S. 1423

At the request of Mr. SCHUMER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1423, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representatives of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

S. RES. 198

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 198, a resolution commemorating the 25th anniversary of the 1980 worker's strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe.

AMENDMENT NO. 825

At the request of Mr. KERRY, the names of the Senator from Maine (Ms. SNOWE), the Senator from Rhode Island (Mr. REED), the Senator from Wisconsin (Mr. KOHL), the Senator from Michigan (Mr. LEVIN), the Senator from Montana (Mr. BAUCUS) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 825 proposed to H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy.

AMENDMENT NO. 1245

At the request of Ms. LANDRIEU, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Idaho (Mr. CRAIG), the Senator from Ohio (Mr. DEWINE) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 1245 proposed to H.R. 3057, an act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. REED, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 1245 proposed to H.R. 3057, supra.

AMENDMENT NO. 1273

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of amendment No. 1273 proposed to H.R. 3057, an act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1299

At the request of Mr. MCCONNELL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 1299 proposed to H.R. 3057, an act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself and Mr. DEWINE):

S. 1429. A bill to amend the Higher Education Act of 1965 to assist homeless students in obtaining postsecondary education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURRAY. Mr. President, today I join Senator DEWINE to introduce a bill that would make the dream of a college diploma more accessible to homeless youth and kids in foster care.

We all know the obstacles students' in America need to overcome in order to succeed in post-secondary education. Couple these traditional obstacles with extreme poverty, residential instability, insufficient documentation and lack of awareness of supportive educational programs and it is no wonder homeless children and children in foster care are only half as likely to go on to college as their peers.

Youth in foster care are less likely to be enrolled in college preparatory classes and are more than twice as likely as non-foster care youth to drop out of high school altogether. Because The Higher Education Act supports several programs that motivate and support disadvantaged students to help increase their postsecondary educational attainment, it already has many of the tools necessary to intervene in these student lives. My bill would help programs, such as TRIO and GEAR UP, target their resources to better serve homeless and foster care populations. Early intervention is key in retaining these students and preparing them for post-secondary education.

More than 70 percent of teens in foster care desire to go to college, only 27 percent of those who graduate from high school realize that dream. Although children and youth who experience the instability of homelessness or foster care represent the full range of academic talents and abilities, their situations create serious barriers to school enrollment, attendance, and success.

Homeless and foster care youth do not have the traditional family network to encourage or assist them in planning for a college education. These youth need help to select a college, apply for admission and obtaining financial aid. In addition, their student aid must be used for so much more than just tuition and books. They face the daunting challenges of housing, transportation and other basic needs. By assisting these youth to become independent students we will increase their access to student aid for financial aid purposes; improve their changes for a smooth transition into, and completion of, higher learning.

Our nation's economic well-being depends on our ability to provide greater access to higher education for students, regardless of their family background. By passing this bill we guarantee more students than ever will be given the tools they need to attend college and succeed. Through college we provide these vulnerable students with the best hope for escaping the cycle of poverty and homelessness.

I look forward to working with HELP Committee Chairman ENZI to incorporate these provisions into the Higher Education Act reauthorization bill. And again, I thank Senator DEWINE for his commitment to these often overlooked 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. 1429

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 ''Improving Access to Education for Students Who Are Homeless or in Foster Care Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to a study of foster care children in the State of Washington, a child who enters foster care is likely to have poorer academic outcomes than a child not in foster care, even after controlling for a variety of factors such as poverty.

(2) Youth in foster care—

(A) are less likely to be enrolled in college preparatory classes than non-foster care youth; and

(B) are more than twice as likely as non-foster care youth (37 percent as compared to 16 percent) to have dropped out of secondary school.

(3) 50 percent of foster youth in the United States graduate from secondary school, compared with 85 percent of youth overall.

(4) 70 percent of teens in foster care desire to go to college.

(5) A report from Casey Family Programs indicated that, nationwide, less than 27 percent of foster youth who graduated from secondary school went on to college, as compared to 52 percent of the general population. Moreover, the college dropout rate among foster youth is far higher than the rate among other students.

(6) A May 2002 report issued by the University of California at Berkeley found that, of more than 3,200 foster care youth who attended a community college from 1992 through 2000—

(A) 39 percent earned between 1 and 17 credits;

(B) 40 percent of the foster care youth earned no credits; and

(C) many of the foster care youth did not attempt to take classes for credit, but rather were enrolled in remedial or other non-credit classes.

(7) Unaccompanied youth experiencing homelessness often have left home for their own survival.

(8) Although children and youth who experience homelessness represent the full range of academic talents and abilities, homelessness creates serious barriers to school enrollment, attendance, and success.

(9) The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) requires State educational agencies and local educational agencies to ensure that homeless children and youth receive a free and appropriate public education, but these provisions do not reach beyond secondary education.

(10) The barriers created by homelessness to kindergarten through grade 12 education (extreme poverty, residential instability, lack of documentation, and lack of awareness of programs and resources) often are also barriers to postsecondary education.

(11) Higher education offers students experiencing homelessness the best hope for escaping poverty and homelessness as adults.

TITLE I—FINANCIAL ASSISTANCE FOR STUDENTS WHO ARE HOMELESS OR IN FOSTER CARE

SEC. 101. NEED ANALYSIS.

(a) SPECIAL CIRCUMSTANCES.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended, in the third sentence, by inserting ''a change in housing status that results in homelessness,'' before ''or other changes''.

(b) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended to read as follows:

''(d) INDEPENDENT STUDENT.—

''(1) DEFINITION.—The term 'independent', when used with respect to a student, means any individual who—

''(A) is 24 years of age or older by December 31 of the award year;

''(B) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;

''(C) is an emancipated youth, as defined by the student's State of legal residence;

''(D) is in legal guardianship, as defined in section 475 of the Social Security Act (42 U.S.C. 675);

''(E) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1));

''(F) is a graduate or professional student;

''(G) is a married individual;

''(H) has legal dependents other than a spouse;

''(I) has been verified as both a homeless child or youth and an unaccompanied youth, as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), during the school year in which the application for financial assistance is submitted, by—

''(i) a local educational agency liaison for homeless children and youths, as designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));

''(ii) a director of a homeless shelter, transitional shelter, or independent living program; or

''(iii) a financial aid administrator; or

''(J) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

''(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—Nothing in this subsection shall be construed to prohibit a financial aid administrator from making a determination of independence under paragraph (1)(J) based upon a documented determination of independence under such paragraph that was previously made by another financial aid administrator in the same application year.''.

(c) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)) is amended by adding at the end the following:

''(8) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d)(1)(J), nothing in this section shall prohibit the Secretary from—

''(A) allowing such student to indicate the student's special circumstance on the electronic version of a form developed under paragraph (5);

''(B) collecting and processing, on a preliminary basis, data provided by such student using the electronic version of the form; or

''(C) distributing such data to States, institutions of higher education, and guaranty agencies for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards for such student on a preliminary basis, pending a documented determination of independence by a financial aid administrator.''.

TITLE II—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS FOR STUDENTS WHO ARE HOMELESS OR IN FOSTER CARE

Subtitle A—Federal TRIO Programs

SEC. 211. DEFINITION OF HOMELESS CHILDREN AND YOUTHS.

Section 402A(g) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(g)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) by inserting after paragraph (1) the following:

''(2) HOMELESS CHILDREN AND YOUTHS.—The term 'homeless children and youths' has the meaning given the term in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).''.

SEC. 212. TALENT SEARCH.

Section 402B(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a–12(b)) is amended by striking paragraph (10) and inserting the following:

''(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for—

''(A) students of limited English proficiency;

''(B) students who are homeless children and youths; and

''(C) students who are in foster care or are aging out of the foster care system.''.

SEC. 213. UPWARD BOUND.

Section 402C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a–13(b)) is amended by striking paragraph (12) and inserting the following:

''(12) programs and activities as described in paragraphs (1) through (11) which are specially designed for—

''(A) students of limited English proficiency;

''(B) students who are homeless children and youths; and

''(C) students who are in foster care or are aging out of the foster care system.''.

SEC. 214. STUDENT SUPPORT SERVICES.

Section 402D of the Higher Education Act of 1965 (20 U.S.C. 1070a–14) is amended—

(1) in subsection (a)(3)—

(A) by striking ''students and'' and inserting ''students,''; and

(B) by inserting '', students who are homeless children and youths, and students who are in foster care or are aging out of the foster care system'' before the period; and

(2) in subsection (b)—

(A) in paragraph (9), by striking ''and'' after the semicolon;

(B) by striking paragraph (10) and inserting the following:

''(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for—

''(A) students of limited English proficiency;

''(B) students who are or who were homeless children and youths; and

''(C) students who are in foster care or are aging out of the foster care system; and''; and

(C) by adding at the end the following:

''(11) assistance in securing temporary housing for—

''(A) students who are, or who were, homeless children and youths; or

''(B) students who are in foster care or are aging out of the foster care system.''.

SEC. 215. EDUCATIONAL OPPORTUNITY CENTERS.

Section 402F(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a–16(b)) is amended by striking paragraph (10) and inserting the following:

''(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for—

''(A) students of limited English proficiency;

''(B) students who are homeless children and youths; and

''(C) students who are in foster care or are aging out of the foster care system.''.

SEC. 216. STAFF DEVELOPMENT ACTIVITIES.

Section 402G(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1070a–17(b)(3)) is amended by striking ''chapter.'' and inserting ''chapter, including strategies for recruiting and serving students who are homeless children and youths, and students who are in foster care or are aging out of the foster care system.''.

Subtitle B—GEAR-UP Programs

SEC. 221. REQUIREMENTS FOR GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS.

Section 404B(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–22(c)(2)) is amended by striking ''programs.'' and inserting ''programs, including programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).''.

SEC. 222. EARLY INTERVENTION USE OF FUNDS.

Section 404D(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1070a–24(b)(2)(C)) is amended by inserting '', for students who are homeless children and youths, as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), or for students who are in foster care or are aging out of the foster care system'' before the period.

TITLE III—DEMONSTRATION PROJECTS TO INCREASE ENROLLMENT AND SUCCESS OF HIGHLY MOBILE STUDENTS IN POSTSECONDARY EDUCATION

SEC. 301. PURPOSE.

It is the purpose of this title to support demonstration projects in order to—

(1) increase the secondary school graduation rates of highly mobile students;

(2) increase the academic success of highly mobile students in secondary school; and

(3) increase the enrollment and success of highly mobile students in higher education.

SEC. 302. DEFINITIONS.

In this title:

(1) HIGHLY MOBILE STUDENTS.—The term ''highly mobile students'' means students who are—

(A) homeless children and youths, as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a); or

(B) wards of the State.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(3) WARD OF THE STATE.—The term ''ward of the State'' means a child who—

(A) is a ward of the State, as determined by the State where the child resides; or

(B) is in the custody of a public child welfare agency, including situations where the child is residing—

(i) in a foster family home, group home, or other alternative residential setting; or

(ii) at home under protective supervision.

SEC. 303. GRANTS AUTHORIZED.

(a) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to—

(1) partnerships consisting of—

(A) a State educational agency;

(B) a State department serving abused and neglected children;

(C) a State department serving runaway, homeless, or at-risk youth;

(D) a State department serving homeless families or youth; and

(E) 1 or more degree-granting institutions of higher education; and

(2) partnerships consisting of—

(A) 1 or more local educational agencies;

(B) 1 or more degree-granting institutions of higher education;

(C) a recipient of a grant under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(D) 2 or more community organizations or entities, such as businesses, community-based organizations, faith-based organizations, State agencies, or other public or private agencies or organizations.

