

time in its history. During Pat's tenure, her agency more than doubled in size, successfully completed a massive capital campaign, purchased and renovated its current headquarters, and significantly diversified its services. Vermont Respite House, home psychiatric care, specialized home therapies, home infusion, palliative care and wellness programs were all added to the plethora of VNA services on Pat's watch. Other major services include their Adult Day and Hospice Programs and Maternal Child Health Services. Pat knew that these changes were necessary if her agency was to adequately reflect and meet the evolving needs of Vermonters. Her vision and leadership helped her agency do exactly that, with resounding success.

Vermont has much to be grateful for when it comes to Pat's steadfast commitment to improving the quality of life in our small state. Although her tenure at the VNA has ended, we will forever remain the beneficiaries of her expertise, vision and leadership on those issues she has been so ably, and passionately committed to. In her own words, "our house is in order and the agency is incredibly sound, despite an ever changing and challenging health care environment". Vermont has Pat Thomas to thank for this. We wish her well.●

#### UNANIMOUS CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations en bloc: Executive Calendar Nos. 173, 175, 176, 191, 195, 198, 199, 210, 211, 215, 217, 218, 219, and 220. I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. KOHL. I ask unanimous consent that the requests be modified to delete 215, 217, 218, and 219.

Mr. COCHRAN. Mr. President, I am constrained to object at the request of the majority leader. I suggest we pass this item and try to resolve it later.

Mr. KOHL. I object.

The PRESIDING OFFICER. The objection is heard.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, as in executive session, I ask unanimous consent that at 9:30 tomorrow morning the Senate proceed to executive session to consider Executive Calendar Nos. 135 and 140, en bloc. I further ask consent that there be 30 minutes equally divided in the usual form for debate. I also ask consent that following the expiration or the yielding back of time,

the Senate proceed to vote on the nominations en bloc. I further ask consent that immediately following that vote, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mr. COCHRAN. I ask unanimous consent that it be in order to ask for the yeas and nays on the nominations at this time.

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

Mr. COCHRAN. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

#### AUTHORIZATION OF SENATE REPRESENTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed en bloc to the immediate consideration of S. Res. 173 and S. Res. 174, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 173) to authorize representation of the Senate Committee on Armed Services in the case of Philip Tinsley, III v. Senate Committee on Armed Services.

A resolution (S. Res. 174) to authorize representation on the Senate Committee on the Judiciary in the case of Philip Tinsley III v. Senate Committee on the Judiciary.

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

Mr. LOTT. Mr. President, an individual has filed two pro se civil actions in the United States District Court for the Eastern District of Virginia against two Senate Committees. In the first suit, against the Senate Committee on Armed Services, the plaintiff alleges that he was wrongfully denied a commission in the Navy and documentation of a prior honorable discharge from the Army Reserve. He has sued the Armed Services Committee because, in his view, the Committee failed to take sufficient steps to rectify these errors after he brought them to the Committee's attention.

The second complaint alleges that the Judiciary Committee failed to take appropriate action when the plaintiff, in correspondence with the Committee, accused a federal judge and state and federal law enforcement officers of malfeasance.

These resolutions authorize the Senate Legal Counsel to represent the Committees in these suits to move for their dismissal.

Mr. COCHRAN. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table, any statements relating to the resolutions

appear in the RECORD, with the preceding all occurring en bloc.

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

The resolution (S. Res. 173) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 173

Whereas, in the case of *Philip Tinsley III v. Senate Committee on Armed Services*, Civil Action No. 99-951-A, pending in the United States District Court for the Eastern District of Virginia, the plaintiff has been sued the United States Senate Committee on Armed Services;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Senate committees in civil actions. Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to represent the Senate Committee on Armed Services in the case of *Philip Tinsley III v. Senate Committee on Armed Services*.

The resolution (S. Res. 174) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 174

Whereas, in the case of *Philip Tinsley III v. Senate Committee on the Judiciary*, Civil Action No. 99-952-A, pending in the United States District Court for the Eastern District of Virginia, the plaintiff has sued the United States Senate Committee on the Judiciary;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Senate committees in civil actions: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to represent the Senate Committee on the Judiciary in the case of *Philip Tinsley III v. Senate Committee on the Judiciary*.

