of an interest in*
 17 *trust or restricted Indian lands is based on Federal*
 18 *law; and*

19 *(15) consistent with the Federal policy of tribal*
 20 *self-determination, the Federal Government should en-*
 21 *courage the recognized tribal government that exer-*
 22 *cises jurisdiction over a reservation to establish a*
 23 *tribal probate code for that reservation.*

24 **SEC. 3. DECLARATION OF POLICY.**

25 *It is the policy of the United States—*

1 (1) *to prevent the further fractionation of trust*
 2 *allotments made to Indians;*

3 (2) *to consolidate fractional interests and owner-*
 4 *ship of those interests into usable parcels;*

5 (3) *to consolidate fractional interests in a man-*
 6 *ner that enhances tribal sovereignty;*

7 (4) *to promote tribal self-sufficiency and self-de-*
 8 *termination; and*

9 (5) *to reverse the effects of the allotment policy*
 10 *on Indian tribes.*

11 **SEC. 4. AMENDMENTS TO THE INDIAN LAND CONSOLIDA-**
 12 **TION ACT.**

13 *The Indian Land Consolidation Act (25 U.S.C. 2201*
 14 *et seq.) is amended—*

15 (1) *in section 202—*

16 (A) *in paragraph (1), by striking “(1)*
 17 *‘tribe’” and inserting “(1) ‘Indian tribe’ or*
 18 *‘tribe’”;*

19 (B) *by striking paragraph (2) and inserting*
 20 *the following:*

21 “(2) ‘Indian’ means any person who is a member
 22 *of any Indian tribe or is eligible to become a member*
 23 *of any Indian tribe at the time of the distribution of*
 24 *the assets of a decedent’s estate;”;*

1 (C) by striking “and” at the end of para-
2 graph (3);

3 (D) by striking the period at the end of
4 paragraph (4) and inserting “; and”; and

5 (E) by adding at the end the following:

6 “(5) ‘heirs of the first or second degree’ means
7 parents, children, grandchildren, grandparents, broth-
8 ers and sisters of a decedent.”;

9 (2) in section 205—

10 (A) in the matter preceding paragraph
11 (1)—

12 (i) by striking “Any Indian” and in-
13 serting “(a) IN GENERAL.—Subject to sub-
14 section (b), any Indian”;

15 (ii) by striking the colon and inserting
16 the following: “. Interests owned by an In-
17 dian tribe in a tract may be included in the
18 computation of the percentage of ownership
19 of the undivided interests in that tract for
20 purposes of determining whether the consent
21 requirement under the preceding sentence
22 has been met.”;

23 (iii) by striking “: Provided, That—”;
24 and inserting the following:

1 “(b) *CONDITIONS APPLICABLE TO PURCHASE.*—Sub-
2 section (a) applies on the condition that—”;

3 (B) in paragraph (2)—

4 (i) by striking “If,” and inserting “if”;

5 and

6 (ii) by adding “and” at the end; and

7 (C) by striking paragraph (3) and inserting
8 the following:

9 “(3) the approval of the Secretary shall be re-
10 quired for a land sale initiated under this section, ex-
11 cept that such approval shall not be required with re-
12 spect to a land sale transaction initiated by an In-
13 dian tribe that has in effect a land consolidation plan
14 that has been approved by the Secretary under section
15 204.”;

16 (3) by striking section 206 and inserting the fol-
17 lowing:

18 **“SEC. 206. TRIBAL PROBATE CODES; ACQUISITIONS OF**
19 **FRACTIONAL INTERESTS BY TRIBES.**

20 “(a) *TRIBAL PROBATE CODES.*—

21 “(1) *IN GENERAL.*—Notwithstanding any other
22 provision of law, any Indian tribe may adopt a trib-
23 al probate code to govern descent and distribution of
24 trust or restricted lands that are—

1 “(A) located within that Indian tribe’s res-
 2 ervation; or

3 “(B) otherwise subject to the jurisdiction of
 4 that Indian tribe.

5 “(2) *POSSIBLE INCLUSIONS.*—A tribal probate
 6 code referred to in paragraph (1) may include—

7 “(A) rules of intestate succession; and

8 “(B) other tribal probate code provisions
 9 that are consistent with Federal law and that
 10 promote the policies set forth in section 3 of the
 11 Indian Land Consolidation Act Amendments of
 12 2000.

13 “(3) *LIMITATIONS.*—The Secretary shall not ap-
 14 prove a tribal probate code if such code prevents an
 15 Indian person from inheriting an interest in an allot-
 16 ment that was originally allotted to his or her lineal
 17 ancestor.

18 “(b) *SECRETARIAL APPROVAL.*—

19 “(1) *IN GENERAL.*—Any tribal probate code en-
 20 acted under subsection (a), and any amendment to
 21 such a tribal probate code, shall be subject to the ap-
 22 proval of the Secretary.

23 “(2) *REVIEW AND APPROVAL.*—

24 “(A) *IN GENERAL.*—Each Indian tribe that
 25 adopts a tribal probate code under subsection (a)

1 *shall submit that code to the Secretary for re-*
 2 *view. Not later than 180 days after a tribal pro-*
 3 *bate code is submitted to the Secretary under*
 4 *this paragraph, the Secretary shall review and*
 5 *approve or disapprove that tribal probate code.*

6 *“(B) CONSEQUENCE OF FAILURES TO AP-*
 7 *PROVE OR DISAPPROVE A TRIBAL PROBATE*
 8 *CODE.—If the Secretary fails to approve or dis-*
 9 *approve a tribal probate code submitted for re-*
 10 *view under subparagraph (A) by the date speci-*
 11 *fied in that subparagraph, the tribal probate*
 12 *code shall be deemed to have been approved by*
 13 *the Secretary, but only to the extent that the*
 14 *tribal probate code is consistent with Federal*
 15 *law and promotes the policies set forth in section*
 16 *3 of the Indian Land Consolidation Act Amend-*
 17 *ments of 2000.*

18 *“(C) CONSISTENCY OF TRIBAL PROBATE*
 19 *CODE WITH ACT.—The Secretary may not ap-*
 20 *prove a tribal probate code, or any amendment*
 21 *to such a code, under this paragraph unless the*
 22 *Secretary determines that the tribal probate code*
 23 *promotes the policies set forth in section 3 of the*
 24 *Indian Land Consolidation Act Amendments of*
 25 *2000.*

1 “(D) *EXPLANATION.*—*If the Secretary dis-*
 2 *approves a tribal probate code, or an amendment*
 3 *to such a code, under this paragraph, the Sec-*
 4 *retary shall include in the notice of disapproval*
 5 *to the Indian tribe a written explanation of the*
 6 *reasons for the disapproval.*

7 “(E) *AMENDMENTS.*—

8 “(i) *IN GENERAL.*—*Each Indian tribe*
 9 *that amends a tribal probate code under*
 10 *this paragraph shall submit the amendment*
 11 *to the Secretary for review and approval.*
 12 *Not later than 60 days after receiving an*
 13 *amendment under this subparagraph, the*
 14 *Secretary shall review and approve or dis-*
 15 *approve the amendment.*

16 “(ii) *CONSEQUENCE OF FAILURE TO*
 17 *APPROVE OR DISAPPROVE AN AMEND-*
 18 *MENT.*—*If the Secretary fails to approve or*
 19 *disapprove an amendment submitted under*
 20 *clause (i), the amendment shall be deemed*
 21 *to have been approved by the Secretary, but*
 22 *only to the extent that the amendment is*
 23 *consistent with Federal law and promotes*
 24 *the policies set forth in section 3 of the In-*
 25 *dian Land Consolidation Act of 2000.*

1 “(3) *EFFECTIVE DATES.*—A tribal probate code
2 approved under paragraph (2) shall become effective
3 on the later of—

4 “(A) the date specified in section 207(f)(5);
5 or

6 “(B) 180 days after the date of approval.

7 “(4) *LIMITATIONS.*—

8 “(A) *TRIBAL PROBATE CODES.*—Each tribal
9 probate code enacted under subsection (a) shall
10 apply only to the estate of a decedent who dies
11 on or after the effective date of the tribal probate
12 code.

13 “(B) *AMENDMENTS TO TRIBAL PROBATE*
14 *CODES.*—With respect to an amendment to a
15 tribal probate code referred to in subparagraph
16 (A), that amendment shall apply only to the es-
17 tate of a descendant who dies on or after the ef-
18 fective date of the amendment.

19 “(5) *REPEALS.*—The repeal of a tribal probate
20 code shall—

21 “(A) not become effective earlier than the
22 date that is 180 days after the Secretary receives
23 notice of the repeal; and

1 “(B) *apply only to the estate of a decedent*
 2 *who dies on or after the effective date of the re-*
 3 *peal.*

4 “(c) *AUTHORITY AVAILABLE TO INDIAN TRIBES.—*

5 “(1) *APPLICATION.—The recognized tribal gov-*
 6 *ernment that has jurisdiction over an Indian reserva-*
 7 *tion (as defined in section 207(c)(5)) may exercise the*
 8 *authority provided for in paragraph (2).*

9 “(2) *AUTHORITY TO MAKE PAYMENTS IN LIEU OF*
 10 *INHERITANCE OF INTEREST IN LAND.—*

11 “(A) *PROHIBITION.—An individual who is*
 12 *not an Indian shall not be entitled to receive by*
 13 *devise or descent any interest in trust or re-*
 14 *stricted land, except by reserving a life estate*
 15 *under subparagraph (B)(ii), within the reserva-*
 16 *tion over which a tribal government has jurisdic-*
 17 *tion if, while the decedent’s estate is pending be-*
 18 *fore the Secretary, the tribal government referred*
 19 *to in paragraph (1) pays to the Secretary, on be-*
 20 *half of such individual, the value of such interest.*
 21 *The interest for which payment is made under*
 22 *this subparagraph shall be held by the Secretary*
 23 *in trust for the tribal government.*

24 “(B) *EXCEPTION.—*

1 “(i) *IN GENERAL.*—Subparagraph (A)
 2 *shall not apply to any interest in trust or*
 3 *restricted land if, while the decedent’s estate*
 4 *is pending before the Secretary, the ineli-*
 5 *gible non-Indian heir or devisee described in*
 6 *such subparagraph renounces the interest in*
 7 *favor of a person or persons who are other-*
 8 *wise eligible to inherit.*

9 “(ii) *RESERVATION OF LIFE ESTATE.*—
 10 *The non-Indian heir or devisee described in*
 11 *clause (i) may retain a life estate in the in-*
 12 *terest and convey the remaining interest to*
 13 *an Indian person.*

14 “(iii) *PRESUMPTION.*—*In the absence*
 15 *of any express language to the contrary, a*
 16 *conveyance under clause (ii) is presumed to*
 17 *reserve to the life estate holder all income*
 18 *from the lease, use, rents, profits, royalties,*
 19 *bonuses, or sales of natural resources during*
 20 *the pendency of the life estate and any right*
 21 *to occupy the tract of land as a home.*

22 “(C) *PAYMENTS.*—*With respect to payments*
 23 *by a tribal government under subparagraph (A),*
 24 *the Secretary shall—*

1 “(i) upon the request of the tribal gov-
 2 ernment, allow a reasonable period of time,
 3 not to exceed 2 years, for the tribal govern-
 4 ment to make payments of amounts due
 5 pursuant to subparagraph (A); or

6 “(ii) recognize alternative agreed upon
 7 exchanges of consideration between the ineli-
 8 gible non-Indian and the tribe in satisfac-
 9 tion of the payment under subparagraph
 10 (A).

11 “(d) *USE OF PROPOSED FINDINGS BY TRIBAL JUS-*
 12 *TICE SYSTEMS.*—

13 “(1) *TRIBAL JUSTICE SYSTEM DEFINED.*—*In this*
 14 *subsection, the term ‘tribal justice system’ has the*
 15 *meaning given that term in section 3 of the Indian*
 16 *Tribal Justice Act (25 U.S.C. 3602).*

17 “(2) *REGULATIONS.*—*The Secretary by regula-*
 18 *tion may provide for the use of findings of fact and*
 19 *conclusions of law, as rendered by a tribal justice sys-*
 20 *tem, as proposed findings of fact and conclusions of*
 21 *law in the adjudication of probate proceedings by the*
 22 *Department of the Interior.”;*

23 “(4) *by striking section 207 and inserting the fol-*
 24 *lowing:*

1 **“SEC. 207. DESCENT AND DISTRIBUTION; ESCHEAT OF**
 2 **FRACTIONAL INTERESTS.**

3 “(a) *TESTAMENTARY DISPOSITION.*—

4 “(1) *IN GENERAL.*—*Except as provided in this*
 5 *section, interests in trust or restricted land may be*
 6 *devised only to—*

7 “(A) *the decedent’s Indian spouse or any*
 8 *other Indian person; or*

9 “(B) *the Indian tribe with jurisdiction over*
 10 *the land so devised.*

11 “(2) *NON-INDIAN ESTATE.*—*Any devise not de-*
 12 *scribed in paragraph (1) shall create a non-Indian es-*
 13 *tate in Indian land as provided for under subsection*
 14 *(c).*

15 “(3) *JOINT TENANCY WITH RIGHT OF SURVIVOR-*
 16 *SHIP.*—*If a testator devises interests in the same par-*
 17 *cel of trust or restricted land to more than 1 person,*
 18 *in the absence of express language in the devise to the*
 19 *contrary, the devise shall be presumed to create a*
 20 *joint tenancy with right of survivorship.*

21 “(b) *INTESTATE SUCCESSION.*—

22 “(1) *IN GENERAL.*—*Subject to paragraphs (2)*
 23 *and (3), with respect to an interest in trust or re-*
 24 *stricted land passing by intestate succession, only a*
 25 *spouse or heirs of the first or second degree may in-*
 26 *herit such an interest.*

1 “(2) *NON-INDIAN ESTATE.*—*Notwithstanding*
 2 *paragraph (1), a non-Indian spouse or non-Indian*
 3 *heir of the first or second degree may only receive a*
 4 *non-Indian estate in Indian land as provided for*
 5 *under subsection (c).*

6 “(3) *JOINT TENANCY.*—

7 “(A) *IN GENERAL.*—*Unless modified by a*
 8 *tribal probate code that is approved under sec-*
 9 *tion 206—*

10 “(i) *any heirs of the first or second de-*
 11 *gree that inherit an interest that constitutes*
 12 *5 percent or more of the undivided interest*
 13 *in a parcel of trust or restricted land, shall*
 14 *hold such interest as tenants in common;*
 15 *and*

16 “(ii) *any heirs of the first or second de-*
 17 *gree that inherit an interest that constitutes*
 18 *less than 5 percent of the undivided interest*
 19 *in a parcel of trust or restricted land, shall*
 20 *hold such interest as joint tenants with the*
 21 *right of survivorship.*

22 “(B) *RENOUNCING OF RIGHTS.*—*The heirs*
 23 *who inherit an interest as tenants in common*
 24 *with a right of survivorship under subparagraph*

1 (A)(ii) may renounce their right of survivorship
2 in favor of one or more of their co-owners.

3 “(4) ACQUISITION OF INTEREST BY INDIAN CO-
4 OWNERS.—An Indian co-owner of a parcel of trust or
5 restricted land may prevent the escheat of an interest
6 in Indian lands for which there is no legal heir by
7 paying into the decedent’s estate, the fair market
8 value of the interest in such land. If more than 1 In-
9 dian co-owner offers to pay for such interest, the high-
10 est bidder shall obtain the interest. If no such offer is
11 made, the interest will escheat to the tribe that exer-
12 cises jurisdiction over the land.

13 “(c) NON-INDIAN ESTATES.—

14 “(1) RIGHTS OF NON-INDIAN ESTATE HOLD-
15 ERS.—

16 “(A) IN GENERAL.—An individual who re-
17 ceives a non-Indian estate in Indian land under
18 subsection (a)(2) or (b)(2)—

19 “(i) shall receive a proportionate share
20 of the proceeds of any lease, use, rents, prof-
21 its, royalties, bonuses, or sale of natural re-
22 sources based on their share of the decedent’s
23 interest in such land; and

24 “(ii) may—

1 “(I) convey or deed by gift the de-
 2 cedent’s interest in trust or restricted
 3 land to an Indian or the tribe with ju-
 4 risdiction over the land; or

5 “(II) devise the decedent’s interest
 6 to either an Indian or an Indian tribe
 7 as provided for in subsection (a)(1) or
 8 a non-Indian as provided for in sub-
 9 section (a)(2).

10 “(B) DECEDENT’S INTEREST.—In this sec-
 11 tion, the term ‘decedent’s interest’ means the eq-
 12 uitable title held by the last Indian owner of an
 13 interest in trust or restricted lands.

14 “(2) ESCHEAT AND INTESTATE SUCCESSION.—If
 15 the holder of a non-Indian estate in Indian land dies
 16 without having devised or conveyed the interest of the
 17 individual under paragraph (1)(A)(ii), the decedent’s
 18 interest in the trust or restricted land involved
 19 shall—

20 “(A) descend to the non-Indian
 21 estateholder’s Indian spouse or Indian heirs of
 22 the first or second degree as provided for in sub-
 23 section (b)(3); or

24 “(B) in the case of a decedent that does not
 25 have an Indian spouse or heir of the first or sec-

1 *ond degree, descend to the Indian tribe having*
 2 *jurisdiction over the trust or restricted lands.*

3 “(3) *ACQUISITION OF INTEREST BY INDIAN CO-*
 4 *OWNERS.—An Indian co-owner of a parcel of trust or*
 5 *restricted land may prevent the escheat of an interest*
 6 *to the tribe under paragraph (2) by paying into the*
 7 *estate of the owner of a non-Indian estate in Indian*
 8 *land the fair market value of the interest. If more*
 9 *than 1 Indian co-owner offers to pay for such interest,*
 10 *the highest bidder shall obtain the interest.*

11 “(4) *DEVISE OF INTEREST.—If the owner of a*
 12 *non-Indian estate in Indian land devises the interest*
 13 *in such land to a person who is not an Indian, at*
 14 *the discretion of the Secretary and subject to the*
 15 *availability of appropriations, the Secretary may,*
 16 *pursuant to section 213, acquire such interest, with or*
 17 *without the consent of the devisee, by depositing the*
 18 *value of the interest in the estate of the owner of the*
 19 *non-Indian estate in Indian land.*

20 “(5) *RULE OF CONSTRUCTION.—*

21 “(A) *IN GENERAL.—With respect to a dece-*
 22 *dent’s interest in trust or restricted lands under*
 23 *this subsection, until such time as an Indian or*
 24 *an Indian tribe acquires such interest through*
 25 *inheritance, escheat, or conveyance, the Secretary*

1 *shall be treated as the holder of the remainder*
 2 *from the life estate.*

3 “(B) *LIMITATION.*—Subparagraph (A) shall
 4 *not be construed to authorize the Secretary to re-*
 5 *tain any of the proceeds from the lease, use,*
 6 *rents, profits, royalties, bonuses, or sale of nat-*
 7 *ural resources with respect to the trust or re-*
 8 *stricted lands involved.*

9 “(6) *DESCENT OF OFF-RESERVATION LANDS.*—

10 “(A) *INDIAN RESERVATION DEFINED.*—For
 11 *purposes of this paragraph, the term ‘Indian res-*
 12 *ervation’ includes lands located within—*

13 “(i)(I) *Oklahoma; and*

14 “(II) *the boundaries of an Indian*
 15 *tribe’s former reservation (as defined and*
 16 *determined by the Secretary);*

17 “(ii) *the boundaries of any Indian*
 18 *tribe’s current or former reservation; or*

19 “(iii) *any area where the Secretary is*
 20 *required to provide special assistance or*
 21 *consideration of a tribe’s acquisition of land*
 22 *or interests in land.*

23 “(B) *DESCENT.*—Upon the death of an in-
 24 *dividual holding an interest in trust or restricted*
 25 *lands that are located outside the boundaries of*

1 *an Indian reservation and that are not subject*
 2 *to the jurisdiction of any Indian tribe, that in-*
 3 *terest shall descend either—*

4 *“(i) by testate or intestate succession*
 5 *in trust to an Indian; or*

6 *“(ii) in fee status to any other devisees*
 7 *or heirs.*

8 *“(d) APPROVAL OF AGREEMENTS.—The official au-*
 9 *thorized to adjudicate the probate of trust or restricted lands*
 10 *shall have the authority to approve agreements between a*
 11 *decedent’s heirs and devisees to consolidate interests in trust*
 12 *or restricted lands. The agreements referred to in the pre-*
 13 *ceding sentence may include trust or restricted lands that*
 14 *are not a part of the decedent’s estate that is the subject*
 15 *of the probate. The Secretary may promulgate regulations*
 16 *for the implementation of this subsection.*

17 *“(e) ESTATE PLANNING ASSISTANCE.—*

18 *“(1) IN GENERAL.—The Secretary shall provide*
 19 *estate planning assistance in accordance with this*
 20 *subsection, to the extent amounts are appropriated for*
 21 *such purpose.*

22 *“(2) REQUIREMENTS.—The estate planning as-*
 23 *istance provided under paragraph (1) shall be de-*
 24 *signed to—*

1 “(A) *inform, advise, and assist Indian*
 2 *landowners with respect to estate planning in*
 3 *order to facilitate the transfer of trust or re-*
 4 *stricted lands to a devisee or devisees selected by*
 5 *the landowners; and*

6 “(B) *assist Indian landowners in accessing*
 7 *information pursuant to section 217(g).*

8 “(3) *CONTRACTS.—In carrying out this section,*
 9 *the Secretary may enter into contracts with entities*
 10 *that have expertise in Indian estate planning and*
 11 *tribal probate codes.*

12 “(f) *NOTIFICATION TO INDIAN TRIBES AND OWNERS*
 13 *OF TRUST OR RESTRICTED LANDS.—*

14 “(1) *IN GENERAL.—Not later than 180 days*
 15 *after the date of enactment of the Indian Land Con-*
 16 *solidation Act Amendments of 2000, the Secretary*
 17 *shall notify Indian tribes and owners of trust or re-*
 18 *stricted lands of the amendments made by the Indian*
 19 *Land Consolidation Act Amendments of 2000.*

20 “(2) *SPECIFICATIONS.—The notice required*
 21 *under paragraph (1) shall be designed to inform In-*
 22 *Indian owners of trust or restricted land of—*

23 “(A) *the effect of this Act, with emphasis on*
 24 *the effect of the provisions of this section, on the*

1 *testate disposition and intestate descent of their*
 2 *interests in trust or restricted land; and*

3 *“(B) estate planning options available to*
 4 *the owners, including any opportunities for re-*
 5 *ceiving estate planning assistance or advice.*

6 *“(3) REQUIREMENTS.—The Secretary shall pro-*
 7 *vide the notice required under paragraph (1)—*

8 *“(A) by direct mail for those Indians with*
 9 *interests in trust and restricted lands for which*
 10 *the Secretary has an address for the interest*
 11 *holder;*

12 *“(B) through the Federal Register;*

13 *“(C) through local newspapers in areas*
 14 *with significant Indian populations, reservation*
 15 *newspapers, and newspapers that are directed at*
 16 *an Indian audience; and*

17 *“(D) through any other means determined*
 18 *appropriate by the Secretary.*

19 *“(4) CERTIFICATION.—After providing notice*
 20 *under this subsection, the Secretary shall certify that*
 21 *the requirements of this subsection have been met and*
 22 *shall publish notice of such certification in the Fed-*
 23 *eral Register.*

24 *“(5) EFFECTIVE DATE.—The provisions of this*
 25 *section shall not apply to the estate of an individual*

1 *who dies prior to the day that is 365 days after the*
 2 *Secretary makes the certification required under*
 3 *paragraph (4).’; and*

4 *(5) by adding at the end the following:*

5 **“SEC. 213. PILOT PROGRAM FOR THE ACQUISITION OF**
 6 **FRACTIONAL INTERESTS.**

7 **“(a) ACQUISITION BY SECRETARY.—**

8 **“(1) IN GENERAL.—***The Secretary may acquire,*
 9 *at the discretion of the Secretary and with the consent*
 10 *of the owner, except as provided in section 207(c)(4),*
 11 *and at fair market value, any fractional interest in*
 12 *trust or restricted lands.*

13 **“(2) AUTHORITY OF SECRETARY.—**

14 **“(A) IN GENERAL.—***The Secretary shall*
 15 *have the authority to acquire interests in trust or*
 16 *restricted lands under this section during the 3-*
 17 *year period beginning on the date of certification*
 18 *that is referred to in section 207(f)(5).*

19 **“(B) REQUIRED REPORT.—***Prior to expira-*
 20 *tion of the authority provided for in subpara-*
 21 *graph (A), the Secretary shall submit the report*
 22 *required under section 218 concerning whether*
 23 *the program to acquire fractional interests*
 24 *should be extended or altered to make resources*

1 *available to Indian tribes and individual Indian*
 2 *landowners.*

3 “(3) *INTERESTS HELD IN TRUST.*—Subject to
 4 *section 214, the Secretary shall immediately hold in-*
 5 *terests acquired under this Act in trust for the recog-*
 6 *nized tribal government that exercises jurisdiction*
 7 *over the reservation.*

8 “(b) *REQUIREMENTS.*—In implementing subsection
 9 (a), the Secretary—

10 “(1) *shall promote the policies provided for in*
 11 *section 3 of the Indian Land Consolidation Act*
 12 *Amendments of 2000;*

13 “(2) *may give priority to the acquisition of frac-*
 14 *tional interests representing 2 percent or less of a*
 15 *parcel of trust or restricted land, especially those in-*
 16 *terests that would have escheated to a tribe but for the*
 17 *Supreme Court’s decision in Babbitt v. Youpee, (117*
 18 *S Ct. 727 (1997));*

19 “(3) *to the extent practicable—*

20 “(A) *shall consult with the reservation’s rec-*
 21 *ognized tribal government in determining which*
 22 *tracts to acquire on a reservation;*

23 “(B) *shall coordinate the acquisition activi-*
 24 *ties with the reservation’s recognized tribal gov-*
 25 *ernment’s acquisition program, including a trib-*

1 *al land consolidation plan approved pursuant to*
 2 *section 204; and*

3 *“(C) may enter into agreements (such agree-*
 4 *ments will not be subject to the provisions of the*
 5 *Indian Self-Determination and Education As-*
 6 *sistance Act of 1974) with the reservation’s rec-*
 7 *ognized tribal government or a subordinate enti-*
 8 *ty of the tribal government to carry out some or*
 9 *all of the Secretary’s land acquisition program;*
 10 *and*

11 *“(4) shall minimize the administrative costs as-*
 12 *sociated with the land acquisition program.*

13 *“(c) SALE OF INTEREST TO INDIAN LANDOWNERS.—*

14 *“(1) IN GENERAL.—At the request of any Indian*
 15 *who owns at least 5 percent of the undivided interest*
 16 *in a parcel of trust or restricted land, the Secretary*
 17 *shall convey an interest acquired under this section to*
 18 *the Indian landowner upon payment by the Indian*
 19 *landowner of the amount paid for the interest by the*
 20 *Secretary.*

21 *“(2) LIMITATIONS.—*

22 *“(A) TRIBAL CONSENT.—If an Indian tribe*
 23 *that has jurisdiction over a parcel of trust or re-*
 24 *stricted land owns 10 percent or more of the un-*
 25 *divided interests in a parcel of such land, such*

1 *interest may only be acquired under paragraph*
 2 *(1) with the consent of such Indian tribe.*

3 “(B) *LIMITATION.*—*With respect to a con-*
 4 *veyance under this subsection, the Secretary shall*
 5 *not approve an application to terminate the*
 6 *trust status or remove the restrictions of such an*
 7 *interest.*

8 **“SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL IN-**
 9 **TERESTS, DISPOSITION OF PROCEEDS.**

10 “(a) *IN GENERAL.*—*Subject to the conditions described*
 11 *in subsection (b)(1), an Indian tribe receiving a fractional*
 12 *interest under section 213 may, as a tenant in common*
 13 *with the other owners of the trust or restricted lands, lease*
 14 *the interest, sell the resources, consent to the granting of*
 15 *rights-of-way, or engage in any other transaction affecting*
 16 *the trust or restricted land authorized by law.*

17 “(b) *CONDITIONS.*—

18 “(1) *IN GENERAL.*—*The conditions described in*
 19 *this paragraph are as follows:*

20 “(A) *Except as provided in subsection (d),*
 21 *until the purchase price paid by the Secretary*
 22 *for an interest referred to in subsection (a) has*
 23 *been recovered, any lease, resource sale contract,*
 24 *right-of-way, or other document evidencing a*
 25 *transaction affecting the interest shall contain a*

1 *clause providing that all revenue derived from*
2 *the interest shall be paid to the Secretary.*

3 *“(B) Subject to subparagraph (C), the Sec-*
4 *retary shall deposit any revenue derived under*
5 *subparagraph (A) into the Acquisition Fund cre-*
6 *ated under section 216.*

7 *“(C) The Secretary shall deposit any rev-*
8 *enue that is paid under subparagraph (A) that*
9 *is in excess of the purchase price of the fractional*
10 *interest involved to the credit of the Indian tribe*
11 *that receives the fractional interest under section*
12 *213 and the tribe shall have access to such funds*
13 *in the same manner as other funds paid to the*
14 *Secretary for the use of lands held in trust for*
15 *the tribe.*

16 *“(D) Notwithstanding any other provision*
17 *of law, including section 16 of the Act of June*
18 *18, 1934 (commonly referred to as the ‘Indian*
19 *Reorganization Act’) (48 Stat. 987, chapter 576;*
20 *25 U.S.C. 476), with respect to any interest ac-*
21 *quired by the Secretary under section 213, the*
22 *Secretary may approve a transaction covered*
23 *under this section on behalf of a tribe until—*

24 *“(i) the Secretary makes any of the*
25 *findings under paragraph (2)(A); or*

1 “(ii) an amount equal to the purchase
2 price of that interest has been paid into the
3 Acquisition Fund created under section 216.

4 “(2) *EXCEPTION.*—Paragraph (1)(A) shall not
5 apply to any revenue derived from an interest in a
6 parcel of land acquired by the Secretary under section
7 213 after—

8 “(A) the Secretary makes a finding that—

9 “(i) the costs of administering the in-
10 terest will equal or exceed the projected reve-
11 nues for the parcel involved;

12 “(ii) in the discretion of the Secretary,
13 it will take an unreasonable period of time
14 for the parcel to generate revenue that
15 equals the purchase price paid for the inter-
16 est; or

17 “(iii) a subsequent decrease in the
18 value of land or commodities associated
19 with the land make it likely that the inter-
20 est will be unable to generate revenue that
21 equals the purchase price paid for the inter-
22 est in a reasonable time; or

23 “(B) an amount equal to the purchase price
24 of that interest in land has been paid into the
25 Acquisition Fund created under section 216.

1 “(c) *EFFECT ON INDIAN TRIBE.*—

2 “(1) *IN GENERAL.*—Paragraph (2) shall apply
3 *with respect to any undivided interest in allotted*
4 *land held by the Secretary in trust for a tribe if a*
5 *lease or agreement under subsection (a) is otherwise*
6 *applicable to such undivided interest by reason of this*
7 *section even though the Indian tribe did not consent*
8 *to the lease or agreement.*

9 “(2) *APPLICATION OF LEASE.*—The lease or
10 *agreement described in paragraph (1) shall apply to*
11 *the portion of the undivided interest in allotted land*
12 *described in such paragraph (including entitlement of*
13 *the Indian tribe to payment under the lease or agree-*
14 *ment), and the Indian tribe shall not be treated as*
15 *being a party to the lease or agreement. Nothing in*
16 *this section (or in the lease or agreement) shall be*
17 *construed to affect the sovereignty of the Indian tribe.*

18 **“SEC. 215. ESTABLISHING FAIR MARKET VALUE.**

19 “(a) *IN GENERAL.*—For purposes of this Act, the Sec-
20 *retary may develop a system for establishing the fair market*
21 *value of various types of lands and improvements. Such a*
22 *system may include determinations of fair market value*
23 *based on appropriate geographic units as determined by the*
24 *Secretary. Such system may govern the amounts offered for*

1 *the purchase of interests in trust or restricted lands under*
 2 *section 213.*

3 “(b) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 4 *tion shall be construed to prevent the owner of an interest*
 5 *in trust or restricted lands from appealing a determination*
 6 *of fair market value made in accordance with this section.*

7 **“SEC. 216. ACQUISITION FUND.**

8 “(a) *IN GENERAL.*—*The Secretary shall establish an*
 9 *Acquisition Fund to—*

10 “(1) *disburse appropriations authorized to ac-*
 11 *complish the purposes of section 213; and*

12 “(2) *collect all revenues received from the lease,*
 13 *permit, or sale of resources from interests in trust or*
 14 *restricted lands transferred to Indian tribes by the*
 15 *Secretary under section 213.*

16 “(b) *DEPOSITS; USE.*—

17 “(1) *IN GENERAL.*—*Subject to paragraph (2), all*
 18 *proceeds from leases, permits, or resource sales derived*
 19 *from an interest in trust or restricted lands described*
 20 *in subsection (a)(2) shall—*

21 “(A) *be deposited in the Acquisition Fund;*
 22 *and*

23 “(B) *as specified in advance in appropria-*
 24 *tions Acts, be available for the purpose of acquir-*

1 *ing additional fractional interests in trust or re-*
 2 *stricted lands.*

3 “(2) *MAXIMUM DEPOSITS OF PROCEEDS.*—With
 4 *respect to the deposit of proceeds derived from an in-*
 5 *terest under paragraph (1), the aggregate amount de-*
 6 *posited under that paragraph shall not exceed the*
 7 *purchase price of that interest under section 213.*

8 **“SEC. 217. TRUST AND RESTRICTED LAND TRANSACTIONS.**

9 “(a) *POLICY.*—It is the policy of the United States to
 10 *encourage and assist the consolidation of land ownership*
 11 *through transactions involving individual Indians and be-*
 12 *tween Indians and a reservation’s recognized tribal govern-*
 13 *ment in a manner consistent with the policy of maintain-*
 14 *ing the trust status of allotted lands. Nothing in this section*
 15 *shall be construed to apply to or to authorize the sale of*
 16 *trust or restricted lands to a person who is not an Indian.*

17 “(b) *SALES AND EXCHANGES BETWEEN INDIANS AND*
 18 *BETWEEN INDIANS AND INDIAN TRIBES.*—

19 “(1) *IN GENERAL.*—

20 “(A) *ESTIMATE OF VALUE.*—Notwith-
 21 *standing any other provision of law and only*
 22 *after the Indian selling or exchanging an interest*
 23 *in land has been provided with an estimate of*
 24 *the value of the interest of the Indian pursuant*
 25 *to this section—*

1 “(i) the sale or exchange of an interest
 2 in trust or restricted land may be made for
 3 an amount that is less than the fair market
 4 value of that interest; and

5 “(ii) the approval of a transaction that
 6 is in compliance with this section shall not
 7 constitute a breach of trust by the Secretary.

8 “(B) *WAIVER OF REQUIREMENT.*—The re-
 9 quirement for an estimate of value under sub-
 10 paragraph (A) may be waived in writing by an
 11 Indian selling or exchanging an interest in land
 12 with an Indian person who is the owner’s
 13 spouse, brother, sister, lineal ancestor of Indian
 14 blood, lineal descendant, or collateral heir.

15 “(2) *LIMITATION.*—For a period of 5 years after
 16 the Secretary approves a conveyance pursuant to this
 17 subsection, the Secretary shall not approve an appli-
 18 cation to terminate the trust status or remove the re-
 19 strictions of such an interest.

20 “(c) *ACQUISITION OF INTEREST BY SECRETARY.*—An
 21 Indian, or the recognized tribal government of a reserva-
 22 tion, in possession of an interest in trust or restricted lands,
 23 at least a portion of which is in trust or restricted status
 24 on the date of enactment of the Indian Land Consolidation
 25 Act Amendments of 2000 and located within a reservation,

1 *may request that the interest be taken into trust by the Sec-*
 2 *retary. Upon such a request, the Secretary shall forthwith*
 3 *take such interest into trust.*

4 “(d) *STATUS OF LANDS.*—*The sale or exchange of an*
 5 *interest in trust or restricted land under this section shall*
 6 *not affect the status of that land as trust or restricted land.*

7 “(e) *GIFT DEEDS.*—

8 “(1) *IN GENERAL.*—*An individual owner of an*
 9 *interest in trust or restricted land may convey that*
 10 *interest by gift deed to—*

11 “(A) *an individual Indian; or*

12 “(B) *the Indian tribe that exercises jurisdic-*
 13 *tion over that land.*

14 “(2) *SPECIAL RULE.*—*With respect to any gift*
 15 *deed conveyed under this section, the Secretary shall*
 16 *not require an appraisal and the transaction shall be*
 17 *consistent with this Act and any other provision of*
 18 *Federal law.*

19 “(f) *NO TERMINATION.*—*During the 7-year period be-*
 20 *ginning on the date on which the Secretary approves a con-*
 21 *veyance of an interest in trust or restricted land under sub-*
 22 *section (e), the Secretary shall not approve an application*
 23 *to terminate the trust status of, or remove the restrictions*
 24 *on, such an interest.*

1 “(g) *LAND OWNERSHIP INFORMATION.*—*Notwith-*
 2 *standing any other provision of law, the names and mailing*
 3 *addresses of the Indian owners of trust or restricted lands,*
 4 *and information on the location of the parcel and the per-*
 5 *centage of undivided interest owned by each individual, or*
 6 *of any interest in trust or restricted lands, shall, upon writ-*
 7 *ten request, be made available to—*

8 “(1) *other Indian owners of interests in trust or*
 9 *restricted lands within the same reservation;*

10 “(2) *the tribe that exercises jurisdiction over the*
 11 *reservation where the parcel is located or any person*
 12 *who is eligible for membership in that tribe; and*

13 “(3) *prospective applicants for the leasing, use,*
 14 *or consolidation of such trust or restricted land or the*
 15 *interest in trust or restricted lands.*

16 **“SEC. 218. REPORTS TO CONGRESS.**

17 “(a) *IN GENERAL.*—*Prior to expiration of the author-*
 18 *ity provided for in section 213(a)(2)(A), the Secretary, after*
 19 *consultation with Indian tribes and other interested parties,*
 20 *shall submit to the Committee on Indian Affairs and the*
 21 *Committee on Energy and Natural Resources of the Senate*
 22 *and the Committee on Resources of the House of Representa-*
 23 *tives a report that indicates, for the period covered by the*
 24 *report—*

1 “(1) *the number of fractional interests in trust*
 2 *or restricted lands acquired; and*

3 “(2) *the impact of the resulting reduction in the*
 4 *number of such fractional interests on the financial*
 5 *and realty recordkeeping systems of the Bureau of In-*
 6 *dian Affairs.*

7 “(b) *REPORT.—The reports described in subsection (a)*
 8 *and section 213(a) shall contain findings as to whether the*
 9 *program under this Act to acquire fractional interests in*
 10 *trust or restricted lands should be extended and whether*
 11 *such program should be altered to make resources available*
 12 *to Indian tribes and individual Indian landowners.*

13 **“SEC. 219. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND**
 14 **SALES OF NATURAL RESOURCES.**

15 “(a) *APPROVAL BY THE SECRETARY.—*

16 “(1) *IN GENERAL.—Notwithstanding any other*
 17 *provision of law, the Secretary may approve any*
 18 *lease or agreement that affects individually owned al-*
 19 *lotted land, if—*

20 “(A) *the owners of not less than the applica-*
 21 *ble percentage (determined under subsection (b))*
 22 *of the undivided interest in the allotted land that*
 23 *is covered by the lease or agreement consent in*
 24 *writing to the lease or agreement; and*

1 “(B) the Secretary determines that approv-
 2 ing the lease or agreement is in the best interest
 3 of the owners of the undivided interest in the al-
 4 lotted land.

5 “(2) *RULE OF CONSTRUCTION.*—Nothing in this
 6 section shall be construed to apply to leases involving
 7 coal or uranium.

8 “(b) *APPLICABLE PERCENTAGE.*—

9 “(1) *PERCENTAGE INTEREST.*—The applicable
 10 percentage referred to in subsection (a)(1) shall be de-
 11 termined as follows:

12 “(A) If there are 5 or fewer owners of the
 13 undivided interest in the allotted land, the appli-
 14 cable percentage shall be 100 percent.

15 “(B) If there are more than 5 such owners,
 16 but fewer than 11 such owners, the applicable
 17 percentage shall be 80 percent.

18 “(C) If there are more than 10 such owners,
 19 but fewer than 20 such owners, the applicable
 20 percentage shall be 60 percent.

21 “(D) If there are 20 or more such owners,
 22 the applicable percentage shall be a majority of
 23 the interests in the allotted land.

24 “(2) *DETERMINATION OF OWNERS.*—

1 “(A) *IN GENERAL.*—For purposes of this
 2 subsection, in determining the number of owners
 3 of, and their interests in, the undivided interest
 4 in the allotted land with respect to a lease or
 5 agreement, the Secretary shall make such deter-
 6 mination based on the records of the Department
 7 of the Interior that identify the owners of such
 8 lands and their interests and the number of own-
 9 ers of such land on the date on which the lease
 10 or agreement involved is submitted to the Sec-
 11 retary under this section.

12 “(B) *RULE OF CONSTRUCTION.*—Nothing in
 13 subparagraph (A) shall be construed to authorize
 14 the Secretary to treat an Indian tribe as the
 15 owner of an interest in allotted land that did not
 16 escheat to the tribe pursuant to section 207 as a
 17 result of the Supreme Court’s decision in *Babbitt*
 18 *v. Youpee*, (117 S Ct. 727 (1997)).

19 “(c) *AUTHORITY OF SECRETARY TO SIGN LEASE OR*
 20 *AGREEMENT ON BEHALF OF CERTAIN OWNERS.*—The Sec-
 21 retary may give written consent to a lease or agreement
 22 under subsection (a)—

23 “(1) on behalf of the individual Indian owner if
 24 the owner is deceased and the heirs to, or devisees of,

1 *the interest of the deceased owner have not been deter-*
 2 *mined; or*

3 “(2) *on behalf of any heir or devisee referred to*
 4 *in paragraph (1) if the heir or devisee has been deter-*
 5 *mined but cannot be located*

6 “(d) *EFFECT OF APPROVAL.—*

7 “(1) *APPLICATION TO ALL PARTIES.—*

8 “(A) *IN GENERAL.—Subject to paragraph*
 9 *(2), a lease or agreement approved by the Sec-*
 10 *retary under subsection (a) shall be binding on*
 11 *the parties described in subparagraph (B), to the*
 12 *same extent as if all of the owners of the undi-*
 13 *vided interest in allotted land covered under the*
 14 *lease or agreement consented to the lease or*
 15 *agreement.*

16 “(B) *DESCRIPTION OF PARTIES.—The par-*
 17 *ties referred to in subparagraph (A) are—*

18 “(i) *the owners of the undivided inter-*
 19 *est in the allotted land covered under the*
 20 *lease or agreement referred to in such sub-*
 21 *paragraph; and*

22 “(ii) *all other parties to the lease or*
 23 *agreement.*

24 “(2) *EFFECT ON INDIAN TRIBE.—*

1 “(A) *IN GENERAL.*—Subparagraph (B)
2 *shall apply with respect to any undivided inter-*
3 *est in allotted land held by the Secretary in trust*
4 *for a tribe if a lease or agreement under sub-*
5 *section (a) is otherwise applicable to such undi-*
6 *vided interest by reason of this section even*
7 *though the Indian tribe did not consent to the*
8 *lease or agreement.*

9 “(B) *APPLICATION OF LEASE.*—The lease or
10 agreement described in subparagraph (A) shall
11 apply to the portion of the undivided interest in
12 allotted land described in such paragraph (in-
13 cluding entitlement of the Indian tribe to pay-
14 ment under the lease or agreement), and the In-
15 dian tribe shall not be treated as being a party
16 to the lease or agreement. Nothing in this section
17 (or in the lease or agreement) shall be construed
18 to affect the sovereignty of the Indian tribe.

19 “(e) *DISTRIBUTION OF PROCEEDS.*—

20 “(1) *IN GENERAL.*—The proceeds derived from a
21 lease or agreement that is approved by the Secretary
22 under subsection (a) shall be distributed to all owners
23 of undivided interest in the allotted land covered
24 under the lease or agreement.

1 “(2) *DETERMINATION OF AMOUNTS DISTRIBUTED.*—*The amount of the proceeds under paragraph*
 2 *UTED.*—*The amount of the proceeds under paragraph*
 3 *(1) that are distributed to each owner under that*
 4 *paragraph shall be determined in accordance with the*
 5 *portion of the undivided interest in the allotted land*
 6 *covered under the lease or agreement that is owned by*
 7 *that owner.*

8 “(f) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 9 *tion shall be construed to amend or modify the provisions*
 10 *of Public Law 105–188 (25 U.S.C. 396 note), the American*
 11 *Indian Agricultural Resources Management Act (25 U.S.C.*
 12 *3701 et seq.) or any other Act that provides specific stand-*
 13 *ards for the percentage of ownership interest that must ap-*
 14 *prove a lease or agreement on a specified reservation.*

15 **“SEC. 220. APPLICATION TO ALASKA.**

16 “(a) *FINDINGS.*—*Congress find that—*

17 “(1) *numerous academic and governmental orga-*
 18 *nizations have studied the nature and extent of*
 19 *fractionated ownership of Indian land outside of*
 20 *Alaska and have proposed solutions to this problem;*
 21 *and*

22 “(2) *despite these studies, there has not been a*
 23 *comparable effort to analyze the problem, if any, of*
 24 *fractionated ownership in Alaska.*

1 “(b) *APPLICATION OF ACT TO ALASKA.*—*Except as*
 2 *provided in this section, this Act shall not apply to land*
 3 *located within Alaska.*

4 “(c) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 5 *tion shall be construed to constitute a ratification of any*
 6 *determination by any agency, instrumentality, or court of*
 7 *the United States that may support the assertion of tribal*
 8 *jurisdiction over allotment lands or interests in such land*
 9 *in Alaska.”.*

10 **SEC. 5. JUDICIAL REVIEW.**

11 *Notwithstanding section 207(f)(5) of the Indian Land*
 12 *Consolidation Act (25 U.S.C. 2206(f)(5)), after the Sec-*
 13 *retary of Interior provides the certification required under*
 14 *section 207(f)(4) of such Act, the owner of an interest in*
 15 *trust or restricted land may bring an administrative action*
 16 *to challenge the application of such section 207 to their in-*
 17 *terest in trust or restricted lands, and may seek judicial*
 18 *review of the final decision of the Secretary of Interior with*
 19 *respect to such challenge.*

20 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

21 *There are authorized to be appropriated not to exceed*
 22 *\$8,000,000 for fiscal year 2001 and each subsequent fiscal*
 23 *year to carry out the provisions of this Act (and the amend-*
 24 *ments made by this Act) that are not otherwise funded*

1 *under the authority provided for in any other provision of*
 2 *Federal law.*

3 **SEC. 7. CONFORMING AMENDMENTS.**

4 (a) *PATENTS HELD IN TRUST.*—*The Act of February*
 5 *8, 1887 (24 Stat. 388) is amended—*

6 (1) *by repealing sections 1, 2, and 3 (25 U.S.C.*
 7 *331, 332, and 333); and*

8 (2) *in the second proviso of section 5 (25 U.S.C.*
 9 *348)—*

10 (A) *by striking “and partition”; and*

11 (B) *by striking “except” and inserting “ex-*
 12 *cept as provided by the Indian Land Consolida-*
 13 *tion Act or a tribal probate code approved under*
 14 *such Act and except”.*

15 (b) *ASCERTAINMENT OF HEIRS AND DISPOSAL OF AL-*
 16 *LOTMENTS.*—*The Act of June 25, 1910 (36 Stat. 855) is*
 17 *amended—*

18 (1) *in the first sentence of section 1 (25 U.S.C.*
 19 *372), by striking “under” and inserting “under the*
 20 *Indian Land Consolidation Act or a tribal probate*
 21 *code approved under such Act and pursuant to”; and*

22 (2) *in the first sentence of section 2 (25 U.S.C.*
 23 *373), by striking “with regulations” and inserting*
 24 *“with the Indian Land Consolidation Act or a tribal*

1 *probate code approved under such Act and regula-*
2 *tions”.*

3 (c) *TRANSFER OF LANDS.—Section 4 of the Act of*
4 *June 18, 1934 (25 U.S.C. 464) is amended by striking*
5 *“trust:” and inserting “trust, except as provided by the In-*
6 *dian Land Consolidation Act:”.*

Calendar No. 714

106TH CONGRESS
2D SESSION

S. 1586

[Report No. 106-361]

A BILL

To reduce the fractionated ownership of Indian
lands, and for other purposes.

JULY 26, 2000

Reported with an amendment