(b) DURATION.—Grants contracts, and cooperative agreements under this title shall be awarded for a period of not more than 3 years.

SEC. 304. APPLICATIONS.

Each partnership desiring to receive a grant, contract, or cooperative agreement under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

(1) a description of how the partnership plans to carry out the activities required under this title;

(2) a description of how the partnership will coordinate and collaborate with transportation, education, housing, social services, and child welfare agencies to prevent and reduce school mobility;

(3) an assurance that all State and local educational agency members of the partnership will comply with the applicable grant recipient requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) and section 1113(c)(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(c)(3)(A)); and

(4) an assurance that the partnership will demonstrate that, to the maximum extent practicable, the partnership is—

(A) utilizing other resources (including Federal, State, and local funds, public transportation, and other community resources) to transport highly mobile students; and

(B) collaborating with local housing, social services, and child welfare agencies to minimize the need for such transportation.

SEC. 305. AWARD CONSIDERATIONS.

In awarding grants, contracts, or cooperative agreements under this title, the Secretary shall consider the following:

(1) The number of highly mobile students identified in the area proposed to be served by the partnership.

(2) The extent to which each local educational agency member of the partnership has reserved appropriate funds under section 1113(c)(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(c)(3)(A)) to serve homeless children.

(3) The extent to which the partnership has demonstrated interagency collaboration among transportation, education, housing, social services, and child welfare agencies.

(4) Evidence of past successful operation of programs for highly mobile students.

SEC. 306. AUTHORIZED ACTIVITIES.

Grants, contracts, and cooperative agreements under this title shall be used to carry out 1 or more of the following activities:

(1) Services designed to assist highly mobile students in the completion of secondary school and in increasing academic success, such as—

(A) after-school and summer tutoring;

(B) academic counseling;

(C) skills assessment;

(D) mentoring programs; and

(E) exposure to cultural events, academic programs, and other activities not usually available to highly mobile students.

(2) Services designed to assist highly mobile students with matriculation in an institution of higher education, such as—

(A) academic advice and assistance in course selection;

(B) assistance in completing college admission and financial aid applications;

(C) assistance in preparing for college entrance examinations;

(D) personal counseling; and

(E) career workshops and counseling.

(3) Services and strategies to prevent and reduce the mobility of highly mobile students, such as—

(A) defraying the excess cost of transporting highly mobile students to their schools of origin, as required under paragraphs (1)(J)(iii) and (3)(A) of section 722(g) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(iii) and (3)(A)), except that a grant recipient may not use more than 25 percent of the total grant award received under this title for this use;

(B) interagency coordination of services and policies, including transportation, education, housing, social services, and child welfare agencies;

(C) family counseling, home visits, staff development, outreach, and supportive services; and

(D) evaluation and dissemination of data, information, and promising practices.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.

Mr. DEWINE. Mr. President, today I join Senator MURRAY in introducing the ''Improving Access to Education for Students Who Are Homeless or in Foster Care Act.'' I thank Senator MURRAY for her deep commitment to the education of children who are homeless or in foster care. I have worked with her on provisions to promote their access to and completion of education in both the Individuals with Disabilities Education Act (IDEA) reauthorization and the Head Start Act reauthorization and am pleased to have worked with her again on this bill.

In the United States, on any given day, more than half a million children are in foster care—20,000 of whom are in the State of Ohio, alone. In 2003, also know that more than 900,000 children were found to be victims of child abuse or neglect. More than half of the children in foster care experience developmental delays. Children in foster care have three to seven times more chronic medical conditions, birth defects, emotional disorders, and academic failures than children of similar socioeconomic backgrounds who do not enter foster care.

We also know that homeless children face great barriers to higher education. Often, these students have run away from an abusive home, or have been lost to the system. These students also may be living on the street with a parent—too often with a parent suffering from an addiction to alcohol or drugs. These children will move from school to school and shelter to shelter, piecing together their education as they can. This is not good enough. Although we have tried to reach out to these students through the McKinney Vento Homelessness Assistance Act, we need to do more. These children deserve a better chance at an education.

Education offers foster care and homeless children their best hope for escaping the poverty and instability they experience. This bill includes additional outreach to these hard to reach populations through current Federal education programs, such as TRIO and GEAR UP. It also would expand and clarify the definition of ''Independent Student'' in order to accommodate the special circumstances of foster care and homeless children and would allow student financial aid administrators additional flexibility to help this cohort of students attain access to higher education. This bill would create a $20 million demonstration grant program targeting foster and homeless children to help decrease the barriers to higher education by involving stakeholders and their communities in the outreach process.

I look forward to working with HELP Committee Chairman ENZI to incorporate these provisions into the Higher Education Act reauthorization bill. I appreciate his willingness to incorporate provisions related to homeless and foster children in the Head Start Act reauthorization bill, as well. He is equally concerned with the welfare of these children. And again, I thank Senator MURRAY for her commitment to these children. We cannot afford to overlook their needs.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 1430. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 1431. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family domestic relations court system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. DODD):

S. 1432. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 1433. A bill to establish a grant program to enable institutions of higher education to improve schools of education to better prepare teachers to educate all children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 1434. A bill to provide grants to teacher preparation programs at institutions of higher education to award scholarships for teachers to receive a graduate level degree; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 1435. A bill to establish a grant program for institutions of higher education to collaborate with low-income schools to recruit students to pursue and complete postsecondary degrees in education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 1436. A bill to award grants to eligible entities to enable the entities to reduce the rate of underage alcohol use and binge drinking among students at institutions of higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I join several of my colleagues today to introduce a series of bills related to the reauthorization of the Higher Education Act (HEA). These bills emphasize a number of issues that are vital to higher education, including teacher quality, recruitment, and retention; loan forgiveness for social workers, family lawyers, and early childhood teachers; and the reduction of drug use and underage drinking at our colleges and universities.

The quality of a student's education is the direct result of the quality of that student's teachers. If we don't have well trained teachers, then future generations of our children will not be well educated. That is why I am introducing a bill ''Ready to Educate All Children Act'' that would provide $200 million in grants to our schools of education to partner with high-need local schools to ensure that our teachers are receiving the best, most extensive training available before they enter the classroom.

Studies find that a majority of graduates of schools of education believe that the traditional teacher preparation program left them ill prepared for the challenges and rigors of the classroom. Part of the responsibility for this lies in the hands of our schools of education. However, Congress also has a responsibility to give our schools of education the tools they need to make necessary improvements. This new bill would create a competitive grant program for schools of education, which partner with low-income schools to create clinical programs to train teachers. Additionally, it would require schools of education to make internal changes by working with other departments at the university to ensure that teachers are receiving the highest quality education in core academic subjects. Finally, it would require the college or university to demonstrate a commitment to improving their schools of education by providing matching funds.

Another bill I am introducing today, is the ''Collaborative Agreements to Recruit Educators Act,'' which also would encourage improvement in the education of our Nation's low-income students. Children raised in poverty have a much more difficult time in finishing high school and going on to college. While about seventy percent of children in America will graduate from high school, that rate drops to fifty percent for low-income students. We know that every day, about 3,000 children drop out of school. Our Nation's inner city schools have some of the lowest rates of graduation. I strongly believe that education is one of the most important ways to break the cycle of poverty. To break that cycle, we must keep our children in school, help them graduate from high school, and increase their access to higher education.

My bill would provide grants for collaborative agreements to between local education agencies in low-income communities and to colleges of education. These partnerships would work to provide services, such as mentoring, tutoring, and scholarships through the college of education to the students at the partnering school in order to 1. encourage those students to graduate from high school, 2. let them know of opportunities within higher education, and (3) encourage them to become teachers, which are so badly needed.

Another complex issue affecting the teaching force is the high percentage of disillusioned beginning teachers who leave the field. This bill would help combat this issue, as well. Schools of education receiving these grants would be responsible for following their graduates and continuing to provide assistance after they enter the classroom. The more we invest in the education of teachers—especially once they have entered the profession—the more likely they will remain in the classroom.

To further help teacher quality and retention, I am introducing a bill ''The Master Teacher Scholarship Act''—to establish a Master's in Education Scholarship Program. The lack of promotions and salary increases are some of the most pervasive reasons for the disillusionment of teachers. This disillusionment is becoming a crisis as half of teachers leave the profession altogether within their first five years of teaching. To both improve the quality of teachers and increase their retention, this bill would provide $30 million in grants to schools of education to administer scholarships to eligible teachers. In return for the scholarships, teachers would agree to teach for another five years and mentor a novice teacher for two years.

Today, along with Senator DODD, I am introducing the ''Paul Wellstone Early Educator Loan Forgiveness Act.'' Our dear friend and colleague, Senator Wellstone, and I had been working on this legislation together before his tragic death. I know he cared deeply about this issue and about making sure that all children receive a quality education. He was passionate about that. Though our bill was originally called the ''Early Care and Education Loan Forgiveness Act,'' we have renamed our bill in Paul's memory.

Our bill would expand the loan forgiveness program so that it benefits not just childcare workers, but also early childhood educators. This loan forgiveness program would serve as an incentive to keep those educators in the field for longer periods of time. Research shows that children who attend quality early childcare programs when they were three or four years old scored better on math, language arts, and social skills in early elementary school than children who attended poor quality childcare programs. In short, children in early learning programs with high quality teachers—teachers with a Bachelor's degree or an Associate's degree or higher—do substantially better.

When we examine the number and recent growth of pre-primary education programs, it becomes difficult to differentiate between early education and childcare settings because they are so often intertwined—especially considering that about 12 million children younger than age five spend part of their time with a care provider other than a parent and that demand for quality childcare and education is growing as more mothers enter the workforce.

Because this bill targets loan forgiveness to those educators working in low-income schools or childcare settings, we can make significant strides toward providing high quality education for all of our young children, regardless of socioeconomic status. The bill would serve a twofold function. First, it would reward professionals for their training. Second, it would encourage professionals to remain in the profession over longer periods of time, since more time in the profession leads to higher percentages of loans forgiveness. The bill would result in more educated individuals with more teaching experience and lower turnover rates, each of which enhance student performance.

I encourage my colleagues to join me in this effort to help ensure that truly

no children—especially our youngest children—are left behind.

I also am working on two bills with my friend and colleague from West Virginia, Senator ROCKEFELLER. These bills would provide loan forgiveness to students who dedicate their careers to working in the realm of child welfare, including social workers, who work for child protective services, and family law experts.

Currently, there aren't enough social workers to fill available jobs in the area of child welfare. Furthermore, the number of social work job openings is expected to increase faster than the average for all occupations through 2010. The need for highly qualified social workers in the child protective services is reaching crisis level.

We also need more qualified individuals focusing on family law. The wonderful thing about family law is its focus on rehabilitation—that is the rehabilitation of families by helping them through life's transitions, whether it is a family going through a divorce, a family dealing with their troubled teenager in the juvenile system, or a child getting adopted and becoming a member of a new family.