#### RELIEF OF GLOBAL EXPLORATION AND DEVELOPMENT CORPORATION, KERR-McGEE CORPORATION, AND KERR-McGEE CHEMICAL, LLC

Mr. BENNETT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 606) of the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

*Resolved*, That the bill from the Senate (S. 606) entitled "An Act for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

**SECTION 1. SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.**

(a) **PAYMENT OF CLAIMS.**—The Secretary of the Treasury shall pay, out of money not otherwise appropriated—

(1) to the Global Exploration and Development Corporation, a Florida corporation incorporated in Delaware, \$9,500,000;

(2) to Kerr-McGee Corporation, an Oklahoma corporation incorporated in Delaware, \$10,000,000; and

(3) to Kerr-McGee Chemical, LLC, a limited liability company organized under the laws of Delaware, \$0.

(b) **CONDITION OF PAYMENT.**—

(1) **GLOBAL EXPLORATION AND DEVELOPMENT CORPORATION.**—The payment authorized by subsection (a)(1) is in settlement and compromise of all claims of Global Exploration and Development Corporation, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

(2) **KERR-MCGEE CORPORATION AND KERR-MCGEE CHEMICAL, LLC.**—The payment authorized by subsections (a)(2) and (a)(3) are in settlement and compromise of all claims of Kerr-McGee Corporation and Kerr-McGee Chemical, LLC, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

(c) **LIMITATION ON FEES.**—Not more than 15 percent of the sums authorized to be paid by subsection (a) shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sums. Any person violating this subsection shall be fined not more than \$1,000.

**SEC. 2. CRIMINAL PROHIBITION ON THE DISTRIBUTION OF CERTAIN INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.**

(a) **UNLAWFUL CONDUCT.**—Section 842 of title 18, United States Code, is amended by adding at the end the following:

“(p) **DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.**—

“(1) **DEFINITIONS.**—In this subsection—

“(A) the term ‘destructive device’ has the same meaning as in section 921(a)(4);

“(B) the term ‘explosive’ has the same meaning as in section 844(j); and

“(C) the term ‘weapon of mass destruction’ has the same meaning as in section 2332a(c)(2).

“(2) **PROHIBITION.**—It shall be unlawful for any person—

“(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

“(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.”.

(b) **PENALTIES.**—Section 844 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “person who violates any of subsections” and inserting the following: “person who—

“(1) violates any of subsections”;

(B) by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.”; and

(2) in subsection (j), by inserting “and section 842(p)” after “this section”.

**SEC. 3. SETTLEMENT OF CLAIMS OF MENOMINEE INDIAN TRIBE OF WISCONSIN.**

(a) **PAYMENT.**—The Secretary of the Treasury shall pay to the Menominee Indian Tribe of Wisconsin, out of any funds in the Treasury of the United States not otherwise appropriated, \$32,052,547 for damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

(1) the enactment and implementation of the Act entitled “An Act to provide for a per capita distribution of Menominee tribal funds and authorize the withdrawal of the Menominee Tribe from Federal jurisdiction”, approved June 17, 1954 (68 Stat. 250 et seq., chapter 303); and

(2) the mismanagement by the United States of assets of the Menominee Indian Tribe held in trust by the United States before April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

(b) **EFFECT OF PAYMENT.**—Payment of the amount referred to in subsection (a) shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in that subsection.

(c) **REQUIREMENTS FOR PAYMENT.**—The payment to the Menominee Indian Tribe of Wisconsin under subsection (a) shall—

(1) have the status of a judgment of the United States Court of Federal Claims for the purposes of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) be made in accordance with the requirements of that Act on the condition that, of the amounts remaining after payment of attorney fees and litigation expenses—

(A) at least 30 percent shall be distributed on a per capita basis; and

(B) the balance shall be set aside and programmed to serve tribal needs, including funding for—

(i) educational, economic development, and health care programs; and

(ii) such other programs as the circumstances of the Menominee Indian Tribe of Wisconsin may justify.

(d) **LIMITATION ON FEES.**—Not more than 15 percent of the sums authorized to be paid by subsection (a) shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sums. Any person violating this subsection shall be fined not more than \$1,000.

Mr. COCHRAN. I ask unanimous consent the Senate concur in the amendment of the House.