Across the United States, family, juvenile, and domestic relations courts are experiencing a shortage of qualified attorneys. As many of my colleagues and I know, law school is an expensive investment. In the last 20 years, tuition has increased more than 200 percent. Currently, the average rate of law school debt is about $80,000 per graduate. To be sure, few law school graduates can afford to work in the public sector because debts prevent even the most dedicated public service lawyer from being able to take these low-paying jobs. This results in a shortage of family lawyers.

The shortage of family law attorneys also disproportionately impacts juveniles. The lack of available representation causes children to spend more time in foster care because cases are adjourned or postponed when they simply cannot find an attorney to represent their rights or those of the parent or guardian. Furthermore, the number of children involved in the court system is sharply increasing. We need to ensure that the interests of these children are taken care of by making certain they have an advocate—someone working solely on their behalf. By offering loan forgiveness to those willing to pursue careers in the child welfare field, we can increase the number of highly qualified and dedicated individuals who work in the realm of child welfare and family law.

Finally, I am introducing a bill today that would help address an epidemic—the epidemic of underage drinking on college and university campuses across the United States. This bill would provide grants to states to establish statewide partnerships among colleges and universities and the surrounding communities to work together to reduce underage and binge drinking and illicit drug use by students.

Many States, including my home State of Ohio, have coalitions that deal specifically with the culture of alcohol and drug abuse on America's college campuses. They work with the surrounding communities, including local residents; bar, restaurant, and shop owners; and law enforcement officials toward a goal of changing the pervasive culture of drug and alcohol abuse. They provide alternative alcohol-free events, as well as support groups for those who choose not to drink. They also educate students about the dangers of alcohol and drug use.

Furthermore, the coalitions recognize that while it is important to promote an alcohol aware and drug-free campus community, if the community surrounding the campus does not promote these initiatives, there will be no long-term solutions. Therefore, these coalitions also have worked to establish regulations both on and off campus, which will help our Nation's youth to stay healthy, alive, and get the most out of their time at college. Some of these regulations include the registration of kegs. This provides accountability for both the store and the student. This is just an example of one step that colleges, local communities, and organizations can take.

To help start the expansion of these coalitions, this bill would provide $5 million in grants. This is an important demonstration project that would help lead to positive effects for our young people. It is up to us to change the culture, which has been perpetuated by years of complacency and a dismissal tone of ''that's just the way it is in college.'' We must protect the health and education of our young people by changing this culture of abuse—and that is exactly what this bill would help do.

I thank all of my colleagues who have worked with me on these bills. I look forward to the reauthorization of the Higher Education Act and working with Chairman ENZI and Ranking Member KENNEDY to incorporate these important measures.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1439. A bill to provide for Indian trust asset management reform and resolution of historical accounting claims, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I am pleased to introduce the, Indian Trust Reform Act of 2005.

The following is an overview of the bill, title by title, which is followed by a discussion of the reasons for the measure.

TITLE I: RESOLUTION OF HISTORICAL ACCOUNTING CLAIMS IN COBELL V. NORTON

Title I of the bill would provide for a lump sum settlement of the claims for an historical accounting that have been asserted in the case of Cobell v. Norton. The section would establish a Settlement Fund which would be administered by the Secretary of the Treasury and a Special Master. The total amount of the fund is left blank in this introduced version of the bill. The Committee on Indian Affairs will hold a hearing on this soon and have further discussions with the parties, hopefully to reach a consensus number for the settlement. The settlement fund would be distributed to individual Indians using two formulas: part of the fund would be distributed among all claimants equally, and part would be distributed under a formula that allocates funds in accordance with a through-put analysis—account holders with high volume accounts would receive more than those with low volume accounts. A portion of the fund would be held in reserve for payment of attorneys fees at an hourly rate, for administration of the fund and for claimants who successfully challenge their distribution in court. If any of the reserved funds remain unused, they are to be distributed to the claimants under the formula.

TITLE II: INDIAN TRUST ASSET MANAGEMENT POLICY REVIEW COMMISSION

Title II of the bill establishes and sets forth the duties, responsibilities, and authority of a 12-member Indian Trust Asset Management Review Commission. The Commission would have two principal areas of responsibility: 1. Reviewing all current trust resource management laws, (including regulations), and the Secretary of Interior's trust resource management practices, and 2. Following that review, preparing a report to the Senate Committee on Indian Affairs, the House Committee on Resources and the Secretary of Interior containing the Commission's recommendations for improving the management of those assets.

TITLE III: INDIAN TRUST RESOURCE MANAGEMENT DEMONSTRATION PROJECT

Title III of the bill establishes an eight-year Indian Trust Resource Management Demonstration Project. The demonstration project would initially be open to all Indian tribes participating in section 131 of the Fiscal Year 2005 Interior Appropriations Act and an additional 30 Indian tribes that submit applications to the Secretary. Participating tribes would negotiate a ''trust resource management plan'' with the Secretary, which would remain in effect for the full duration of the demonstration project but would be subject to modification or termination annually. A participating tribe would be allowed to negotiate with the Department of Interior as to how the trust asset management budget for the reservation would be prioritized. Self-governance tribes participating in the demonstration project would also be permitted to develop their own ''customized'' trust asset management systems and practices. Trust assets subject to the plan would have to be managed in accordance with 1. The Federal trust responsibility and 2. Certain basic standards set forth in the section. The trust asset management plan itself would not create, diminish or increase

the liability of either the United States or the Indian tribe. The Indian tribe would have the right to terminate the plan by giving the Secretary notice, but termination would not be effective until the beginning of the next fiscal year.

TITLE IV: FRACTIONAL INTEREST PURCHASE AND CONSOLIDATION PROGRAM

Title IV of the bill would be an amendment to Section 213 of the Indian Land Consolidation Act (25 USC 2212). As currently written, Section 213 of ILCA authorizes the Secretary to purchase fractional interests in land in accordance with certain requirements. One problem with this program is that the fractional interests are so small that an offer of fair market value is such a small amount of money that there is little incentive to sell. Accordingly, the amendment would be a new subsection to ILCA Section 213 that would authorize the Secretary to offer more than fair market value for fractional interests in tracts of land that have 20 or more trust or restricted fractional interests—the offer would be fair market value PLUS an additional amount of at least $100 but not more than $350.

Also, this title would add another new subsection to ILCA section 213 that would authorize the Secretary to offer, along with an offer to purchase any interest or interests under section 213, an additional amount of money to settle any and all mismanagement claims against the United States that the interest owner may have in connection with the tract of land of which the fractional interest is a part. The interest owner would have the option of selling his or her interest to the Secretary with or without a settlement of mismanagement claims, i.e., the settlement of mismanagement claims could not be made a mandatory condition of the sale of the interest.

Also included as part of this title is a provision dealing with tracts of extremely fractionated land—specifically, tracts of land that consist of 200 or more fractional trust interests. If the Secretary determines that a tract is owned by 200 or more individuals, she is authorized to make the offer (not less than four times fair market value) via certified mail to each and every trust interest owner in the tract. The offer would include a notice that says they have 90 days to reject the offer or it will be deemed to have been accepted. It would include a pre-addressed (back to the Secretary) postage-paid ''notice of rejection'' form that the offeree may use to reject the offer. If they fail to mail the form back in time, they will be given another notice stating that they may withdraw the offer by mailing a postage pre-paid ''notice of withdrawal'' form back to the Secretary within 30 days. If They fail to do that in time, the offer is deemed to be accepted.

TITLE V: RESTRUCTURING THE BUREAU OF INDIAN AFFAIRS AND OFFICE OF THE SPECIAL TRUSTEE

This title of the bill would reorganize the Bureau of Indian Affairs and Office of the Special Trustee for American Indians under a new office within the Department of Interior, an Under Secretary for Indian Affairs. The title provides that the Under Secretary has responsibility for the administration of all Indian trust and non-trust matters, including, after a transition period ending on December 31, 2008, matters currently within the scope of authority of the Special Trustee for American Indians under the American Indian Trust Fund Management Reform Act of 1994 (25 USC 4041 et seq.). The Under Secretary would oversee a new Office of Trust Reform Implementation and Oversight, but the Special Trustee would continue performing his duties under the 1994 Act until December 31, 2008, at which time the OST would be abolished.

TITLE VI: ANNUAL AUDIT OF INDIAN TRUST FUNDS BY THE GOVERNMENT ACCOUNTABILITY OFFICE

Title VI of the bill requires the Government Accountability Office to contract for an annual audit of all funds held in trust by the United States for the benefit of an Indian Tribe or an individual Indian. The audit would be conducted in accordance with generally accepted auditing principles and the Single Audit Act. Copies of each audit report must be submitted to the Secretary of Interior, the Senate Committee on Indian Affairs, and the House Committee on Resources.

Reasons for the bill: the performance of the United States over the past 125 years in its capacity as trustee and manager of Indian trust and restricted lands is not something to be proud of. The policy of allotting Indian tribal lands, which was made the general Federal Indian policy in the 1880s, was one of several federal ''experiments'' in Indian matters that have had regrettable results both for Native Americans and for the Government. This policy of the 19th Century has come back to haunt us now in the form of fractionated ownership of allotted lands—where some parcels of land are owned by hundreds and in some cases over a thousand different Indian owners. This fractionation of ownership has led to a proliferation of individual Indian money accounts ''IIM accounts,'' now numbering in the hundreds of thousands, all of which the Federal Government has a trust obligation to track and manage.

The staggering number of IIM accounts—along with decades of mismanagement on the part of Government officials—contributed to the conditions that led to the filing of the Federal class action here in the District of Columbia known as Cobell v. Norton. A lot has happened in that litigation since it was filed 9 years ago, much of it reported in newspapers across the country, but I think it is fair to say that one thing the case has shown is that the United States has not lived up to its duty as a fiduciary to the thousands of Indian beneficiaries of IIM accounts.

The principal objectives of the Cobell case are to obtain a complete historical accounting of IIM accounts and to reform the trust itself. The Government has been ordered to perform a complete, detailed accounting of transactions relating to IIM accounts and to submit and implement a plan to reform the trust. In hearings before the Committee on Indian Affairs, officials from the Department of Interior have stated that the cost of doing the accounting may run in to multiple billions of dollars, and representatives of the plaintiffs in the case as well as the GAO, have stated that much of this accounting cannot be done due to missing or destroyed records, information, or data relating to the IIM accounts.

The bill I introduce today would provide a resolution of the class action relating to an historical accounting and would also bring a number of important changes to the Indian trust asset management system. In lieu of an accounting, the bill would create a settlement fund and direct the Secretary of the Treasury to develop a formula for distributing the fund to the beneficial owners of IIM accounts in full settlement for losses, errors, and unpaid interest in their IIM accounts. Several other aspects of the bill are included for the purpose of reforming the Indian trust management system. For example, the bill would create a special commission charged with the responsibility of examining current Indian trust management laws, regulations and practices and reporting back to the authorizing committees of jurisdiction in the Senate and House with recommended revisions of these laws, regulations and practices. It would also restructure the Bureau of Indian Affairs under an Under Secretary For Indian Affairs, phasing out the Office of the Special Trustee whose responsibilities would be transferred to the Under Secretary after December 31, 2008.

I would like to thank the National Congress of American Indians, the Inter-Tribal Monitoring Association, the Affiliated Tribes of Northwest Indians, representatives of the plaintiffs as well as many other stakeholders for their considerable and helpful input in developing this legislation. The bill does not include everything that they requested, and they may have issues with certain aspects of the bill as it is now written. That said, the bill is offered as a starting point for discussion. I do not think that there is any provision in the bill that is immutable, closed to debate or negotiation. Hopefully the stakeholders will remain engaged and continue to provide me with information and suggestions to make it a better bill, a bill that brings substantial improvements to the administration and management of Indian trust assets.

I look forward to working with my colleagues on both sides of the aisle to enact this timely legislation. I ask unanimous consent that the full 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. 1439

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Indian Trust Reform Act of 2005''.

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

Sec. 1. Short title; table of contents.

TITLE I—SETTLEMENT OF LITIGATION CLAIMS

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Individual Indian Accounting Claim Settlement Fund.
Sec. 104. General distribution.
Sec. 105. Claims relating to share determination.
Sec. 106. Claims relating to method of valuation.
Sec. 107. Claims relating to constitutionality.
Sec. 108. Attorneys' fees.
Sec. 109. Waiver and release of claims.
Sec. 110. Effect of title.

TITLE II—INDIAN TRUST ASSET MANAGEMENT POLICY REVIEW COMMISSION

Sec. 201. Establishment.
Sec. 202. Membership.
Sec. 203. Meetings and procedures.
Sec. 204. Duties.
Sec. 205. Powers.
Sec. 206. Commission personnel matters.
Sec. 207. Exemption from FACA.
Sec. 208. Authorization of appropriations.
Sec. 209. Termination of Commission.

TITLE III—INDIAN TRUST ASSET MANAGEMENT DEMONSTRATION PROJECT ACT

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. Establishment of demonstration project; selection of participating Indian tribes.
Sec. 304. Indian trust asset management plan.
Sec. 305. Effect of title.

TITLE IV—FRACTIONAL INTEREST PURCHASE AND CONSOLIDATION PROGRAM

Sec. 401. Fractional interest program.

TITLE V—RESTRUCTURING BUREAU OF INDIAN AFFAIRS AND OFFICE OF SPECIAL TRUSTEE

Sec. 501. Purpose.
Sec. 502. Definitions.
Sec. 503. Under Secretary for Indian Affairs.
Sec. 504. Transfer of functions of Assistant Secretary for Indian Affairs.
Sec. 505. Office of Special Trustee for American Indians.
Sec. 506. Hiring preference.
Sec. 507. Authorization of appropriations.

TITLE VI—AUDIT OF INDIAN TRUST FUNDS

Sec. 601. Audits and reports.
Sec. 602. Authorization of appropriations.

TITLE I—SETTLEMENT OF LITIGATION CLAIMS

SEC. 101. FINDINGS.

Congress finds that—

(1) Congress has appropriated tens of millions of dollars for purposes of providing an historical accounting of funds held in Individual Indian Money accounts;

(2) as of the date of enactment of this Act, the efforts of the Federal Government in conducting historical accounting activities have provided information regarding the feasibility and cost of providing a complete historical accounting of IIM account funds;

(3) in the case of many IIM accounts, a complete historical accounting—

(A) may be impossible because necessary records and accounting data are missing or destroyed;

(B) may take several years to perform even if necessary records are available;

(C) may cost the United States hundreds of millions and possibly several billion dollars; and

(D) may be impossible to complete before the deaths of many elderly IIM account beneficiaries;

(4) without a complete historical accounting, it may be difficult or impossible to ascertain the extent of losses in an IIM account as a result of accounting errors or mismanagement of funds, or the correct amount of interest accrued or owned on the IIM account;

(5) the total cost to the United States of providing a complete historical accounting of an IIM account may exceed—

(A) the current balance of the IIM account;

(B) the total sums of money that have passed through the IIM account; and

(C) the enforceable liability of the United States for losses from, and interest in, the IIM account;

(6)(A) the delays in obtaining an accounting and in pursuing accounting claims in the case styled Cobell v. Norton, Civil Action No. 96–1285 (RCL) in the United States District Court for the District of Columbia, have created a great hardship on IIM account beneficiaries; and

(B) many beneficiaries and their representatives have indicated that they would rather receive monetary compensation than experience the continued frustration and delay associated with an accounting of transactions and funds in their IIM accounts;

(7) it is appropriate for Congress, taking into consideration the findings under paragraphs (1) through (6), to provide benefits that are reasonably calculated to be fair and appropriate in lieu of performing an accounting of an IIM account, or assuming liability for errors in such an accounting, mismanagement of IIM account funds (including undetermined amounts of interest in IIM accounts, losses in which may never be discovered or quantified if a complete historical accounting cannot be performed), or breach of fiduciary duties with respect to the administration of IIM accounts, in order to transmute claims by the beneficiaries of IIM accounts for undetermined or unquantified accounting losses and interest to a fixed amount to be distributed to the beneficiaries of IIM accounts;

(8) in determining the amount of the payments to be distributed as described in paragraph (7), Congress should take into consideration, in addition to the factors described in paragraphs (1) through (6)—

(A) the risks and costs to IIM account beneficiaries, as well as any delay, associated with the litigation of claims that will be resolved by this title; and

(B) the benefits to IIM account beneficiaries available under this title;

(9) the situation of the Osage Nation is unique because, among other things, income from the mineral estate of the Osage Nation is distributed to individuals through headright interests that belong not only to members of the Osage Nation, but also to members of other Indian tribes, and to non-Indians; and

(10) due to the unique situation of the Osage Nation, the Osage Nation, on its own behalf, has filed various actions in Federal district court and the United States Court of Federal Claims seeking accountings, money damages, and other legal and equitable relief

SEC. 102. DEFINITIONS.

In this title:

(1) ACCOUNTING CLAIM.—The term ''accounting claim'' means any claim for an historical accounting of a claimant against the United States under the Litigation.

(2) CLAIMANT.—The term ''claimant'' means any beneficiary of an IIM account (including an heir of such a beneficiary) that was living on the date of enactment of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(3) IIM ACCOUNT.—The term ''IIM account'' means an Individual Indian Money account administered by the Bureau of Indian Affairs.

(4) LITIGATION.—The term ''Litigation'' means the case styled Cobell v. Norton, Civil Action No. 96–1285 (RCL) in the United States District Court for the District of Columbia.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) SETTLEMENT FUND.—The term ''Settlement Fund'' means the fund established by section 103(a).

(7) SPECIAL MASTER.—The term ''Special Master'' means the special master appointed by the Secretary under section 103(b) to administer the Settlement Fund.

SEC. 103. INDIVIDUAL INDIAN ACCOUNTING CLAIM SETTLEMENT FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the general fund of the Treasury a fund, to be known as the ''Individual Indian Accounting Claim Settlement Fund''.

(2) INITIAL DEPOSIT.—The Secretary shall deposit into the Settlement Fund to carry out this title not less than **$[____]**,000,000,000 from funds appropriated under section 1304 of title 31, United States Code.

(b) SPECIAL MASTER.—As soon as practicable after the date of enactment of this Act, the Secretary shall appoint a Special Master to administer the Settlement Fund in accordance with this title.

(c) DISTRIBUTION.—

(1) IN GENERAL.—The Special Master shall use not less than 80 percent of amounts in the Settlement Fund to make payments to claimants in accordance with section 104.

(2) METHOD OF VALUATION AND CONSTITUTIONAL CLAIMS.—The Special Master may use not to exceed 12 percent of amounts in the Settlement Fund to make payments to claimants described in—

(A) section 106; or

(B) section 107.

(3) ATTORNEYS' FEES.—The Special Master may use not to exceed **[____]** percent of amounts in the Settlement Fund to make payments to claimants for attorneys' fees in accordance with section 108.

(d) COSTS OF ADMINISTRATION.—The Secretary may use not more than **[____]** percent of amounts in the Settlement Fund to pay the costs of—

(1) administering the Settlement Fund; and

(2) otherwise carrying out this title.

SEC. 104. GENERAL DISTRIBUTION.

(a) PAYMENTS TO CLAIMANTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Secretary publishes in the Federal Register the regulations described in subsection (d), the Special Master shall distribute to each claimant from the Settlement Fund an amount equal to the sum of—

(A) the per capita share of the claimant of $[__ __],000,000,000 of the amounts described in section 103(c)(1); and

(B) of [__ __],000,000,000 of the amounts described in section 103(c)(1), the additional share of the claimant, to be determined in accordance with a formula established by the Secretary under subsection (d)(1).

(2) HEIRS OF CLAIMANTS.—

(A) IN GENERAL.—An heir of a claimant shall receive the entire amount distributed to the claimant under paragraphs (1) and (3).

(B) MULTIPLE HEIRS.—If a claimant has more than 1 heir, the amount distributed to the claimant under paragraphs (1) and (3) shall be divided equally among the heirs of the claimant.

(3) RESIDUAL AMOUNTS.—After making each distribution required under sections 106, 107, and 108, the Special Master shall distribute to claimants the remainder of the amounts described in paragraphs (2) and (3) of section 103(c), in accordance with paragraph (1)(B).

(b) REQUIREMENT FOR DISTRIBUTION.—The Special Master shall not make a distribution to a claimant under subsection (a) until the claimant executes a waiver and release of accounting claims against the United States in accordance with section 109.

(c) LOCATION OF CLAIMANTS.—

(1) RESPONSIBILITY OF SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall provide to the Special Master any information, including IIM account information, that the Special Master determines to be necessary to—

(A) identify any claimant under this title; or

(B) apply a formula established by the Secretary under subsection (d).

(2) CLAIMANTS OF UNKNOWN LOCATION.—

(A) IN GENERAL.—The Special Master shall deposit in an account, for future distribution, amounts under this title for each claimant who—

(i) is entitled to receive a distribution under this title, as determined by the Special Master; and

(ii) has not been located by the Special Master as of the date on which a distribution is required under subsection (a)(1).

(B) LOCATION OF CLAIMANTS.—

(i) RESPONSIBILITY OF SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall provide to the Special Master any information and assistance necessary to locate a claimant described in subparagraph (A)(ii).

(ii) CONTRACTS.—The Special Master may enter into contracts with an Indian tribe or an organization representing individual Indians in order to locate a claimant described in subparagraph (A)(ii).

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate any regulations that the Secretary determines to be necessary to carry out this title, including regulations establishing a formula to determine the share of each claimant of payments under subsection (a)(1).

(2) FACTORS FOR CONSIDERATION.—In developing the formula described in paragraph (1), the Secretary shall take into consideration the amount of funds that have passed through the IIM account of each claimant during the period beginning on January 1, 1980, and ending on December 31, 2005, or another period, as the Secretary determines to be appropriate.

SEC. 105. CLAIMS RELATING TO SHARE DETERMINATION.

(a) IN GENERAL.—Subject to subsection (b), any claimant may seek judicial review of the determination of the Special Master with respect to the amount of a share payment of a claimant under section 104(a)(1).

(b) REQUIREMENTS.—A claimant shall file a claim under subsection (a)—

(1) not later than 180 days after the date of receipt of a notice by the claimant under subsection (c); and

(2) in the United States district court for the district in which the claimant resides.

(c) NOTICE.—The Secretary shall provide to each claimant a notice of the right of any claimant to seek judicial review of a determination of the Special Master with respect to the amount of the share payment of the claimant under section 105.

(d) SUBSEQUENT APPEALS.—A claim relating to a determination of a United States district court relating to an appeal under subsection (a) shall be filed only in the United States Court of Appeals for the District of Columbia.

SEC. 106. CLAIMS RELATING TO METHOD OF VALUATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, a claimant may seek judicial review of the method of distribution of a payment to the claimant under section 104(a).

(b) REQUIREMENTS.—A claim under subsection (a)—

(1) shall not be filed as part of a class action claim against any party; and

(2) shall be filed only in the United States Court of Federal Claims.

(c) AVAILABLE AMOUNTS.—

(1) IN GENERAL.—The Special Master shall use only amounts described in section 103(c)(2)(A) to satisfy an award under a claim under this section.

(2) PAYMENTS TO CLAIMANTS.—A claimant that files a claim under this subsection shall not be eligible to receive a distribution under section 104(a).

(d) EFFECT OF CLAIM.—The filing of a claim under this section shall be considered to be a waiver by the claimant of any right to an award under section 104.

SEC. 107. CLAIMS RELATING TO CONSTITUTIONALITY.

(a) IN GENERAL.—Any claimant may seek judicial review in the United States District Court for the District of Columbia of the constitutionality of the application of this title to an individual claimant.

(b) PROCEDURE.—

(1) JUDICIAL PANEL.—A claim under this section shall be determined by a panel of 3 judges, to be appointed by the chief judge of the United States District Court for the District of Columbia.

(2) CONSOLIDATION OF CLAIMS.—

(A) IN GENERAL.—The judicial panel may consolidate claims under this section, as the judicial panel determines to be appropriate.

(B) PROHIBITION OF CLASS ACTION CASES.—A claim under this section shall not be filed as part of a class action claim against any party.

(3) DETERMINATION.—The judicial panel may award a claimant such relief as the judicial panel determines to be appropriate, including monetary compensation.

(c) AVAILABLE AMOUNTS.—

(1) IN GENERAL.—The Special Master shall use only amounts described in section 103(c)(2)(B) to satisfy an award under a claim under this section.

(2) PAYMENTS TO CLAIMANTS.—A claimant that files a claim under this subsection shall not be eligible to receive a distribution under section 104(a).

(d) EFFECT OF CLAIM.—The filing of a claim under this section shall be considered to be a waiver by the claimant of any right to an award under section 104.

SEC. 108. ATTORNEYS' FEES.

(a) IN GENERAL.—The Special Master may use amounts described in section 103(c)(3) to make payments to claimants for costs and attorneys' fees incurred under the Litigation before the date of enactment of this Act, or in connection with a claim under section 104, at a rate not to exceed $[____] per hour.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Special Master may make a payment under subsection (a) only if, as of the date on which the Special Master makes the payment, the applicable costs and attorneys' fees have not been paid by the United States pursuant to a court order.

(2) ACTION BY ATTORNEYS.—To receive a payment under subsection (a), an attorney of the claimant shall submit to the Special Master a written claim for costs or fees under the Litigation.

SEC. 109. WAIVER AND RELEASE OF CLAIMS.

(a) IN GENERAL.—In order to receive an award under this title, a claimant shall execute and submit to the Special Master a waiver and release of claims under this section.

(b) CONTENTS.—A waiver and release under subsection (a) shall contain a statement that the claimant waives and releases the United States (including any officer, official, employee, or contractor of the United States) from any legal or equitable claim under Federal, State, or other law (including common law) relating to any accounting of funds in the IIM account of the claimant on or before the date of enactment of this Act.

SEC. 110. EFFECT OF TITLE.

(a) SUBSTITUTION OF BENEFITS.—

(1) IN GENERAL.—The benefits provided under this title shall be considered to be provided in lieu of any claims under Federal, State, or other law originating before the date of enactment of this Act for—

(A) losses as a result of accounting errors relating to funds in an IIM account;

(B) mismanagement of funds in an IIM account; or

(C) interest accrued or owed in connection with funds in an IIM account.

(2) LIMITATION OF CLAIMS.—Except as provided in this title, and notwithstanding any other provision of law, a claimant shall not maintain an action in any Federal, State, or other court for an accounting claim originating before the date of enactment of this Act.

(3) JURISDICTION OF COURTS.—

(A) IN GENERAL.—Except as otherwise provided in this title, no court shall have jurisdiction over a claim filed by an individual or group for the historical accounting of funds in an IIM account on or before the date of enactment of this Act, including any such claim that is pending on the date of enactment of this Act.

(B) LIMITATION.—This paragraph does not prevent a court from ordering an accounting in connection with an action relating to the mismanagement of trust resources that are not funds in an IIM account on or before the date of enactment of this Act.

(b) ACCEPTANCE AS WAIVER.—The acceptance by a claimant of a benefit under this title shall be considered to be a waiver by the claimant of any accounting claim that the claimant has or may have relating to the IIM account of the claimant.

(c) RECEIPT OF PAYMENTS HAVE NO IMPACT ON BENEFITS UNDER OTHER FEDERAL PROGRAMS.—The receipt of a payment by a claimant under this title shall not be—

(1) subject to Federal or State income tax; or

(2) treated as benefits or otherwise taken into account in determining the eligibility of the claimant for, or the amount of benefits under, any other Federal program, including the social security program, the medicare program, the medicaid program, the State children's health insurance program, the food stamp program, or the Temporary Assistance for Needy Families program.

(d) CERTAIN CLAIMS.—Nothing in this title precludes any court from granting any legal

or equitable relief in an action by an Indian tribe or Indian nation against the United States, or an officer of the United States, filed or pending on or before the date of enactment of this Act, seeking an accounting, money damages, or any other relief relating to a tribal trust account or trust asset or resource.

TITLE II—INDIAN TRUST ASSET MANAGEMENT POLICY REVIEW COMMISSION

SEC. 201. ESTABLISHMENT.

There is established a commission, to be known as the ''Indian Trust Asset Management Policy Review Commission,'' (referred to in this title as the ''Commission''), for the purposes of—

(1) reviewing trust asset management laws (including regulations) in existence on the date of enactment of this Act governing the management and administration of individual Indian and Indian tribal trust assets;

(2) reviewing the management and administration practices of the Department of the Interior with respect to individual Indian and Indian tribal trust assets; and

(3) making recommendations to the Secretary of the Interior and Congress for improving those laws and practices.

SEC. 202. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall be composed of 12 members, of whom—

(1) 4 shall be appointed by the President;

(2) 2 shall be appointed by the Majority Leader of the Senate;

(3) 2 shall be appointed by the Minority Leader of the Senate;

(4) 2 shall be appointed by the Speaker of the House of Representatives; and

(5) 2 shall be appointed by the Minority Leader of the House of Representatives.

(b) QUALIFICATIONS.—The membership of the Commission shall include—

(1) at least 6 members who are representatives of federally recognized Indian tribes with reservation land or other trust land that is managed for—

(A) grazing;

(B) fishing; or

(C) crop, timber, mineral, or other resource production purposes;

(2) at least 1 member (including any member described in paragraph (1)) who is or has been the beneficial owner of an individual Indian monies account; and

(3) at least 4 members who have experience in—

(A) Indian trust resource (excluding a financial resource) management;

(B) fiduciary investment management;

(C) financial asset management; and

(D) Federal law and policy relating to Indians.

(c) DATE OF APPOINTMENTS.—

(1) IN GENERAL.—The appointment of a member of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(2) FAILURES TO APPOINT.—A failure to make an appointment in accordance with paragraph (1) shall not affect the powers or duties of the Commission if sufficient members are appointed to establish a quorum.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers or duties of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

SEC. 203. MEETINGS AND PROCEDURES.

(a) INITIAL MEETING.—Not later than 150 days after the date of enactment of this Act, the Commission shall hold the initial meeting of the Commission to—

(1) elect a Chairperson; and

(2) establish procedures for the conduct of business of the Commission, including public hearings.

(b) SUBSEQUENT MEETINGS.—The Commission shall meet at the call of the Chairperson.

(c) QUORUM.—7 members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

SEC. 204. DUTIES.

(a) REVIEWS AND ASSESSMENTS.—The Commission shall review and assess—

(1) Federal laws (including regulations) applicable or relating to the management and administration of Indian trust assets; and

(2) the practices of the Department of the Interior relating to the management and administration of Indian trust assets.

(b) CONSULTATION.—In conducting the reviews and assessments under subsection (a), the Commission shall consult with—

(1) the Secretary of the Interior;

(2) federally recognized Indian tribes; and

(3) organizations that represent the interests of individual owners of Indian trust assets.

(c) RECOMMENDATIONS.—After conducting the reviews and assessments under subsection (a), the Commission shall develop recommendations with respect to—

(1) changes to Federal law that would improve the management and administration of Indian trust assets by the Secretary of the Interior;

(2) changes to Indian trust asset management and administration practices that would—

(A) better protect and conserve Indian trust assets;

(B) improve the return on those assets to individual Indian and Indian tribal beneficiaries; or

(C) improve the level of security of individual Indian and Indian tribal money account data and assets; and

(3) proposed Indian trust asset management standards that are consistent with any Federal law that is otherwise applicable to the management and administration of the assets.

(d) REPORT.—Not later than 2 years after the date on which the Commission holds the initial meeting, the Commission shall submit to the Committee on Indian Affairs of the Senate, the Committee on Resources of the House of Representatives, and the Secretary of the Interior a report that includes—

(1) an overview and the results of the reviews and assessments under subsection (a); and

(2) any recommendations of the Commission under subsection (c).

SEC. 205. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Chairperson determines to be appropriate to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Chairperson determines to be necessary to carry out this title.

(2) PROVISION OF INFORMATION.—On request of the Chairperson, the head of a Federal agency shall provide information to the Commission.

(c) ACCESS TO PERSONNEL.—For purposes of carrying out this title, the Commission shall have reasonable access to staff responsible for Indian trust asset management and administration of—

(1) the Department of the Interior;

(2) the Department of the Treasury; and

(3) the Department of Justice.

(d) POSTAL SERVICES.—The Commission may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property to the same extent and under the same conditions as other Federal agencies.

SEC. 206. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil services laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 207. EXEMPTION FROM FACA.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission if all hearings of the Commission are held open to the public.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 209. TERMINATION OF COMMISSION.

The Commission and the authority of the Commission under this title shall terminate on the date that is 3 years after the date on which the Commission holds the initial meeting of the Commission.

TITLE III—INDIAN TRUST ASSET MANAGEMENT DEMONSTRATION PROJECT ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Indian Trust Asset Management Demonstration Project Act of 2005''.

SEC. 302. DEFINITIONS.

In this title:

(1) PROJECT.—The term ''Project'' means the Indian trust asset management demonstration project established under section 303(a).

(2) OTHER INDIAN TRIBE.—The term ''other Indian tribe'' means an Indian tribe that—

(A) is federally recognized;

(B) is not a section 131 Indian tribe; and

(C) submits an application under section 303(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) SECTION 131 INDIAN TRIBE.—The term ''section 131 Indian tribe'' means any Indian tribe that is participating in the demonstration project under section 131 of title III, division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2809).

SEC. 303. ESTABLISHMENT OF DEMONSTRATION PROJECT; SELECTION OF PARTICIPATING INDIAN TRIBES.

(a) IN GENERAL.—The Secretary shall establish and carry out an Indian trust asset management demonstration project, in accordance with this title.

(b) SELECTION OF PARTICIPATING INDIAN TRIBES.—

(1) SECTION 131 INDIAN TRIBES.—A section 131 Indian tribe shall be eligible to participate in the Project if the section 131 Indian tribe submits to the Secretary an application under subsection (c).

(2) OTHER TRIBES.—

(A) IN GENERAL.—Any other Indian tribe shall be eligible to participate in the Project if—

(i) the other Indian tribe submits to the Secretary an application under subsection (c); and

(ii) the Secretary approves the application of the other Indian tribe.

(B) LIMITATION.—

(i) 30 OR FEWER APPLICANTS.—If 30 or fewer other Indian tribes submit applications under subsection (c), each of the other Indian tribes shall be eligible to participate in the Project.

(ii) MORE THAN 30 APPLICANTS.—

(I) IN GENERAL.—If more than 30 other Indian tribes submit applications under subsection (c), the Secretary shall select 30 other Indian tribes to participate in the Project.

(II) PREFERENCE.—In selecting other Indian tribes under subclause (I), the Secretary shall give preference to other Indian tribes the applications of which were first received by the Secretary.

(3) NOTICE.—

(A) IN GENERAL.—The Secretary shall provide a written notice to each Indian tribe selected to participate in the Project.

(B) CONTENTS.—A notice under subparagraph (A) shall include—

(i) a statement that the application of the Indian tribe has been approved by the Secretary; and

(ii) a requirement that the Indian tribe shall submit to the Secretary a proposed Indian trust asset management plan in accordance with section 304.

(c) APPLICATION.—

(1) IN GENERAL.—To be eligible to participate in the Project, an Indian tribe shall submit to the Secretary a written application in accordance with paragraph (2).

(2) REQUIREMENTS.—The Secretary shall take into consideration an application under this subsection only if the application—

(A) includes a copy of a resolution or other appropriate action by the governing body of the Indian tribe, as determined by the Secretary, in support of or authorizing the application;

(B) is received by the Secretary by the date that is 180 days after the date of enactment of this Act; and

(C) states that the Indian tribe is requesting to participate in the Project.

(d) DURATION.—The Project shall remain in effect for a period of 8 years after the date of enactment of this Act.

SEC. 304. INDIAN TRUST ASSET MANAGEMENT PLAN.

(a) PROPOSED PLAN.—

(1) SUBMISSION.—

(A) IN GENERAL.—Not later than 120 days after the date on which an Indian tribe receives a notice from the Secretary under section 303(b)(3), the Indian tribe shall submit to the Secretary a proposed Indian trust asset management plan in accordance with paragraph (2).

(B) TIME LIMITATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), any Indian tribe that fails to submit the Indian trust asset management plan of the Indian tribe by the date specified in subparagraph (A) shall no longer be eligible to participate in the Project.

(ii) EXTENSION.—The Secretary shall grant an extension of not more than 60 days to an Indian tribe if the Indian tribe submits a written request for such an extension before the date described in subparagraph (A).

(2) CONTENTS.—A proposed Indian trust asset management plan shall include provisions that—

(A) identify the trust assets that will be subject to the plan, including financial and nonfinancial trust assets;

(B) establish trust asset management objectives and priorities for Indian trust assets that are located within the reservation, or otherwise subject to the jurisdiction, of the Indian tribe;

(C) allocate trust asset management funding that is available for the Indian trust assets subject to the plan in order to meet the trust asset management objectives and priorities;

(D) if the Indian tribe has contracted or compacted functions or activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) relating to the management of trust assets—

(i) identify the functions or activities that are being performed by the Indian tribe under the contracts or compacts; and

(ii) describe the proposed management systems, practices, and procedures that the Indian tribe will follow; and

(E) establish procedures for nonbinding mediation or resolution of any dispute between the Indian tribe and the United States relating to the trust asset management plan.

(3) AUTHORITY OF INDIAN TRIBES TO DEVELOP SYSTEMS, PRACTICES, AND PROCEDURES.—For purposes of preparing and carrying out a management plan under this section, an Indian tribe that has compacted or contracted activities or functions under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), for purposes of carrying out the activities or functions, may develop and carry out trust asset management systems, practices, and procedures that differ from any such systems, practices, and procedures used by the Secretary in managing the trust assets if the systems, practices, and procedures of the Indian tribe meet the requirements of the laws, standards, and responsibilities described in subsection (c).

(4) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary shall provide to an Indian tribe any technical assistance and information, including budgetary information, that the Indian tribe determines to be necessary for preparation of a proposed plan on receipt of a written request from the Indian tribe.

(b) APPROVAL AND DISAPPROVAL OF PROPOSED PLANS.—

(1) APPROVAL.—

(A) IN GENERAL.—Not later than 120 days after the date on which an Indian tribe submits a proposed Indian trust asset management plan under subsection (a), Secretary shall approve or disapprove the proposed plan.

(B) REQUIREMENTS FOR DISAPPROVAL.—The Secretary shall approve a proposed plan unless the Secretary determines that—

(i) the proposed plan fails to address a requirement under subsection (a)(2);

(ii) the proposed plan includes 1 or more provisions that are inconsistent with subsection (c); or

(iii) the cost of implementing the proposed plan exceeds the amount of funding available for the management of trust assets that would be subject to the proposed plan.

(2) ACTION ON DISAPPROVAL.—

(A) NOTICE.—If the Secretary disapproves a proposed plan under paragraph (1)(B), the Secretary shall provide to the Indian tribe a written notice of the disapproval, including any reason why the proposed plan was disapproved.

(B) ACTION BY TRIBES.—An Indian tribe the proposed plan of which is disapproved under paragraph (1)(B) may resubmit an amended proposed plan not later than 90 days after the date on which the Indian tribe receives the notice under subparagraph (A).

(3) FAILURE TO APPROVE OR DISAPPROVE.—If the Secretary fails to approve or disapprove a proposed plan in accordance with paragraph (1), the plan shall be considered to be disapproved under clauses (i) and (ii) of paragraph (1)(B).

(4) JUDICIAL REVIEW.—An Indian tribe may seek judicial review of the determination of the Secretary in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'') if—

(A) the Secretary disapproves the proposed plan of the Indian tribe under paragraph (1) or (3); and

(B) the Indian tribe has exhausted any other administrative remedy available to the Indian tribe.

(c) APPLICABLE LAWS; STANDARDS; TRUST RESPONSIBILITY.—

(1) APPLICABLE LAWS.—An Indian trust asset management plan, and any activity carried out under the plan, shall not be approved unless the proposed plan is consistent with—

(A) all Federal treaties, statutes, regulations, Executive orders, and court decisions that are applicable to the trust assets, or the management of the trust assets, identified in the plan; and

(B) all tribal laws that are applicable to the trust assets, or the management of trust assets, identified in the plan, except to the extent that the laws are inconsistent with the treaties, statutes, regulations, Executive orders, and court decisions referred to in subparagraph (A).

(2) STANDARDS.—Subject to the laws referred to in paragraph (1)(A), an Indian trust asset management plan shall not be approved unless the Secretary determines that the plan will—

(A) protect trust assets from loss, waste, and unlawful alienation;

(B) promote the interests of the beneficial owner of the trust asset;

(C) conform, to the maximum extent practicable, to the preferred use of the trust asset by the beneficial owner, unless the use is inconsistent with a treaty, statute, regulation, Executive order, or court decision referred to in paragraph (1)(A);

(D) protect any applicable treaty-based fishing, hunting and gathering, and similar

rights relating to the use, access, or enjoyment of a trust asset; and

(E) require that any activity carried out under the plan be carried out in good faith and with loyalty to the beneficial owner of the trust asset.

(3) TRUST RESPONSIBILITY.—An Indian trust asset management plan shall not be approved unless the Secretary determines that the plan is consistent with the trust responsibility of the United States to the Indian tribe and individual Indians.

(d) TERMINATION OF PLAN.—

(1) IN GENERAL.—An Indian tribe may terminate an Indian trust asset management plan on any date after the date on which a proposed Indian trust asset management plan is approved by providing to the Secretary—

(A) a notice of the intent of the Indian tribe to terminate the plan; and

(B) a resolution of the governing body of the Indian tribe authorizing the termination of the plan.

(2) EFFECTIVE DATE.—A termination of an Indian trust asset management plan under paragraph (1) takes effect on October 1 of the first fiscal year following the date on which a notice is provided to the Secretary under paragraph (1)(A).

SEC. 305. EFFECT OF TITLE.

(a) LIABILITY.—Nothing in this title, or a trust asset management plan approved under section 304, shall independently diminish, increase, create, or otherwise affect the liability of the United States or an Indian tribe participating in the Project for any loss resulting from the management of an Indian trust asset under an Indian trust asset management plan.

(b) EFFECT ON OTHER LAWS.—Nothing in this title amends or otherwise affects the application of any treaty, statute, regulation, Executive order, or court decision that is applicable to Indian trust assets or the management or administration of Indian trust assets, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(c) TRUST RESPONSIBILITY.—Nothing in this title diminishes or otherwise affects the trust responsibility of the United States to Indian tribes and individual Indians.

TITLE IV—FRACTIONAL INTEREST PURCHASE AND CONSOLIDATION PROGRAM

SEC. 401. FRACTIONAL INTEREST PROGRAM.

Section 213 of the Indian Land Consolidation Act (25 U.S.C. 2212) is amended—

(1) by redesignating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following:

''(d) PURCHASE OF INTERESTS IN FRACTIONATED INDIAN LAND.—

''(1) INCENTIVES.—In acquiring an interest under this section in any parcel of land that includes undivided trust or restricted interests owned by not less than 20 separate individuals, as determined by the Secretary, the Secretary may include in the offered purchase price for the interest, in addition to fair market value, an amount not less than $100 and not to exceed $350, as an incentive for the owner to sell the interest to the Secretary.

''(2) SALE OF ALL TRUST OR RESTRICTED INTERESTS.—If an individual agrees to sell to the Secretary all trust or restricted interests owned by the individual, the Secretary may include in the offered purchase price, in addition to fair market value and the incentive described in paragraph (1), an amount not to exceed $2,000, as the Secretary determines to be appropriate, taking into consideration the avoided costs to the United States of probating the estate of the individual or an heir of the individual.

''(e) CERTAIN PARCELS OF HIGHLY FRACTIONATED INDIAN LAND.—

''(1) DEFINITION OF OFFEREE.—In this subsection, the term 'offeree' does not include the Indian tribe that has jurisdiction over a parcel of land for which an offer is made.

''(2) OFFER TO PURCHASE.—

''(A) IN GENERAL.—If the Secretary determines that a tract of land consists of not less than 200 separate undivided trust or restricted interests, the Secretary may offer to purchase the interests in the tract, in accordance with this subsection, for an amount equal to the sum of—

''(i) the fair market value of the interests; and

''(ii) an additional amount, to be determined by the Secretary, not less than triple the fair market value of the interest.

''(B) REQUIREMENT.—The Secretary shall make an offer under subparagraph (A) not later than 3 days before the date on which the Secretary mails a notice of the offer to the offeree under paragraph (3).

''(3) NOTICE OF OFFER.—

''(A) IN GENERAL.—The Secretary shall provide to an offeree, by certified mail to the last known address of the offeree, a notice of any offer to purchase land under this subsection.

''(B) INCLUSIONS.—A notice under subparagraph (A) shall include in plain language, as determined by the Secretary—

''(i) the date on which the offer was made;

''(ii) the name of the offeree;

''(iii) the location of the tract of land containing the interest that is the subject of the offer;

''(iv) the size of the interest of the offeree, expressed in terms of a fraction or a percentage of the tract of land described in clause (iii);

''(v) the fair market value of the tract of land described in clause (iii);

''(vi) the fair market value of the interest of the offeree;

''(vii) the amount offered for the interest in addition to fair market value under paragraph (2)(A)(ii);

''(viii) a statement that the offeree shall be considered to have accepted the offer for the amount stated in the notice unless a notice of rejection form is deposited in the United States mail not later than 90 days after the date on which the offer is received; and

''(ix) a self-addressed, postage pre-paid notice of rejection form.

''(4) TREATMENT OF OFFER.—

''(A) IN GENERAL.—An offer made under this subsection shall be considered to be accepted by the offeree if—

''(i) the certified mail receipt for the offer is signed by the offeree; and

''(ii) the notice of rejection form described in paragraph (3)(B)(ix) is not deposited in the United States mail by the date that is 90 days after the date on which the offer is received.

''(B) REJECTION.—An offer made under this subsection shall be considered to be rejected by the offeree if—

''(i) the notice of rejection form described in paragraph (3)(B)(ix) is deposited in the United States mail by the date that is 90 days after the date on which the offer is received; or

''(ii) the certified mail receipt for the offer is returned to the Secretary unsigned by the offeree.

''(5) WITHDRAWAL OF ACCEPTANCE; NOTICE.—

''(A) WITHDRAWAL OF ACCEPTANCE.—A person that is considered to have accepted an offer under paragraph (4)(A) may withdraw the acceptance by depositing in the United States mail a notice of withdrawal of acceptance form by the date that is 30 days after the date of receipt of the notice under subparagraph (B).

''(B) NOTICE.—The Secretary shall provide to any person that is considered to have accepted an offer under paragraph (4)(A), by certified mail, restricted delivery, to the last known address of the person, a preaddressed, postage prepaid withdrawal of acceptance form and a notice stating that—

''(i) the offer made to the person is considered to be accepted; and

''(ii) the person has the right to withdraw the acceptance by depositing in the United States mail the notice of withdrawal of acceptance form by the date that is 30 days after the date on which the notice was delivered to the person.

''(6) NOTICE OF ACCEPTANCE AND RIGHT TO APPEAL.—The Secretary shall provide to any person that has been served with a notice under paragraph (5)(B) and fails to withdraw the acceptance of the offer in accordance with paragraph (5)(A), by first class mail to the last known address of the person, a notice stating that—

''(A) the offer made to the person is considered to be accepted and not timely withdrawn; and

''(B) after exhausting all administrative remedies, the person may appeal any determination of the Secretary in accordance with paragraph (7).

''(7) JUDICIAL REVIEW.—A person described in paragraph (6) may appeal any determination of the Secretary with respect to—

''(A) the number of owners of undivided interests in a tract of land required under paragraph (2);

''(B) the fair market value of a tract of land or interest in land;

''(C) the date on which a notice of rejection form was deposited in the United States mail under paragraph (4)(B)(i); or

''(D) the date on which a notice of withdrawal of acceptance form was deposited in the United States mail under paragraph (5)(A).

''(f) OFFER TO SETTLE CLAIMS AGAINST THE UNITED STATES.—

''(1) IN GENERAL.—The Secretary may make an offer to any individual owner (not including an Indian tribe) of a trust or restricted interest in a tract of land to settle any claim that the owner may have against the United States relating to the specific tract of land of which the interest is a part (not including a claim for an accounting described in title I of the Indian Trust Reform Act of 2005).

''(2) REQUIREMENTS.—An offer to settle claims under this subsection shall—

''(A) be in writing;

''(B) be delivered to an individual owner by the Secretary in person or through first class mail; and

''(C) include—

''(i) the name of the individual owner;

''(ii) a description of the tract of land to which the offer relates;

''(iii) the amount offered to settle a claim of the individual owner;

''(iv) the manner and date by which the individual owner shall accept the offer;

''(v) a statement that the individual owner is under no obligation to accept the offer;

''(vi) a statement that the individual owner has the right to consult an attorney or other advisor before accepting the offer;

''(vii) a statement that acceptance of the offer by the individual owner will result in a full and final settlement of all claims, known and unknown, of the individual owner (including the heirs and assigns of the individual owner) against the United States relating to the tract of land identified in the offer; and

''(viii) a statement that the settlement proposed by the offer does not cover any claim for an accounting described in title I of the Indian Trust Reform Act of 2005.

''(3) ACCEPTANCE.—No acceptance of an offer under this subsection shall be valid or binding on the individual owner unless the acceptance—

''(A) is in writing;

''(B) is signed by the individual owner;

''(C) is notarized; and

''(D) is attached to a copy of, or contains all material terms of, the offer to which the acceptance corresponds.

''(4) LIMITATION.—No offer to purchase an interest under this section or any other provision of law shall be conditioned on the acceptance of an offer to settle a claim under this subsection.

''(5) OTHER LAWS.—The authority of the Secretary to settle claims under this subsection shall be in addition to, and not in lieu of, the authority of the Secretary to settle claims under any other provision of Federal law.

''(g) BORROWING FROM TREASURY.—

''(1) ISSUANCE OF OBLIGATIONS.—

''(A) IN GENERAL.—To the extent approved in annual appropriations Acts, the Secretary may issue to the Secretary of the Treasury obligations in such amounts as the Secretary determines to be necessary to acquire interests under this Act, subject to approval of the Secretary of the Treasury, and bearing interest at a rate to be determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities to the obligations.

''(B) LIMITATION.—The aggregate amount of obligations under subparagraph (A) outstanding at any time shall not exceed $[_____].

''(2) FORMS AND DENOMINATIONS.—The obligations issued under paragraph (1) shall be in such forms and denominations, and subject to such other terms and conditions, as the Secretary of the Treasury may prescribe.

''(3) REPAYMENT.—

''(A) IN GENERAL.—Revenues derived from land restored to the Tribe under this Act shall be used by the Secretary to pay the principal and interest on the obligations issued under paragraph (1).

''(B) ASSURANCE OF REPAYMENT.—The Secretary shall ensure, to the maximum extent possible, that the revenues described in subparagraph (A) provide reasonable assurance of repayment of the obligations issued under paragraph (1).

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after the date of enactment of this subsection such sums as are necessary to cover any difference between—

''(A) the total amount of repayments of principal and interest on obligations issued to the Secretary of the Treasury under paragraph (1) during the previous fiscal year; and

''(B) the total amount of repayments described in subparagraph (A) that were contractually required to be made to the Secretary of the Treasury during that fiscal year.

''(h) RECEIPT OF PAYMENTS HAVE NO IMPACT ON BENEFITS UNDER OTHER FEDERAL PROGRAMS.—The receipt of a payment by an offeree under this title shall not be—

''(1) subject to Federal or State income tax; or

''(2) treated as benefits or otherwise taken into account in determining the eligibility of the offeree for, or the amount of benefits under, any other Federal program, including the social security program, the medicare program, the medicaid program, the State children's health insurance program, the food stamp program, or the Temporary Assistance for Needy Families program.''.

TITLE V—RESTRUCTURING BUREAU OF INDIAN AFFAIRS AND OFFICE OF SPECIAL TRUSTEE

SEC. 501. PURPOSE.

The purpose of this title is to ensure a more effective and accountable administration of duties of the Secretary of the Interior with respect to providing services and programs to Indians and Indian tribes, including the management of Indian trust resources.

SEC. 502. DEFINITIONS.

In this title:

(1) BUREAU.—The term ''Bureau'' means the Bureau of Indian Affairs.

(2) OFFICE.—The term ''Office'' means the Office of Trust Reform Implementation and Oversight referred to in section 503(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) UNDER SECRETARY.—The term ''Under Secretary'' means the individual appointed to the position of Under Secretary for Indian Affairs, established by section 503(a).

SEC. 503. UNDER SECRETARY FOR INDIAN AFFAIRS.

(a) ESTABLISHMENT OF POSITION.—There is established in the Department of the Interior the position of Under Secretary for Indian Affairs, who shall report directly to the Secretary.

(b) APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(2) EXCEPTION.—The officer serving as the Assistant Secretary for Indian Affairs on the date of enactment of this Act may assume the position of Under Secretary without appointment under paragraph (1) if—

(A) the officer was appointed as Assistant Secretary for Indian Affairs by the President by and with the advice and consent of the Senate; and

(B) not later than 180 days after the date of enactment of this Act, the Secretary approves the assumption.

(c) DUTIES.—In addition to the duties transferred to the Under Secretary under sections 504 and 505, the Under Secretary, acting through an Office of Trust Reform Implementation and Oversight, shall—

(1) carry out any activity relating to trust fund accounts and trust resource management of the Bureau (except any activity carried out under the Office of the Special Trustee for American Indians before the date on which the Office of the Special Trustee is abolished), in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.);

(2) develop and maintain an inventory of Indian trust assets and resources;

(3) coordinate with the Special Trustee for American Indians to ensure an orderly transition of the functions of the Special Trustee under section 505;

(4) supervise any activity carried out by the Department of the Interior, including—

(A) to the extent that the activities relate to Indian affairs, activities carried out by—

(i) the Commissioner of Reclamation;

(ii) the Director of the Bureau of Land Management; and

(iii) the Director of the Minerals Management Service; and

(B) intergovernmental relations between the Bureau and Indian tribal governments;

(5) to the maximum extent practicable, coordinate activities and policies of the Bureau with activities and policies of—

(A) the Bureau of Reclamation;

(B) the Bureau of Land Management; and

(C) the Minerals Management Service;

(6) provide for regular consultation with Indians and Indian tribes that own interests in trust resources and trust fund accounts;

(7) manage and administer Indian trust resources in accordance with any applicable Federal law;

(8) take steps to protect the security of data relating to individual Indian and Indian tribal trust accounts; and

(9) take any other measure the Under Secretary determines to be necessary with respect to Indian affairs.

SEC. 504. TRANSFER OF FUNCTIONS OF ASSISTANT SECRETARY FOR INDIAN AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There is transferred to the Under Secretary any function of the Assistant Secretary for Indian Affairs that has not been carried out by the Assistant Secretary as of the date of enactment of this Act.

(b) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination relating to the functions transferred under subsection (a).

(c) PERSONNEL PROVISIONS.—

(1) APPOINTMENTS.—The Under Secretary may appoint and fix the compensation of such officers and employees as the Under Secretary determines to be necessary to carry out any function transferred under this section.

(2) REQUIREMENTS.—Except as otherwise provided by law—

(A) an officer or employee described in paragraph (1) shall be appointed in accordance with the civil service laws; and

(B) the compensation of the officer or employee shall be fixed in accordance with title 5, United States Code.

(d) DELEGATION AND ASSIGNMENT.—

(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this section, the Under Secretary may—

(A) delegate any of the functions transferred to the Under Secretary by this section and any function transferred or granted to the Under Secretary after the date of enactment of this Act to such officers and employees of the Office as the Under Secretary may designate; and

(B) authorize successive redelegations of such functions as the Under Secretary determines to be necessary or appropriate.

(2) DELEGATION.—No delegation of functions by the Under Secretary under this section shall relieve the Under Secretary of responsibility for the administration of the functions.

(e) REORGANIZATION.—The Under Secretary may allocate or reallocate any function transferred under this section among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in the Office, as the Under Secretary determines to be necessary or appropriate.

(f) RULES.—The Under Secretary may prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Under Secretary determines to be necessary or appropriate to administer and manage the functions of the Office.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with, the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office.

(2) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at any time the Director may provide, may make such determinations as are necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as are necessary, to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for any further measures and dispositions as are necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for a period of at least 1 year after the date of transfer of the employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed to a position in the Office having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of the person in the new position.

(3) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this title, shall terminate on the date of enactment of this Act.

(j) SEPARABILITY.—If a provision of this section or the application of this section to any person or circumstance is held invalid, neither the remainder of this section nor the application of the provision to other persons or circumstances shall be affected.

(k) TRANSITION.—The Under Secretary may use—

(1) the services of the officers, employees, and other personnel of the Assistant Secretary for Indian Affairs relating to functions transferred to the Office by this section; and

(2) funds appropriated to the functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—Any reference in a Federal law, Executive order, rule, regulation, delegation of authority, or document relating to the Assistant Secretary for Indian Affairs, with respect to functions transferred under this section, shall be deemed to be a reference to the Under Secretary.

(m) RECOMMENDED LEGISLATION.—Not later than 180 days after the effective date of this title, the Under Secretary, in consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, shall submit to Congress any recommendations relating to additional technical and conforming amendments to Federal law to reflect the changes made by this section.

(n) EFFECT OF SECTION.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—Any legal document relating to a function transferred by this section that is in effect on the date of enactment of this Act shall continue in effect in accordance with the terms of the document until the document is modified or terminated by—

(A) the President;

(B) the Under Secretary;

(C) a court of competent jurisdiction; or

(D) operation of Federal or State law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceeding (including a notice of proposed rulemaking, an administrative proceeding, and an application for a license, permit, certificate, or financial assistance) relating to a function transferred under this section that is pending before the Assistant Secretary on the date of enactment of this Act.

SEC. 505. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS.

(a) TERMINATION.—Notwithstanding sections 302 and 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042; 4043), the Office of Special Trustee for American Indians shall terminate on the effective date of this section.

(b) TRANSFER OF FUNCTIONS.—There is transferred to the Under Secretary any function of the Special Trustee for American Indians that has not been carried out by the Special Trustee as of the effective date of this section.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination relating to the functions transferred under subsection (b).

(d) PERSONNEL PROVISIONS.—

(1) APPOINTMENTS.—The Under Secretary may appoint and fix the compensation of such officers and employees as the Under Secretary determines to be necessary to carry out any function transferred under this section.

(2) REQUIREMENTS.—Except as otherwise provided by law—

(A) any officer or employee described in paragraph (1) shall be appointed in accordance with the civil service laws; and

(B) the compensation of such an officer or employee shall be fixed in accordance with title 5, United States Code.

(e) DELEGATION AND ASSIGNMENT.—

(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this section, the Under Secretary may—

(A) delegate any of the functions transferred to the Under Secretary under this section and any function transferred or granted to the Under Secretary after the effective date of this section to such officers and employees of the Office as the Under Secretary may designate; and

(B) authorize successive redelegations of the functions as are necessary or appropriate.

(2) DELEGATION.—No delegation of functions by the Under Secretary under this section shall relieve the Under Secretary of responsibility for the administration of the functions.

(f) REORGANIZATION.—The Under Secretary may allocate or reallocate any function transferred under subsection (b) among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in the Office as the Under Secretary determines to be necessary or appropriate.

(g) RULES.—The Under Secretary may prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Under Secretary determines to be necessary or appropriate to administer and manage the functions of the Office.

(h) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office.

(2) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(i) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at any time the Director may provide, may make such determinations as are necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as are necessary, to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for any further measures and dispositions as are necessary to effectuate the purposes of this section.

(j) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for a period of at least 1 year after the date of transfer of the employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed to a position in the Office having duties comparable to the duties performed immediately preceding such appointment, shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of the person in the new position.

(3) TERMINATION OF CERTAIN POSITIONS.—Positions the incumbents of which are appointed by the President, by and with the advice and consent of the Senate, and the functions of which are transferred by this title, shall terminate on the effective date of this section.

(k) SEPARABILITY.—If a provision of this section or the application of this section to any person or circumstance is held invalid, neither the remainder of this section nor the application of the provision to other persons or circumstances shall be affected.

(l) TRANSITION.—The Under Secretary may use—

(1) the services of the officers, employees, and other personnel of the Special Trustee relating to functions transferred to the Office by this section; and

(2) funds appropriated to those functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(m) REFERENCES.—Any reference in a Federal law, Executive order, rule, regulation, delegation of authority, or document relating to the Special Trustee, with respect to functions transferred under this section, shall be deemed to be a reference to the Under Secretary.

(n) RECOMMENDED LEGISLATION.—Not later than 180 days after the effective date of this title, the Under Secretary, in consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, shall submit to Congress any recommendations relating to additional technical and conforming amendments to Federal law to reflect the changes made by this section.

(o) EFFECT OF SECTION.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—Any legal document relating to a function transferred by this section that is in effect on the effective date of this section shall continue in effect in accordance with the terms of the document until the document is modified or terminated by—

(A) the President;

(B) the Under Secretary;

(C) a court of competent jurisdiction; or

(D) operation of Federal or State law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceeding (including a notice of proposed rulemaking, an administrative proceeding, and an application for a license, permit, certificate, or financial assistance) relating to a function transferred under this section that is pending before the Special Trustee on the effective date of this section.

(p) EFFECTIVE DATE.—This section shall take effect on December 31, 2008.

SEC. 506. HIRING PREFERENCE.

In appointing or otherwise hiring any employee to the Office, the Under Secretary shall give preference to Indians in accordance with section 12 of the Act of June 8, 1934 (25 U.S.C. 472).

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

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

TITLE VI—AUDIT OF INDIAN TRUST FUNDS

SEC. 601. AUDITS AND REPORTS.

(a) FINANCIAL STATEMENTS AND INTERNAL CONTROL REPORT.—

(1) FINANCIAL STATEMENTS.—For each fiscal year beginning after the enactment of this Act, the Secretary of Interior shall prepare financial statements for individual Indian, Indian tribal, and other Indian trust accounts in accordance with generally accepted accounting principles of the Federal Government.

(2) INTERNAL CONTROL REPORT.—Concurrently with the financial statements under by paragraph (1), the Secretary shall prepare an internal control report that—

(A) establishes the responsibility of the Secretary for establishing and maintaining an adequate internal control structure and procedures for financial reporting under this Act; and

(B) assesses the effectiveness of the internal control structure and procedures for financial reporting under subparagraph (A) during the preceding fiscal year.

(b) INDEPENDENT EXTERNAL AUDITOR.—

(1) IN GENERAL.—The Comptroller General of the United States shall enter into a contract with an independent external auditor to conduct an audit and prepare a report in accordance with this subparagraph.

(2) AUDIT REPORT.—An independent external auditor shall submit to the Committee on Indian Affairs of the Senate, and make available to the public, an audit of the financial statements under subsection (a)(1) in accordance with—

(A) generally accepted auditing standards of the Federal Government; and

(B) the financial audit manual jointly issued by the Government Accountability Office and the Council on Integrity and Efficiency of the President.

(3) ATTESTATION AND REPORT.—In conducting the audit under paragraph (2), the independent external auditor shall attest to, and report on, the assessment of internal controls made by the Secretary under subsection (a)(2)(B).

(4) PAYMENT FOR AUDIT AND REPORT.—

(A) TRANSFER OF FUNDS.—On request of the Comptroller General, the Secretary shall transfer to the Government Accountability Office from funds made available for administrative expenses of the Department of Interior the amount requested by the Comptroller General to pay for an annual audit and report.

(B) CREDIT TO ACCOUNT.—

(i) IN GENERAL.—The Controller General shall credit the amount of any funds transferred under subparagraph (A) to the account established for salaries and expenses of the Government Accountability Office.

(ii) AVAILABILITY.—Any amount credited under clause (i) shall be made available on receipt, without fiscal year limitation, to cover the full costs of the audit and report.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

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

Mr. DORGAN. Mr. President, I am pleased to join Senator MCCAIN in introducing this historic legislation. This bill is a necessary starting point to begin resolution of the longstanding claims in the Cobell v. Norton litigation, which involves the Federal Government's mismanagement of hundreds of thousands of individual Indian money accounts. The bill was drafted in a bipartisan manner and attempts to address the principles recently developed and set forth by Indian Country.

I want to thank the National Congress of American Indians and the InterTribal Monitoring Association for leading the consultative process utilized in developing these principles. Those principles helped guide the drafting of this bill. The current language of the bill, however, is not perfect. Rather, it is intended to be a starting point for substantive and productive dialogue between the parties. Recently, the parties engaged in a 9-month mediation process that failed to result in any type of potential resolution. This litigation is nearly a decade old and has no end in sight. It is my hope that this bill will assist the parties in reaching some type of resolution of this litigation.

The individual Indian trust account system was not a voluntary system elected by the individual Indians, but rather one imposed upon them by the federal government more than one hundred years ago. The Federal Government serves as trustee of these accounts and the individual Indians are beneficiaries. Unfortunately, the Cobell litigation has brought to light a very disturbing problem: the Federal Government, as trustee, may not be able to provide an accurate and proper historical accounting of these accounts. Moreover, the Federal Government may not know the proper balances of these accounts nor have sufficient documentation to determine the value of these accounts. Further, government officials have stated that a full transaction-by-transaction accounting, presuming one can be performed, would cost more than $10 billion. This cost would not include any monies determined to be unaccounted for or the interest on those monies.

The claims in the Cobell litigation on examples of broken promises and trust responsibilities to the Native Americans of this country, but it is my hope and desire that this bill will help us keep those promises, fulfill our responsibilities to Native Americans, and restore trust and faith in our government. If Congress continues to allow the Cobell litigation to proceed, the individual beneficiaries of these accounts will not be alive to reap the benefits these accounts and the trust resource management system were intended to bestow.

It is an honor to serve as Vice Chairman of the Committee on Indian Affairs alongside chairman MCCAIN. We have publicly pledged that we will make our best effort to resolve this long overdue injustice to the first Americans. The introduction of this bill is the first step toward that goal.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1303. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 3057, An act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1304. Mr. SCHUMER proposed an amendment to the bill H.R. 3057, supra.

SA 1305. Mr. DODD (for himself, Mr. NELSON, of Florida, Mr. REED, Mr. LEAHY, and Mr. BIDEN) proposed an amendment to the bill H.R. 3057, supra.

SA 1306. Mr. MCCONNELL (for Mr. BYRD) proposed an amendment to the bill H.R. 3057, supra.

SA 1307. Mr. MCCONNELL (for Mr. LEAHY (for himself, Mrs. CLINTON, Mr. CHAFEE, Ms. MIKULSKI, Mr. CORZINE, and Mrs. MURRAY)) proposed an amendment to the bill H.R. 3057, supra.

SA 1308. Mr. MCCONNELL (for Mr. FRIST) proposed an amendment to the bill H.R. 3057, supra.

SA 1309. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1310. Mr. GRASSLEY submitted an amendment intended to be proposed by him