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

Mr. KOHL. Mr. President, I am pleased that the Senate today approved legislation that gives a Congressional “stamp of approval” to a settlement that the Menominee Indian Tribe of Wisconsin has long awaited. In my opinion, in the opinion of the U.S. Court of Claims that approved this settlement last year, and in the opinion of Wisconsin leaders like Governor Tommy Thompson and former Congressman Melvin Laird, this is a settlement that is long overdue.

As part of S. 606, the Menominee Tribal Fairness Act is the final step in a “Legislative Reference” that settles a 45-year-old case between the Tribe and the Federal Government once and

for all. In the 1950s, the Bureau of Indian Affairs mismanaged the Tribe’s assets such as their forests and mills, leaving them ill-prepared to be self-sufficient. However, in the 1960s, Congress terminated the Tribe’s federal trust status, and the Tribe plunged into years of service impoverishment and community turmoil.

Then in the 1970s, the Government recognized its mistake in these actions and restored the Menominee Tribe’s federal trust status. Clearly, though, the decades of damage could threaten the Tribe for generations to come, so the Tribe went to court seeking compensation for the devastation it had endured.

After winning at trial court, this case was dismissed on technical grounds at the appellate court in 1984. The Tribe then came to Congress for help, and we passed a “Legislative Reference” asking the Courts to decide the merits of this case and determine what, if any, compensation was due. Before this case again headed to trial, the Department of Justice settled with the Tribe, agreeing to a sum of \$32,052,547. The U.S. Court of Claims endorsed this settlement last summer. Now, as the final step in this process, Congress has approved the payment of this settlement—and from the Treasury Department’s already existing “judgment fund,” not through a new appropriation—to finally resolve this case after 45 years.

This decades-old case is a perfect example of how the “Legislative Reference” procedure should be used: the court examines claims against the United States based on negligence or fault, or based on less than fair and honorable dealings, regardless of “technical” defenses that the United States may otherwise assert, especially the statute of limitations.

In other words, this procedure is to be used for precisely the types of circumstances surrounding the Menominee Tribe. The tribe and its members suffered grievous economic loss through legislative termination of its rights and from BIA mismanagement of its resources. Indeed, the Federal governments’ actions brought the Menominee Tribe to the brink of economic, social, and cultural disaster. Although the Tribe was restored to Federal recognition and tribal status by action of the Congress, the Tribe and its members have yet to be compensated for the damages they suffered. But thanks to the Senate’s actions today, that will change.

I thank my colleagues for supporting this vitally important “Legislative Reference” that will bring closure, once and for all, to a settlement that is long overdue. I especially want to thank our House sponsor, MARK GREEN, as well as Congressman SENSENBRENNER, Congressman MCCOLLUM, and Senator NICKLES, for all their hard work.

ESTABLISHMENT OF NATIONAL CEMETERY FOR VETERANS IN ATLANTA, GEORGIA

Mr. COCHRAN. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 221, S. 695.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 695) to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Atlanta, Georgia metropolitan area.

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

**SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERIES.**

(a) *IN GENERAL.*—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, the following:

(1) A national cemetery in the Atlanta, Georgia, metropolitan area to serve the needs of veterans and their families.

(2) A national cemetery in Southwestern Pennsylvania to serve the needs of veterans and their families.

(3) A national cemetery in the Miami, Florida, metropolitan area to serve the needs of veterans and their families.

(b) *CONSULTATION IN SELECTION OF SITES.*—Before selecting the sites for the national cemeteries to be established under subsection (a), the Secretary shall consult with—

(1) in the case of the national cemetery to be established under paragraph (1) of that subsection, appropriate officials of the State of Georgia and appropriate officials of local governments in the Atlanta, Georgia, metropolitan area;

(2) in the case of the national cemetery to be established under paragraph (2) of that subsection, appropriate officials of the State of Pennsylvania and appropriate officials of local governments in Southwestern Pennsylvania;

(3) in the case of the national cemetery to be established under paragraph (3) of that subsection, appropriate officials of the State of Florida and appropriate officials of local governments in the Miami, Florida, metropolitan area; and

(4) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States that would be suitable as a location for the establishment of each such national cemetery.

(c) *REPORT.*—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemeteries under subsection (a). The report shall set forth a schedule for the establishment of each such cemetery and an estimate of the costs associated with the establishment of each such cemetery.

AMENDMENT NO. 1562

(Purpose: To require the establishment of a national cemetery in the Detroit, Michigan, metropolitan area and in the Sacramento, California, metropolitan area, to authorize the use of flat grave markers at Santa Fe National Cemetery, New Mexico, and for other purposes)

Mr. COCHRAN. Mr. President, Senators SPECTER and ROCKEFELLER have an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SPECTER, for himself, and Mr. ROCKEFELLER, proposes an amendment numbered 1562.

The amendment is as follows:

On page 3, between lines 9 and 10, insert the following:

(4) A national cemetery in the Detroit, Michigan, metropolitan area to serve the needs of veterans and their families.

(5) A national cemetery in the Sacramento, California, metropolitan area to serve the needs of veterans and their families.

On page 4, strike lines 3 and 4 and insert the following:

Florida, metropolitan area;

(4) in the case of the national cemetery to be established under paragraph (4) of that subsection, appropriate officials of the State of Michigan and appropriate officials of local governments in the Detroit, Michigan, metropolitan area;

(5) in the case of the national cemetery to be established under paragraph (5) of that subsection, appropriate officials of the State of California and appropriate officials of local governments in the Sacramento, California, metropolitan area; and

(6) appropriate officials of the United States, in—

On page 4, after line 15, add the following:

**SEC. 2. USE OF FLAT GRAVE MARKERS.**

(a) *AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY.*—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

(b) *REPORT COMPARING USE OF FLAT GRAVE MARKERS AND UPRIGHT GRAVE MARKERS.*—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report assessing the advantages and disadvantages of the use by the National Cemetery Administration of flat grave markers and upright grave markers.

(2) The report under paragraph (1) shall set forth the advantages and disadvantages of the use of each type of grave marker referred to in that paragraph, and shall include criteria to be utilizing in determining whether to prefer the use of one such type of grave marker over the other.

In the amendment to the title, strike "in the Atlanta, Georgia, metropolitan area" and all that follows through "metropolitan area" and insert the following: "in various locations in the United States, and for other purposes".

Mr. COCHRAN. I ask unanimous consent the amendment be agreed to, the committee amendment be agreed to, the bill be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 1562) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 695), as amended, was read the third time and passed, as follows:

S. 695

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

**SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERIES.**

(a) *IN GENERAL.*—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, the following:

(1) A national cemetery in the Atlanta, Georgia, metropolitan area to serve the needs of veterans and their families.

(2) A national cemetery in Southwestern Pennsylvania to serve the needs of veterans and their families.

(3) A national cemetery in the Miami, Florida, metropolitan area to serve the needs of veterans and their families.

(4) A national cemetery in the Detroit, Michigan, metropolitan area to serve the needs of veterans and their families.

(5) A national cemetery in the Sacramento, California, metropolitan area to serve the needs of veterans and their families.

(b) *CONSULTATION IN SELECTION OF SITES.*—Before selecting the sites for the national cemeteries to be established under subsection (a), the Secretary shall consult with—

(1) in the case of the national cemetery to be established under paragraph (1) of that subsection, appropriate officials of the State of Georgia and appropriate officials of local governments in the Atlanta, Georgia, metropolitan area;

(2) in the case of the national cemetery to be established under paragraph (2) of that subsection, appropriate officials of the State of Pennsylvania and appropriate officials of local governments in Southwestern Pennsylvania;

(3) in the case of the national cemetery to be established under paragraph (3) of that subsection, appropriate officials of the State of Florida and appropriate officials of local governments in the Miami, Florida, metropolitan area;

(4) in the case of the national cemetery to be established under paragraph (4) of that subsection, appropriate officials of the State of Michigan and appropriate officials of local governments in the Detroit, Michigan, metropolitan area;

(5) in the case of the national cemetery to be established under paragraph (5) of that subsection, appropriate officials of the State of California and appropriate officials of local governments in the Sacramento, California, metropolitan area; and

(6) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States that would be suitable as a location for the establishment of each such national cemetery.

(c) *REPORT.*—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemeteries under subsection (a). The report shall set forth a schedule for the establishment of each such cemetery and an estimate of the costs associated with the establishment of each such cemetery.

**SEC. 2. USE OF FLAT GRAVE MARKERS.**

(a) *AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY.*—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

(b) *REPORT COMPARING USE OF FLAT GRAVE MARKERS AND UPRIGHT GRAVE MARKERS.*—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees