I have addressed this issue at the highest level with Secretary of State Madeleine Albright during a recent Foreign Affairs Committee meeting. The resolution of this United States citizen's death is important to Kenya's credibility in the world community. We intend to see his assassins quickly brought to trial, and our Resolution reflects the desire of Congress to step-up the investigation into his death. I join Bishop John Njue, Chairman of the Kenyan Catholic Episcopal Conference in saying ''Do not be afraid''—we are with you.

SENATE RESOLUTION 368—RECOGNIZING THE IMPORTANCE OF RELOCATING AND RENOVATING THE HAMILTON GRANGE, NEW YORK

Mr. MOYNIHAN (for himself, Mr. BYRD, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources.

S. RES. 368

Whereas Alexander Hamilton, assisted by James Madison and George Washington, was the principal drafter of the Constitution of the United States;

Whereas Hamilton was General Washington's aide-de-camp during the Revolutionary War, and, given command by Washington of the New York and Connecticut light infantry battalion, led the successful assault on British redoubt number 10 at Yorktown;

Whereas after serving as Secretary of the Treasury, Hamilton founded the Bank of New York and the New York Post;

Whereas the only home Hamilton ever owned, commonly known as ''the Grange'', is a fine example of Federal period architecture designed by New York architect John McComb, Jr., and was built in upper Manhattan in 1803;

Whereas the New York State Assembly enacted a law in 1908 authorizing New York City to acquire the Grange and move it to nearby St. Nicholas Park, part of the original Hamilton estate, but no action was taken;

Whereas in 1962, the National Park Service took over management of the Grange, by then wedged on Convent Avenue within inches between an apartment house on the north side and a church on the south side;

Whereas the 1962 designation of the Grange as a national memorial was contingent on the acquisition by the National Park Service of a site to which the building could be relocated;

Whereas the New York State legislature enacted a law in 1998 that granted approval for New York City to transfer land in St. Nicholas Park to the National Park Service, causing renovations to the Grange to be postponed; and

Whereas no obelisk, monument, or classical temple along the national mall has been constructed to honor the man who more than any other designed the Government of the United States, Hamilton should at least be remembered by restoring his home in a sylvan setting: Now, therefore, be it

Resolved, That—

(1) the Senate recognizes the immense contribution Alexander Hamilton made to the United States as a principal drafter of the Constitution; and

(2) the National Park Service should expeditiously—

(A) proceed to relocate the Grange to St. Nicholas Park; and

(B) restore the Grange to a state befitting the memory of Alexander Hamilton.

Mr. MOYNIHAN. Mr. President, I rise to introduce a Sense of the Senate Resolution that calls on the National Park Service to relocate the Hamilton Grange, which is the home of Alexander Hamilton. As Washington's aide-de-camp during the Revolution, delegate to the Constitutional Convention, Secretary of the Treasury, and founder of the Bank of New York and the New York Post, Hamilton was instrumental in determining the direction of the nation in its early years. The only home he ever owned is in New York City. It sits on a block in Harlem, bounded on the north by an apartment house and on the south by a church. The apartment house is inches away, the church a few feet.

For some forty years the National Park Service has been contemplating the relocation of the Grange to a better site. The plan now is to go around the corner to St. Nicholas Park. The park was part of the original Hamilton estate and would be a far more appropriate location for the house. The necessary civic approvals are nearly set. It will soon be in the hands of the Park Service to get this done. The resolution simply states that the agency should do so expeditiously, and should then proceed with the restoration projects that have been on hold. Alexander Hamilton and those who come to see his home deserve as much. I ask my colleagues for their support.

AMENDMENTS SUBMITTED

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2000

JEFFORDS (AND KENNEDY) AMENDMENT NO. 4301

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill (H.R. 1102) to provide for pension reform, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE IX—ERISA PROVISIONS

SEC. 901. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsection:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

''(A) to the corporation, or

''(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has missing participants, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 902. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting ''other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined),'' after ''single-employer plan,'',

(2) in clause (iii), by striking the period at the end and inserting '', and'', and

(3) by adding at the end the following new clause:

''(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.''.

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

''(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

''(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has,

in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

''(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans established after December 31, 2000.

SEC. 903. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR NEW AND SMALL PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

''(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

''(I) 0 percent, for the first plan year.

''(II) 20 percent, for the second plan year.

''(III) 40 percent, for the third plan year.

''(IV) 60 percent, for the fourth plan year.

''(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.''.

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 902(b), is amended—

(1) by striking ''The'' in subparagraph (E)(i) and inserting ''Except as provided in subparagraph (G), the'', and

(2) by inserting after subparagraph (F) the following new subparagraph:

''(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

''(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans established after December 31, 2000.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2000.

SEC. 904. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)'', and

(2) by inserting at the end the following new paragraph:

''(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunds made on or after the date of the enactment of this Act.

SEC. 905. SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

''(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(i) owns the entire interest in an unincorporated trade or business,

''(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

''(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).

''(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

''(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

''(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.''.

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking ''section 4022(b)(5)'' and inserting ''section 4022(b)(5)(B)''.

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking ''(5)'' in paragraph (2) and inserting ''(4), (5),'', and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking ''as defined in section 4022(b)(6)'', and

(B) by adding at the end the following new subsection:

''(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

''(1) owns the entire interest in an unincorporated trade or business,

''(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

''(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).''.

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking ''section 4022(b)(6)'' and inserting ''section 4021(d)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2000, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2001.

SEC. 906. MULTIEMPLOYER PLAN BENEFITS GUARANTEE.

(a) IN GENERAL.—Section 4022A(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322A(c)) is amended—

(1) by striking ''$5'' each place it appears in paragraph (1) and inserting ''$11'',

(2) by striking ''$15'' in paragraph (1) and inserting ''$33'', and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—Section 4244(e)(4) of such Act (29 U.S.C. 1424(e)(4)) is amended by striking ''and without regard to section 4022A(c)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable after the date of the enactment of this Act, except that such amendments shall not apply to any multiemployer plan that has received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

SEC. 907. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.

(a) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(1)) is amended—

(1) by striking ''shall'' and inserting ''may'', and

(2) by striking ''equal to'' and inserting ''not greater than''.

(b) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended to read as follows:

''(2) For purposes of paragraph (1), the term 'applicable recovery amount' means

any amount which is recovered from any fiduciary or other person (or from any other person on behalf of any such fiduciary or other person) with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.''.

(c) OTHER RULES.—Section 502(l) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)) is amended by adding at the end the following new paragraph:

''(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

''(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of enactment of this Act.

(2) TRANSITION RULE.—In applying the amendment made by subsection (b) (relating to applicable recovery amount), a breach or other violation occurring before the date of enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 908. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation—

(1) in the case of an employee who returns to work for a former employer after commencement of payment of benefits under the plan, shall, if a reduced rate of future benefit accruals could apply to the returning employee, include a statement that the rate of future benefit accruals may be reduced, and

(2) in the case of any other employee—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2000.

Mr. JEFFORDS. Mr. President, I rise today to file an amendment on behalf of myself, as chairman of the Committee on Health, Education, Labor, and Pensions, and Mr. KENNEDY, Ranking Member of the Committee to H.R. 1102, the Retirement Security and Savings Act of 2000, as reported by the Committee on Finance on September 12, 2000. Our amendment concerns pension issues within our jurisdiction. It would simplify and modify provisions of the Employee Retirement Income Security Act of 1974 relating to employer pension plans.

More specifically, the amendment would expand the Pension Benefit Guaranty Corporation's (PBGC) Missing Participants program; reduce PBGC premiums for new plans of small employers; authorize the PBGC to pay interest on premium overpayment refunds; simplify the substantial owner benefit rules for terminated defined benefit plans; increase the PBGC guarantee of benefits in multiemployer plans; allow the Secretary of Labor to reduce or waive civil penalties for breach of fiduciary responsibility; make parties that are jointly and severally liable for fiduciary violations also jointly and severally liable for the related penalty; and improve and better target notices of benefit suspension to pension plan participants.

Mr. President, I ask that our more detailed description of the amendment be entered into the RECORD.

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

DESCRIPTION OF AMENDMENT NO. 4301 TO THE ''RETIREMENT SECURITY AND SAVINGS ACT OF 2000'' (H.R. 1102)

1. EXTENSION OF PBGC MISSING PARTICIPANTS PROGRAM

Present law

The plan administrator of a defined benefit pension plan that is subject to Title IV of ERISA, is maintained by a single employer, and terminates under a standard termination is required to distribute the assets of the plan. With respect to a participant whom the plan administrator cannot locate after a diligent search, the plan administrator satisfies the distribution requirement only by purchasing irrevocable commitments from an insurer to provide all benefit liabilities under the plan or transferring the participant's designated benefit to the Pension Benefit Guaranty Corporation (''PBGC''), which holds the benefit of the missing participant as trustee until the PBGC locates the missing participant and distributes the benefit. The PBGC missing participant program is not available to multiemployer plans or defined contribution plans and other plans not covered by Title IV of ERISA.

Reason for change

Terminating multiemployer plans and terminating defined contribution plans face the same problems with missing participants as single-employer defined benefit plans. Allowing terminating multiemployer and defined contribution plans to transfer pension funds for missing participants to the PBGC would enable these plans to wind up their affairs and would increase the chances that missing participants will be able to locate their benefits.

Description of proposal

The proposal would direct the PBGC to prescribe for terminating multiemployer plans and terminating defined contribution plans (including plans under section 401(k) of the Internal Revenue Code) rules similar to the present-law missing participant rules applicable to terminating single-employer plans that are subject to Title IV of ERISA.

Effective date

The proposal would be effective for distributions from terminating plans that occur after the PBGC has adopted final regulations implementing the proposal.

2. REDUCE PBGC PREMIUMS FOR SMALL AND NEW PLANS

Present law

Under present law, the Pension Benefit Guaranty Corporation (''PBGC'') provides insurance protection for participants and beneficiaries under certain defined benefit pension plans by guaranteeing certain basic benefits under the plan in the event the plan is terminated with insufficient assets. The guaranteed benefits are funded in part by premium payments from employers who sponsor defined benefit plans.

The amount of the required annual PBGC premium for a single-employer plan is generally a flat rate premium of $19 per participant and an additional variable rate premium based on a charge of $9 per $1,000 of unfunded vested benefits. Unfunded vested benefits under a plan generally means (1) the unfunded current liability for vested benefits under the plan, over (2) the value of the plan's assets, reduced by any credit balance in the funding standard account. No variable rate premium is imposed for a year if contributions to the plan were at least equal to the full funding limit. The PBGC guarantee is phased in ratably in the case of plans that have been in effect for less than 5 years, and with respect to benefit increases from a plan amendment that was in effect for less than 5 years before termination of the plan.

Reason for change

The number of single-employer defined benefit plans covered by PBGC has declined dramatically in recent years—from 112,000 in 1985 to little over 39,000 in 1999. Most of the decline is because of the termination of small plans. An employer incurs a number of one-time costs to establish a plan. The proposal is intended to remove the PBGC premium as a disincentive to small employers establishing defined benefit plans.

For very small employers, the variable-rate premium can be a disproportionately large and unpredictable cost and can discourage them from establishing or maintaining a defined benefit pension plan for their employees. Very small employers would be more likely to establish and keep defined benefit plans if they could be assured that the variable rate premium would be affordable.

While most of the decline in the number of defined benefit plans is because of the termination of small plans, many larger plans also have terminated. Further, larger employers that establish plans are not choosing defined benefit plans.

Incentives are needed to encourage establishment of defined benefit plans by larger employers. The PBGC variable rate premium can be a disincentive to some plans. The proposal would provide a limited break from the variable rate premium, keyed to PBGC's guarantee limits in the early years of a plan.

Description of proposal

a. Reduced flat-rate premiums for new plans of small employers

Under the proposal, for each of the first five plan years of a new single-employer plan of a small employer, the flat-rate PBGC premium would be $5 per plan participant. A small employer would be defined as a plan contributing sponsor that, together with other members of its controlled group, employs 100 or fewer employees on the first day of the plan year.

Under ERISA, the ''employer'' consists of a plan's ''contributing sponsor'' and all entities that are in ''common control'' with it under the tax code. The contributing sponsor together with the other entities in common control are also referred to as members of the ''controlled group.'' In the case of a plan to which more than one unrelated contributing sponsor contributes, employees of all

contributing sponsors (and their controlled group members) would be taken into account in determining whether the plan is a plan of a small employer.)

A new plan would mean a defined benefit plan maintained by a contributing sponsor if, during the 36-month period ending on the date of adoption of the plan, such contributing sponsor (or controlled group member or a predecessor of either) did not establish or maintain a plan subject to PBGC coverage with respect to which benefits were accrued for substantially the same employees as are in the new plan.

b. Reduced variable PBGC premium for new and small employer plans

The proposal would provide that the variable premium is phased in for ''new defined benefit plans'' over a six-year period starting with the plan's first plan year. The amount of the variable premium would be a percentage of the variable premium otherwise due, as follows: 0 percent of the otherwise applicable variable premium in the first plan year; 20 percent in the second plan year; 40 percent in the third plan year; 60 percent in the fourth plan year; 80 percent in the fifth plan year; and 100 percent in the sixth plan year (and thereafter). A new defined benefit plan would be defined as under the flat-rate premium proposal relating to new small employer plans.

In addition, in the case of any plan (not just a new plan) of an employer with 25 or fewer employees, the per-participant variable-rate premium would be no more than $5 multiplied by the number of plan participants.

Effective date

The proposals relating to new plans would be effective for plans established after December 31, 2000. The proposal reducing the PBGC variable premium for small plans would be effective for years after December 31, 2000.

3. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS

Present law

The PBGC currently charges interest on underpayments but is not authorized to pay interest to plan sponsors on refunds of premium overpayments.

Reason for change

Premium payors should receive interest on monies that are owed to them.

Description of proposal

The proposal would allow the PBGC to pay interest on overpayments made by premium payors. Interest paid on overpayments would be calculated at the same rate and in the same manner as interest is charged on premium underpayments.

Effective date

The proposal would be effective with respect to refunds made on or after the date of enactment of this Act.

4. RULES FOR SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS

Present law

Under present law, the Pension Benefit Guaranty Corporation (''PBGC'') provides participants and beneficiaries in a defined benefit pension plan with certain minimal guarantees as to the receipt of benefits under the plan in case of plan termination. The employer sponsoring the defined benefit pension plan is required to pay premiums to the PBGC to provide insurance for the guaranteed benefits. In general, PBGC will guarantee all basic benefits which are payable in periodic installments for the life (or lives) of the participant and his or her beneficiaries and are non-forfeitable at the time of plan termination. The amount of the guaranteed benefit is subject to certain limitations. One limitation is that the plan (or an amendment to the plan which increases benefits) must be in effect for 60 months before termination for the PBGC to guarantee the full amount of basic benefits for a plan participant, other than a substantial owner. In the case of a substantial owner, the guaranteed basic benefit is phased in over 30 years beginning with participation in the plan. A substantial owner is one who owns, directly or indirectly, more than 10 percent of the voting stock of a corporation. Special rules restricting the amount of benefit guaranteed and the allocation of assets also apply to substantial owners.

Reason for change

The special substantial owner rules are inordinately complex and require plan documents going back as far as 30 years, which are difficult or impossible to obtain. The rules penalize owners in plans that started out with modest benefit levels and those with little control over plan decisions. Changes are needed in the guarantee and asset allocation rules to simplify determination of benefits and eliminate the unduly harsh treatment of owners under the current law. The proposed changes also will eliminate one of the reasons that small business owners give for not establishing defined benefit plans (i.e., the inadequacy of PBGC guarantees for owners).

Description of proposal

The proposal would provide that the 60-month phase-in of guaranteed benefits would apply to a substantial owner with less than 50 percent ownership interest. For a substantial owner with a 50 percent of more ownership interest (''majority owner''), the guarantee would depend on the number of years the plan has been in effect and would not be more than the amount guaranteed for other participants. Specifically, a majority owner's guarantee would be computed by multiplying the guarantee that would apply if the participant were not a substantial owner, by a fraction (not to exceed 1), the numerator of which is the number of years the plan was in effect, and the denominator of which is 10. The rules regarding allocation of assets would apply to substantial owners, other than majority owners, in the same manner as other participants.

Effective date

The proposal would be effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC after December 31, 2000.

5. MULTIEMPLOYER PLAN BENEFITS GUARANTEED

Present law

The PBGC guarantees benefits of workers in multiemployer plans. The monthly guarantee is equal to the participant's years of service multiplied by the sum of (i) 100 percent of the first $5 of the monthly benefit accrual rate, and (ii) 75 percent of the next $15 of the accrual rate. The level of benefits guaranteed by the PBGC under the multiemployer program is modest and has not increased since 1980. For a retiree with 30 years of service, the maximum guaranteed annual benefit if $5,850. The maximum guarantee under the PBGC's single-employer program is adjusted each year to reflect changes in the social security wage index.

Reason for change

The level of benefits guaranteed by the PBGC under the multiemployer program is modest and has not increased since 1980.

Description of proposal

The proposal adjusts the amount guaranteed in multiemployer plans to account for changes in the social security wage index since 1980. Under the proposal, the PBGC would guarantee a monthly benefit equal to the participant's years of service multiplied by the sum of (i) 100 percent of the first $11 of the monthly benefit accrual rate, and (ii) 75 percent of the next $33 of the accrual rate. The proposed change would increase the maximum annual guarantee for a retiree with 30 years of service to $12,870.

Effective date

The proposal would be effective for benefits payable after the date of enactment of this Act, excluding benefits payable under a multiemployer plan that received assistance payments from the PBGC during the one-year period ending on the date of enactment of this Act.

6. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY

Current law

Section 502(1) was added to ERISA by the Omnibus Budget Reconciliation Act of 1989. In its current form, section 502(1) requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary responsibility under, or commits a violation of, Part 4 of Title I of ERISA, or any other person who knowingly participates in such a breach or violation. The penalty is a flat 20 percent of the ''applicable recovery amount'' that is paid pursuant to a settlement agreement with the Secretary or that a court orders to be paid in a judicial proceeding brought by the Secretary to enforce ERISA's fiduciary responsibility provisions. The Secretary may waive or reduce the penalty only if the Secretary finds in writing that either (1) the violator acted reasonably and in good faith, or (2) it is reasonable to expect that the violator cannot restore all the losses without severe financial hardship unless the waiver or reduction is granted.

Reson for change

Since its enactment, the section 502(1) penalty provision has discouraged voluntary, prompt settlements of fiduciary violations with the Department of Labor. This is because the Secretary of Labor was given little authority to reduce or waive the penalty in order to encourage prompt settlements with violators. Moreover, administration of the provision often raises difficult questions concerning whether a particular payment to a plan was made pursuant to a settlement agreement.

Description of proposal

The proposal would remove the current disincentive to settlement and encourage parties to quickly settle claims of violations that the Department brings to their attention. The proposal would give the Secretary of Labor full discretion to reduce or waive the penalty, and no penalty would be assessed on any amount recovered by a plan or by a participant or beneficiary within 30 days after the violator receives written notice of the violation from the Department of Labor. The Secretary would be given authority to extend the 30-day grace period.

The proposal would make all persons who are jointly and severally liable for a violation also jointly and severally liable for the penalty. The proposal also would clarify that the term ''applicable recovery amount'' includes payments by third parties that are made on behalf of the violator. This change would prevent avoidance of the penalty by having an unrelated third party pay the recovery amount.

Finally, when a penalty is contested, the proposal would give Administrative Law Judges the authority to decide both the existence of the underlying violation and the applicable recovery amount. This provision

would apply to any breach of fiduciary responsibility or other violation of Part 4 of Title I of ERISA occurring on or after enactment.

Effective date

(a) General effective date. The proposal would apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of enactment of this Act.

(b) Transition rule. Fiduciaries would have six months from the date of enactment to undo continuing violations without application of the amendments. Thereafter, all such violations would be treated as having begun after the effective date of the amendments for purposes of determining the applicable recovery amount.

7. BENEFIT SUSPENSION NOTICE

Current law

Pension plans must provide a ''Benefit Suspension Notice'' to retirees who have been receiving a pension who then decide to return to work for that same employer. These same notices are sent to employees who continue to work past normal retirement age. The plan must provide this notice during the first calendar month or payroll period after the employee reaches normal retirement age or the plan risks losing its tax exempt status.

Reason for change

The loss of tax exempt status is an excessive penalty for failure to give a notice to employees reaching normal retirement age. These ''Benefit Suspension Notices'' are often regarded by employees who choose to continue to work past normal retirement age either as a sign that the employer is trying to force them into retirement or as a notice that somehow the pension plan is being suspended. In either case, for the employee who continues to work, and does not expect to receive a pension, these notices are often cause for alarm. The benefit ''suspension'' notice for benefit payments that have not yet begun is irrational and should be discontinued.

Benefit Suspension Notices sent to retirees who return to work for their previous employer do not currently alert these workers to reductions in the rate of benefit accruals that may now apply to them because they are working past normal retirement age, the plan has been amended or terminated, or for other reasons. As a result, these workers may not be prepared for these lower accrual rates (or no accruals in the case of a terminated plan).

Description of proposal

The proposal would require that ''Benefit Suspension Notices'' be sent only to those pension plan beneficiaries who return to the workforce. Benefit Suspension Notices sent to a retiree returning to work for a previous employer, must include a statement that the rate of future benefit accruals may be reduced, if a reduced accrual rate could apply to the returning worker.

Effective date

The proposal would apply to plan years beginning after December 31, 2000.

SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 1999

WYDEN (AND CRAIG) AMENDMENT NO. 4302

Mr HAGEL (for Mr. WYDEN (for himself and Mr. CRAIG)) proposed an amendment to the bill (H.R. 2389) to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads, and other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Secure Rural Schools and Community Self-Determination Act of 2000''.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Conforming amendment.
TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LANDS
Sec. 101. Determination of full payment amount for eligible States and counties.
Sec. 102. Payments to States from National Forest Service lands for use by counties to benefit public education and transportation.
Sec. 103. Payments to counties from Bureau of Land Management lands for use to benefit public safety, law enforcement, education, and other public purposes.
TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS
Sec. 201. Definitions.
Sec. 202. General limitation on use of project funds.
Sec. 203. Submission of project proposals.
Sec. 204. Evaluation and approval of projects by Secretary concerned.
Sec. 205. Resource advisory committees.
Sec. 206. Use of project funds.
Sec. 207. Availability of project funds.
Sec. 208. Termination of authority.
TITLE III—COUNTY PROJECTS
Sec. 301. Definitions.
Sec. 302. Use of county funds.
Sec. 303. Termination of authority.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Authorization of appropriations.
Sec. 402. Treatment of funds and revenues.
Sec. 403. Regulations.
Sec. 404. Conforming amendments.
TITLE V—MINERAL REVENUE PAYMENTS CLARIFICATION
Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Amendment of the Mineral Leasing Act.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The National Forest System, which is managed by the United States Forest Service, was established in 1907 and has grown to include approximately 192,000,000 acres of Federal lands.

(2) The public domain lands known as revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands, which are managed predominantly by the Bureau of Land Management were returned to Federal ownership in 1916 and 1919 and now comprise approximately 2,600,000 acres of Federal lands.

(3) Congress recognized that, by its decision to secure these lands in Federal ownership, the counties in which these lands are situated would be deprived of revenues they would otherwise receive if the lands were held in private ownership.

(4) These same counties have expended public funds year after year to provide services, such as education, road construction and maintenance, search and rescue, law enforcement, waste removal, and fire protection, that directly benefit these Federal lands and people who use these lands.

(5) To accord a measure of compensation to the affected counties for the critical services they provide to both county residents and visitors to these Federal lands, Congress determined that the Federal Government should share with these counties a portion of the revenues the United States receives from these Federal lands.

(6) Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from National Forest System lands be paid to States for use by the counties in which the lands are situated for the benefit of public schools and roads.

(7) Congress enacted in 1937 and subsequently amended a law that requires that 75 percent of the revenues derived from the revested and reconveyed grant lands be paid to the counties in which those lands are situated to be used as are other county funds, of which 50 percent is to be used as other county funds.

(8) For several decades primarily due to the growth of the Federal timber sale program, counties dependent on and supportive of these Federal lands received and relied on increasing shares of these revenues to provide funding for schools and road maintenance.

(9) In recent years, the principal source of these revenues, Federal timber sales, has been sharply curtailed and, as the volume of timber sold annually from most of the Federal lands has decreased precipitously, so too have the revenues shared with the affected counties.

(10) This decline in shared revenues has affected educational funding and road maintenance for many counties.

(11) In the Omnibus Budget Reconciliation Act of 1993, Congress recognized this trend and ameliorated its adverse consequences by providing an alternative annual safety net payment to 72 counties in Oregon, Washington, and northern California in which Federal timber sales had been restricted or prohibited by administrative and judicial decisions to protect the northern spotted owl.

(12) The authority for these particular safety net payments is expiring and no comparable authority has been granted for alternative payments to counties elsewhere in the United States that have suffered similar losses in shared revenues from the Federal lands and in the funding for schools and roads those revenues provide.

(13) There is a need to stabilize education and road maintenance funding through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance, and stewardship of Federal lands.

(14) Both the Forest Service and the Bureau of Land Management face significant backlogs in infrastructure maintenance and ecosystem restoration that are difficult to address through annual appropriations.

(15) There is a need to build new, and strengthen existing, relationships and to improve management of public lands and waters.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To stabilize payments to counties to provide funding for schools and roads that supplements other available funds.

(2) To make additional investments in, and create additional employment opportunities through, projects that improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality. Such projects shall enjoy broad-based support with objectives that may include, but are not limited to—

(A) road, trail, and infrastructure maintenance or obliteration;

(B) soil productivity improvement;

(C) improvements in forest ecosystem health;

(D) watershed restoration and maintenance;

(E) restoration, maintenance and improvement of wildlife and fish habitat;

(F) control of noxious and exotic weeds; and

(G) reestablishment of native species.

(3) To improve cooperative relationships among the people that use and care for Federal lands and the agencies that manage these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LANDS.—The term ''Federal lands'' means—

(A) lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

(2) ELIGIBILITY PERIOD.—The term ''eligibility period'' means fiscal year 1986 through fiscal year 1999.

(3) ELIGIBLE COUNTY.—The term ''eligible county'' means a county that received 50-percent payments for one or more fiscal years of the eligibility period or a county that received a portion of an eligible State's 25-percent payments for one or more fiscal years of the eligibility period. The term includes a county established after the date of the enactment of this Act so long as the county includes all or a portion of a county described in the preceding sentence.

(4) ELIGIBLE STATE.—The term ''eligible State'' means a State that received 25-percent payments for one or more fiscal years of the eligibility period.

(5) FULL PAYMENT AMOUNT.—The term ''full payment amount'' means the amount calculated for each eligible State and eligible county under section 101.

(6) 25-PERCENT PAYMENT.—The term ''25-percent payment'' means the payment to States required by the sixth paragraph under the heading of ''FOREST SERVICE'' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

(7) 50-PERCENT PAYMENT.—The term ''50-percent payment'' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

(8) SAFETY NET PAYMENTS.—The term ''safety net payments'' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

SEC. 4. CONFORMING AMENDMENT.

Section 6903(a)(1)(C) of title 31, United States Code, is amended by inserting after ''(16 U.S.C. 500)'' the following: ''or the Secure Rural Schools and Community Self-Determination Act of 2000''.

TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LANDS

SEC. 101. DETERMINATION OF FULL PAYMENT AMOUNT FOR ELIGIBLE STATES AND COUNTIES.

(a) CALCULATION REQUIRED.—

(1) ELIGIBLE STATES.—For fiscal years 2001 through 2006, the Secretary of the Treasury shall calculate for each eligible State that received a 25-percent payment during the eligibility period an amount equal to the average of the three highest 25-percent payments and safety net payments made to that eligible State for the fiscal years of the eligibility period.

(2) BUREAU OF LAND MANAGEMENT COUNTIES.—For fiscal years 2001 through 2006, the Secretary of the Treasury shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the average of the three highest 50-percent payments and safety net payments made to that eligible county for the fiscal years of the eligibility period.

(b) ANNUAL ADJUSTMENT.—For each fiscal year in which payments are required to be made to eligible States and eligible counties under this title, the Secretary of the Treasury shall adjust the full payment amount for the previous fiscal year for each eligible State and eligible county to reflect 50 percent of the changes in the consumer price index for rural areas (as published in the Bureau of Labor Statistics) that occur after publication of that index for fiscal year 2000.

SEC. 102. PAYMENTS TO STATES FROM NATIONAL FOREST SYSTEM LANDS FOR USE BY COUNTIES TO BENEFIT PUBLIC EDUCATION AND TRANSPORTATION.

(a) PAYMENT AMOUNTS.—The Secretary of the Treasury shall pay an eligible State the sum of the amounts elected under subsection (b) by each eligible county for either—

(1) the 25-percent payment under the Act of May 23, 1908 (16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (16 U.S.C. 500); or

(2) the full payment amount in place of the 25-percent payment.

(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

(1) ELECTION; SUBMISSION OF RESULTS.—The election to receive either the full payment amount or the 25-percent payment shall be made at the discretion of each affected county and transmitted to the Secretary by the Governor of a State.

(2) DURATION OF ELECTION.—A county election to receive the 25-percent payment shall be effective for two fiscal years. When a county elects to receive the full payment amount, such election shall be effective for all the subsequent fiscal years through fiscal year 2006.

(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State under this section for a fiscal year shall be derived from any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, or special accounts, received by the Federal Government from activities by the Forest Service on the Federal lands described in section 3(1)(A) and to the extent of any shortfall, out of any funds in the Treasury not otherwise appropriated.

(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) shall distribute the payment among all eligible counties in the State in accordance with the Act of May 23, 1908 (16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to eligible counties shall be expended as required by the laws referred to in paragraph (1).

(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

(1) ALLOCATIONS.—

(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENTS.—If an eligible county elects to receive its share of the full payment amount, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments are required to be expended.

(B) ELECTION AS TO USE OF BALANCE.—An eligible county shall elect to do one or more of the following with the balance of the funds not expended pursuant to subparagraph (A):

(i) Reserve the balance for projects in accordance with title II.

(ii) Reserve the balance for projects in accordance with title III.

(iii) Return the balance to the General Treasury in accordance with section 402(b).

(2) DISTRIBUTION OF FUNDS.—

(A) TREATMENT OF TITLE II FUNDS.—Funds reserved by an eligible county under paragraph (1)(B)(i) shall be deposited in a special account in the Treasury of the United States and shall be available for expenditure by the Secretary of Agriculture, without further appropriation, and shall remain available until expended in accordance with title II.

(B) TREATMENT OF TITLE III FUNDS.—Funds reserved by an eligible county under paragraph (1)(B)(ii) shall be available for expenditure by the county and shall remain available, until expended, in accordance with title III.

(3) ELECTION.—

(A) IN GENERAL.—An eligible county shall notify the Secretary of Agriculture of its election under this subsection not later than September 30 of each fiscal year. If the eligible county fails to make an election by that date, the county is deemed to have elected to expend 85 percent of the funds to be received under this section in the same manner in which the 25-percent payments are required to be expended, and shall remit the balance to the Treasury of the United States in accordance with section 402(b).

(B) COUNTIES WITH MINOR DISTRIBUTIONS.—Notwithstanding any adjustment made pursuant to section 101(b) in the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to subsection (c)(1), the eligible county may elect to expend all such funds in accordance with subsection (c)(2).

(e) TIME FOR PAYMENT.—The payment to an eligible State under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

SEC. 103. PAYMENTS TO COUNTIES FROM BUREAU OF LAND MANAGEMENT LANDS FOR USE TO BENEFIT PUBLIC SAFETY, LAW ENFORCEMENT, EDUCATION, AND OTHER PUBLIC PURPOSES.

(a) PAYMENT.—The Secretary of the Treasury shall pay an eligible county either—

(1) the 50-percent payment under the Act of August 28, 1937 (43 U.S.C. 1181f), or the Act of May 24, 1939 (43 U.S.C. 1181f–1) as appropriate; or

(2) the full payment amount in place of the 50-percent payment.

(b) ELECTION TO RECEIVE FULL PAYMENT AMOUNT.—

(1) ELECTION; DURATION.—The election to receive the full payment amount shall be made at the discretion of the county. Once the election is made, it shall be effective for the fiscal year in which the election is made and all subsequent fiscal years through fiscal year 2006.

(2) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible county under this section for a fiscal year shall be derived from any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management on the Federal lands described in section 3(1)(B) and to the extent of any shortfall, out of any funds in the Treasury not otherwise appropriated.

(c) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

(1) ALLOCATIONS.—

(A) USE OF PORTION IN SAME MANNER AS 50-PERCENT PAYMENTS.—Of the funds to be paid to an eligible county pursuant to subsection (a)(2), not less than 80 percent, but not more than 85 percent, of the funds distributed to the eligible county shall be expended in the same manner in which the 50-percent payments are required to be expended.

(B) ELECTION AS TO USE OF BALANCE.—An eligible county shall elect to do one or more of the following with the balance of the funds not expended pursuant to subparagraph (A):

(i) Reserve the balance for projects in accordance with title II.

(ii) Reserve the balance for projects in accordance with title III.

(iii) Return the balance to the General Treasury in accordance with section 402(b).

(2) DISTRIBUTION OF FUNDS.—

(A) TREATMENT OF TITLE II FUNDS.—Funds reserved by an eligible county under paragraph (1)(B)(i) shall be deposited in a special account in the Treasury of the United States and shall be available for expenditure by the Secretary of the Interior, without further appropriation, and shall remain available until expended in accordance with title II.

(B) TREATMENT OF TITLE III FUNDS.—Funds reserved by an eligible county under paragraph (1)(B)(ii) shall be available for expenditure by the county and shall remain available, until expended, in accordance with title III.

(3) ELECTION.—An eligible county shall notify the Secretary of the Interior of its election under this subsection not later than September 30 of each fiscal year. If the eligible county fails to make an election by that date, the county is deemed to have elected to expend 85 percent of the funds received under subsection (a)(2) in the same manner in which the 50-percent payments are required to be expended and shall remit the balance to the Treasury of the United States in accordance with section 402(b).

(d) TIME FOR PAYMENT.—The payment to an eligible county under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS

SEC. 201. DEFINITIONS.

In this title:

(1) PARTICIPATING COUNTY.—The term ''participating county'' means an eligible county that elects under section 102(d)(1)(B)(i) or 103(c)(1)(B)(i) to expend a portion of the Federal funds received under section 102 or 103 in accordance with this title.

(2) PROJECT FUNDS.—The term ''project funds'' means all funds an eligible county elects under sections 102(d)(1)(B)(i) and 103(c)(1)(B)(i) to reserve for expenditure in accordance with this title.

(3) RESOURCE ADVISORY COMMITTEE.—The term ''resource advisory committee'' means an advisory committee established by the Secretary concerned under section 205, or determined by the Secretary concerned to meet the requirements of section 205.

(4) RESOURCE MANAGEMENT PLAN.—The term ''resource management plan'' means a land use plan prepared by the Bureau of Land Management for units of the Federal lands described in section 3(1)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal lands described in section 3(1)(A); and

(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal lands described in section 3(1)(B).

SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

Project funds shall be expended solely on projects that meet the requirements of this title. Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this title on Federal land and on non-Federal land where projects would benefit these resources on Federal land.

SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2001, and each September 30 thereafter for each succeeding fiscal year through fiscal year 2006, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

(1) The purpose of the project and a description of how the project will meet the purposes of this Act.

(2) The anticipated duration of the project.

(3) The anticipated cost of the project.

(4) The proposed source of funding for the project, whether project funds or other funds.

(5) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives, as well as an estimation of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

(6) A detailed monitoring plan, including funding needs and sources, that tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring. The monitoring plan shall include an assessment of the following: Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate; and whether the project improved the use of, or added value to, any products removed from lands consistent with the purposes of this Act.

(7) An assessment that the project is to be in the public interest.

(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2(b).

SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

(1) The project complies with all applicable Federal laws and regulations.

(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of such section.

(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

(b) ENVIRONMENTAL REVIEWS.—

(1) PAYMENT OF REVIEW COSTS.—

(A) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project. When such a payment is requested and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal law and regulations.

(B) EFFECT OF REFUSAL TO PAY.—If a resource advisory committee does not agree to the expenditure of funds under subparagraph (A), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title. Such a withdrawal shall be deemed to be a rejection of the project for purposes of section 207(c).

(c) DECISIONS OF SECRETARY CONCERNED.—

(1) REJECTION OF PROJECTS.—A decision by the Secretary concerned to reject a proposed

project shall be at the Secretary's sole discretion. Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review. Within 30 days after making the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if such notice would be required had the project originated with the Secretary.

(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, it shall be deemed a Federal action for all purposes.

(e) IMPLEMENTATION OF APPROVED PROJECTS.—

(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

(2) BEST VALUE CONTRACTING.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis. The Secretary concerned shall determine best value based on such factors as:

(A) The technical demands and complexity of the work to be done.

(B) The ecological objectives of the project and the sensitivity of the resources being treated.

(C) The past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions.

(D) The commitment of the contractor to hiring highly qualified workers and local residents.

(3) MERCHANTABLE MATERIAL CONTRACTING PILOT PROGRAM.—

(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable material using separate contracts for—

(i) the harvesting or collection of merchantable material; and

(ii) the sale of such material.

(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale merchantable material are implemented using separate contracts:

(i) For fiscal year 2001, 15 percent.

(ii) For fiscal year 2002, 25 percent.

(iii) For fiscal year 2003, 25 percent.

(iv) For fiscal year 2004, 50 percent.

(v) For fiscal year 2005, 50 percent.

(vi) For fiscal year 2006, 50 percent.

(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable material shall be made by the Secretary concerned after the approval of the project under this title.

(D) ASSISTANCE.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal lands to assist in the administration of projects conducted under the pilot program. The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

(E) REVIEW AND REPORT.—Not later than September 30, 2003, the Comptroller General shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Energy and Natural Resources of the Senate, the Committee on Agriculture of the House of Representatives, and the Committee on Resources of the House of Representatives a report assessing the pilot program. The Secretary concerned shall submit to such committees an annual report describing the results of the pilot program.

(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

(1) to road maintenance, decommissioning, or obliteration; or

(2) to restoration of streams and watersheds.

SEC. 205. RESOURCE ADVISORY COMMITTEES.

(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

(2) PURPOSE.—The purpose of a resource advisory committee shall be to improve collaborative relationships and to provide advice and recommendations to the land management agencies consistent with the purposes of this Act.

(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or one or more, units of Federal lands.

(4) EXISTING ADVISORY COMMITTEES.—Existing advisory committees meeting the requirements of this section may be deemed by the Secretary concerned, as a resource advisory committee for the purposes of this title. The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

(b) DUTIES.—A resource advisory committee shall—

(1) review projects proposed under this title by participating counties and other persons;

(2) propose projects and funding to the Secretary concerned under section 203;

(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title; and

(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title.

(c) APPOINTMENT BY THE SECRETARY.—

(1) APPOINTMENT AND TERM.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 3 years beginning on the date of appointment. The Secretary concerned may reappoint members to subsequent 3-year terms.

(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

(3) INITIAL APPOINTMENT.—The Secretary concerned shall make initial appointments to the resource advisory committees not later than 180 days after the date of the enactment of this Act.

(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

(d) COMPOSITION OF ADVISORY COMMITTEE.—

(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following three categories:

(A) 5 persons who—

(i) represent organized labor;

(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

(iii) represent energy and mineral development interests;

(iv) represent the commercial timber industry; or

(v) hold Federal grazing permits, or other land use permits within the area for which the committee is organized.

(B) 5 persons representing—

(i) nationally recognized environmental organizations;

(ii) regionally or locally recognized environmental organizations;

(iii) dispersed recreational activities;

(iv) archaeological and historical interests; or

(v) nationally or regionally recognized wild horse and burro interest groups.

(C) 5 persons who—

(i) hold State elected office or their designee;

(ii) hold county or local elected office;

(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

(iv) are school officials or teachers; or

(v) represent the affected public at large.

(3) BALANCED REPRESENTATION.—In appointing committee members from the three categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

(e) APPROVAL PROCEDURES.—(1) Subject to paragraph (2), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title. A quorum must be present to constitute an official meeting of the committee.

(2) A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if it has been approved by a majority of members of the committee from each of the three categories in subsection (d)(2).

(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at

least one week in advance in a local newspaper of record and shall be open to the public.

(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

SEC. 206. USE OF PROJECT FUNDS.

(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

(A) The schedule for completing the project.

(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the Secretary's sole discretion, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

(b) TRANSFER OF PROJECT FUNDS.—

(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System lands or BLM District an amount of project funds equal to—

(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System lands or BLM District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System lands or BLM District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a). The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

SEC. 207. AVAILABILITY OF PROJECT FUNDS.

(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30 of each fiscal year through fiscal year 2006, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

(d) EFFECT OF COURT ORDERS.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to that project to the participating county or counties that reserved the funds. The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under section 102(d)(1)(B)(i) or 103(c)(1)(B)(i), whichever applies to the funds involved.

SEC. 208. TERMINATION OF AUTHORITY.

The authority to initiate projects under this title shall terminate on September 30, 2006. Any project funds not obligated by September 30, 2007, shall be deposited in the Treasury of the United States.

TITLE III—COUNTY PROJECTS

SEC. 301. DEFINITIONS.

In this title:

(1) PARTICIPATING COUNTY.—The term ''participating county'' means an eligible county that elects under section 102(d)(1)(B)(ii) or 103(c)(1)(B)(ii) to expend a portion of the Federal funds received under section 102 or 103 in accordance with this title.

(2) COUNTY FUNDS.—The term ''county funds'' means all funds an eligible county elects under sections 102(d)(1)(B)(ii) and 103(c)(1)(B)(ii) to reserve for expenditure in accordance with this title.

SEC. 302. USE OF COUNTY FUNDS.

(a) LIMITATION ON COUNTY FUND USE.—County funds shall be expended solely on projects that meet the requirements of this title. A project under this title shall be approved by the participating county only following a 45-day public comment period, at the beginning of which the county shall—

(1) publish a description of the proposed project in the publications of local record; and

(2) send the proposed project to the appropriate resource advisory committee established under section 205, if one exists for the county.

(b) AUTHORIZED USES.—

(1) SEARCH, RESCUE, AND EMERGENCY SERVICES.—An eligible county or applicable sheriff's department may use these funds as reimbursement for search and rescue and other emergency services, including fire fighting, performed on Federal lands and paid for by the county.

(2) COMMUNITY SERVICE WORK CAMPS.—An eligible county may use these funds as reimbursement for all or part of the costs incurred by the county to pay the salaries and benefits of county employees who supervise adults or juveniles performing mandatory community service on Federal lands.

(3) EASEMENT PURCHASES.—An eligible county may use these funds to acquire—

(A) easements, on a willing seller basis, to provide for nonmotorized access to public lands for hunting, fishing, and other recreational purposes;

(B) conservation easements; or

(C) both.

(4) FOREST RELATED EDUCATIONAL OPPORTUNITIES.—A county may use these funds to establish and conduct forest-related after school programs.

(5) FIRE PREVENTION AND COUNTY PLANNING.—A county may use these funds for—

(A) efforts to educate homeowners in fire-sensitive ecosystems about the consequences of wildfires and techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires; and

(B) planning efforts to reduce or mitigate the impact of development on adjacent Federal lands and to increase the protection of people and property from wildfires.

(6) COMMUNITY FORESTRY.—A county may use these funds towards non-Federal cost-share requirements of section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105).

SEC. 303. TERMINATION OF AUTHORITY.

The authority to initiate projects under this title shall terminate on September 30, 2006. Any county funds not obligated by September 30, 2007 shall be available to be expended by the county for the uses identified in section 302(b).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal years 2001 through 2006.

SEC. 402. TREATMENT OF FUNDS AND REVENUES.

(a) RELATION TO OTHER APPROPRIATIONS.—Funds appropriated pursuant to the authorization of appropriations in section 401 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, any funds remitted by counties pursuant to section 102(d)(1)(B)(iii) or section 103(c)(1)(B)(iii), and any interest accrued from such funds shall be deposited in the Treasury of the United States.

SEC. 403. REGULATIONS.

The Secretaries concerned may jointly issue regulations to carry out the purposes of this Act.

SEC. 404. CONFORMING AMENDMENTS.

Sections 13982 and 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note) are repealed.

TITLE V—MINERAL REVENUE PAYMENTS CLARIFICATION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Mineral Revenue Payments Clarification Act of 2000''.

SEC. 502. FINDINGS.

The Congress finds the following:

(1) Section 10201 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 407) amended section 35 of the Mineral Leasing Act (30 U.S.C. 191) to change the sharing of onshore mineral revenues and revenues from geothermal steam from a 50:50 split between the Federal Government and the States to a complicated formula that entailed deducting from the State share of leasing revenues ''50 percent of the portion of the enacted appropriations of the Department of the Interior and any other agency

during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws . . .''.

(2) There is no legislative record to suggest a sound public policy rationale for deducting prior-year administrative expenses from the sharing of current-year receipts, indicating that this change was made primarily for budget scoring reasons.

(3) The system put in place by this change in law has proved difficult to administer and has given rise to disputes between the Federal Government and the States as to the nature of allocable expenses. Federal accounting systems have proven to be poorly suited to breaking down administrative costs in the manner required by the law. Different Federal agencies implementing this law have used varying methodologies to identify allocable costs, resulting in an inequitable distribution of costs during fiscal years 1994 through 1996. In November 1997, the Inspector General of the Department of the Interior found that ''the congressionally approved method for cost sharing deductions effective in fiscal year 1997 may not accurately compute the deductions''.

(4) Given the lack of a substantive rationale for the 1993 change in law and the complexity and administrative burden involved, a return to the sharing formula prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 is justified.

SEC. 503. AMENDMENT OF THE MINERAL LEASING ACT.

Section 35(b) of the Mineral Leasing Act (30 U.S.C. 191(b)) is amended to read as follows:

''(b) In determining the amount of payments to the States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.''.

TITLE VI—COMMUNITY FOREST RESTORATION

SECTION 601. SHORT TITLE.

This title may be cited as the ''Community Forest Restoration Act''.

SEC. 602. FINDINGS.

The Congress finds the following:

(1) A century of fire suppression, logging, and livestock grazing has altered the ecological balance of New Mexico's forests.

(2) Some forest lands in New Mexico contain an unnaturally high number of small diameter trees that are subject to large, high intensity wildfires that can endanger human lives, livelihoods, and ecological stability.

(3) Forest lands that contain an unnaturally high number of small diameter trees have reduced biodiversity and provide fewer benefits to human communities, wildlife, and watersheds.

(4) Healthy and productive watersheds minimize the threat of large, high intensity wildfires, provide abundant and diverse wildlife habitat, and produce a variety of timber and non-timber products including better quality water and increased water flows.

(5) Restoration efforts are more successful when there is involvement from neighboring communities and better stewardship will evolve from more diverse involvement.

(6) Designing demonstration restoration projects through a collaborative approach may—

(A) lead to the development of cost effective restoration activities;

(B) empower diverse organizations to implement activities which value local and traditional knowledge;

(c) build ownership and civil pride; and

(D) ensure healthy, diverse, and productive forests and watersheds.

SEC. 603. PURPOSES.

The purposes of this title are—

(1) to promote healthy watersheds and reduced the threat of large, high intensity wildfires, insect infestation, and disease in the forests in New Mexico;

(2) to improve the functioning of forest ecosystems and enhance plant and wildlife biodiversity by reducing the unnaturally high number and density of small diameter trees on Federal, Tribal, State, County, and Municipal, forest lands;

(3) to improve communication and joint problem solving among individuals and groups who are interested in restoring the diversity and productivity of forested watersheds in New Mexico;

(4) to improve the use of, or add value to, small diameter trees;

(5) to encourage sustainable communities and sustainable forests through collaborative partnerships whose objectives are forest restoration; and

(6) to develop, demonstrate, and evaluate ecologically sound forest restoration techniques.

SEC. 604. DEFINITIONS.

As used in this title—

(1) the term 'Secretary' means the Secretary of Agriculture acting through the Chief of the Forest Service; and

(2) the term 'stakeholder' includes: tribal governments, educational institutions, landowners, and other interested public and private entities.

SEC. 605. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall establish a cooperative forest restoration program in New Mexico in order to provide cost-share grants to stakeholders for experimental forest restoration projects that are designed through a collaborative process (hereinafter referred to as the 'Collaborative Forest Restoration Program'). The projects may be entirely on, or on any combination of, Federal, Tribal, State, County, or Municipal forest lands. The Federal share of an individual project cost shall not exceed eighty percent of the total costs. The twenty percent matching may be in the form of cash or in-kind contribution.

(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive funding under this title, a project shall—

(1) address the following objectives—

(A) reduce the threat of large, high intensity wildfires and the negative effects of excessive competition between trees by restoring ecosystem functions, structures, and species composition, including the reduction of non-native species populations;

(B) re-establish fire regimes approximating those that shaped forest ecosystems prior to fire suppression;

(C) preserve old and large trees;

(D) replant trees in deforested areas if they exist in the proposed project area; and

(E) improve the use of, or add value to, small diameter trees;

(2) comply with all Federal and State environmental laws;

(3) include a diverse and balanced group of stakeholders as well as appropriate Federal, Tribal, State County, and Municipal government representatives in the design, implemention, and monitoring of the project;

(4) incorporate current scientific forest restoration information; and

(5) include a multi-party assessment to—

(A) identify both the existing ecological condition of the proposed project area and the desired future condition; and

(B) report, upon project completion, on the positive or negative impact and effectiveness of the project including improvements in local management skills and on the ground results;

(6) create local employment or training opportunities within the context of accomplishing restoration objectives, that are consistent with the purposes of this title, including summer youth jobs programs such as the Youth Conservation Corps where appropriate;

(7) not exceed four years in length;

(8) not exceed a total annual cost of $150,000, with the Federal portion not exceeding $120,000 annually, nor exceed a total cost of $450,000 for the project, with the Federal portion of the total cost not exceeding $360,000;

(9) leverage Federal funding through in-kind or matching contributions; and

(10) include an agreement by each stakeholder to attend an annual workshop with other stakeholders for the purpose of discussing the cooperative forest restoration program and projects implemented under this title. The Secretary shall coordinate and fund the annual workshop. Stakeholders may use funding for projects authorized under this title to pay for their travel and per diem expenses to attend the workshop.

SEC. 606. SELECTION PROCESS.

(a) After consulting with the technical advisory panel established in subsection (b), the Secretary shall select the proposals that will receive funding through the Collaborative Forest Restoration Program.

(b) The Secretary shall convene a technical advisory panel to evaluate the proposals for forest restoration grants and provide recommendations regarding which proposals would best meet the objectives of the Collaborative Forest Restoration Program. The technical advisory panel shall consider eligibility criteria established in section 605, the effect on long term management, and seek to use a consensus-based decision making process to develop such recommendations. The panel shall be composed of 12 to 15 members, to be appointed by the Secretary as follows:

(1) A State Natural Resource official from the State of New Mexico.

(2) At least two representatives from Federal land management agencies.

(3) At least one tribal or pueblo representative.

(4) At least two independent scientists with experience in forest ecosystem restoration.

(5) Equal representation from—

(A) conservation interests;

(B) local communities; and

(C) commodity interests.

SEC. 607. MONITORING AND EVALUATION.

The Secretary shall establish a multi-party monitoring and evaluation process in order to assess the cumulative accomplishments or adverse impacts of the Collaborative Forest Restoration Program. The Secretary shall include any interested individual or organization in the monitoring and evaluation process. The Secretary also shall conduct a monitoring program to assess the short and long term ecological effects of the restoration treatments, if any, or a minimum of 15 years.

SEC. 608. REPORT.

No later than five years after the first fiscal year in which funding is made available for this program, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The report shall include an assessment on whether, and to what extent, the projects funded pursuant to this title are meeting the purposes of the Collaborative Forest Restoration Program.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 annually to carry out this title.

COLORADO UTE SETTLEMENT ACT OF 2000

CAMPBELL (AND ALLARD) AMENDMENT NO. 4303

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill (S. 2508) to amend the Colorado Ute Indian Water Rights Settlement Act of 1988 to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDINGS; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Colorado Ute Settlement Act Amendments of 2000''.

(b) FINDINGS.—Congress makes the following findings:

(1) In order to provide for a full and final settlement of the claims of the Colorado Ute Indian Tribes on the Animas and La Plata Rivers, the Tribes, the State of Colorado, and certain of the non-Indian parties to the Agreement have proposed certain modifications to the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(2) The claims of the Colorado Ute Indian Tribes on all rivers in Colorado other than the Animas and La Plata Rivers have been settled in accordance with the provisions of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(3) The Indian and non-Indian communities of southwest Colorado and northwest New Mexico will be benefited by a settlement of the tribal claims on the Animas and La Plata Rivers that provides the Tribes with a firm water supply without taking water away from existing uses.

(4) The Agreement contemplated a specific timetable for the delivery of irrigation and municipal and industrial water and other benefits to the Tribes from the Animas-La Plata Project, which timetable has not been met. The provision of irrigation water can not presently be satisfied under the current implementation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(5) In order to meet the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and in particular the various biological opinions issued by the Fish and Wildlife Service, the amendments made by this Act are needed to provide for a significant reduction in the facilities and water supply contemplated under the Agreement.

(6) The substitute benefits provided to the Tribes under the amendments made by this Act, including the waiver of capital costs and the provisions of funds for natural resource enhancement, result in a settlement that provides the Tribes with benefits that are equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(7) The requirement that the Secretary of the Interior comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other national environmental laws before implementing the proposed settlement will ensure that the satisfaction of the tribal water rights is accomplished in an environmentally responsible fashion.

(8) In considering the full range of alternatives for satisfying the water rights claims of the Southern Ute Indian Tribe and Ute Mountain Ute Indian Tribe, Congress has held numerous legislative hearings and deliberations, and reviewed the considerable record including the following documents:

(A) The Final EIS No. INT–FES–80–18, dated July 1, 1980.

(B) The Draft Supplement to the FES No. INT–DES–92–41, dated October 13, 1992.

(C) The Final Supplemental to the FES No. 96–23, dated April 26, 1996;

(D) The Draft Supplemental EIS, dated January 14, 2000.

(E) The Final Supplemental EIS, dated July 2000.

(F) The Record of Decision for the Settlement of the Colorado Ute Indian Waters, September 25, 2000.

(9) In the Record of Decision referred to in paragraph (8)(F), the Secretary determined that the preferred alternative could only proceed if Congress amended the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973) so as to satisfy the Tribal water rights claim through the construction of the features authorized by this Act. The amendments to the Colorado Ute Indian Water Rights Settlement Act of 1988 set forth in this Act will provide the Ute Tribes with substitute benefits equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988, in a manner consistent with paragraph (8) and the Federal Government's trust obligation.

(10) Based upon paragraph (8), it is the intent of Congress to enact legislation that implements the Record of Decision referred to in paragraph (8)(F).

(c) DEFINITIONS.—In this Act:

(1) AGREEMENT.—The term ''Agreement'' has the meaning given that term in section 3(1) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(2) ANIMAS-LA PLATA PROJECT.—The term ''Animas-La Plata Project'' has the meaning given that term in section 3(2) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(3) DOLORES PROJECT.—The term ''Dolores Project'' has the meaning given that term in section 3(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2974).

(4) TRIBE; TRIBES.—The term ''Tribe'' or ''Tribes'' has the meaning given that term in section 3(6) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2974).

SEC. 2. AMENDMENTS TO SECTION 6 OF THE COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988.

Subsection (a) of section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2975) is amended to read as follows:

''(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—

''(1) FACILITIES.—

''(A) IN GENERAL.—After the date of enactment of this subsection, but prior to January 1, 2005, or the date established in the Amended Final Decree described in section 18(c), the Secretary, in order to settle the outstanding claims of the Tribes on the Animas and La Plata Rivers, acting through the Bureau of Reclamation, is specifically authorized to—

''(i) complete construction of, and operate and maintain, a reservoir, a pumping plant, a reservoir inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the Animas River to provide for an average annual depletion of 57,100 acre-feet of water to be used for a municipal and industrial water supply, which facilities shall—

''(I) be designed and operated in accordance with the hydrologic regime necessary for the recovery of the endangered fish of the San Juan River as determined by the San Juan River Recovery Implementation Program;

''(II) be operated in accordance with the Animas-La Plata Project Compact as approved by Congress in Public Law 90-537;

''(III) include an inactive pool of an appropriate size to be determined by the Secretary following the completion of required environmental compliance activities; and

''(IV) include those recreation facilities determined to be appropriate by agreement between the State of Colorado and the Secretary that shall address the payment of any of the costs of such facilities by the State of Colorado in addition to the costs described in paragraph (3); and

''(ii) deliver, through the use of the project components referred to in clause (i), municipal and industrial water allocations—

''(I) with an average annual depletion not to exceed 16,525 acre-feet of water, to the Southern Ute Indian Tribe for its present and future needs;

''(II) with an average annual depletion not to exceed 16,525 acre-feet of water, to the Ute Mountain Ute Indian Tribe for its present and future needs;

''(III) with an average annual depletion not to exceed 2,340 acre-feet of water, to the Navajo Nation for its present and future needs;

''(IV) with an average annual depletion not to exceed 10,400 acre-feet of water, to the San Juan Water Commission for its present and future needs;

''(V) with an average annual depletion of an amount not to exceed 2,600 acre-feet of water, to the Animas-La Plata Conservancy District for its present and future needs;

''(VI) with an average annual depletion of an amount not to exceed 5,230 acre-feet of water, to the State of Colorado for its present and future needs; and

''(VII) with an average annual depletion of an amount not to exceed 780 acre-feet of water, to the La Plata Conservancy District of New Mexico for its present and future needs.

''(B) APPLICABILITY OF OTHER FEDERAL LAW.—The responsibilities of the Secretary described in subparagraph (A) are subject to the requirements of Federal laws related to the protection of the environment and otherwise applicable to the construction of the proposed facilities, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Water Act (42 U.S.C. 7401 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Nothing in this Act shall be construed to predetermine or otherwise affect the outcome of any analysis conducted by the Secretary or any other Federal official under applicable laws.

''(C) LIMITATION.—

''(i) IN GENERAL.—If constructed, the facilities described in subparagraph (A) shall constitute the Animas-La Plata Project. Construction of any other project features authorized by Public Law 90-537 shall not be commenced without further express authorization from Congress.

''(ii) CONTINGENCY IN APPLICATION.—If the facilities described in subparagraph (A) are not constructed and operated, clause (i) shall not take effect.

''(2) TRIBAL CONSTRUCTION COSTS.—Construction costs allocable to the facilities that are required to deliver the municipal and industrial water allocations described in subclauses (I), (II) and (III) of paragraph (1)(A)(ii) shall be nonreimbursable to the United States.

''(3) NONTRIBAL WATER CAPITAL OBLIGATIONS.—

''(A) IN GENERAL.—Under the provisions of section 9 of the Act of August 4, 1939 (43 U.S.C. 485h), the nontribal municipal and industrial water capital repayment obligations for the facilities described in paragraph (1)(A)(i) may be satisfied upon the payment in full of the nontribal water capital obligations prior to the initiation of construction. The amount of the obligations described in the preceding sentence shall be determined by agreement between the Secretary of the Interior and the entity responsible for such repayment as to the appropriate reimbursable share of the construction costs allocated to that entity's municipal water storage. Such repayment shall be consistent with Federal reclamation law, including the Colorado River Storage Project Act of 1956 (43 U.S.C. 620 et seq.). Such agreement shall take into account the fact that the construction of certain project facilities, including those facilities required to provide irrigation water supplies from the Animas-La Plata Project, is not authorized under paragraph (1)(A)(i) and no costs associated with the design or development of such facilities, including costs associated with environmental compliance, shall be allocable to the municipal and industrial users of the facilities authorized under such paragraph.

''(B) NONTRIBAL REPAYMENT OBLIGATION SUBJECT TO FINAL COST ALLOCATION.—The nontribal repayment obligation set forth in subparagraph (A) shall be subject to a final cost allocation by the Secretary upon project completion. In the event that the final cost allocation indicates that additional repayment is warranted based on the applicable entity's share of project water storage and determination of overall reimbursable cost, that entity may elect to enter into a new agreement to make the additional payment necessary to secure the full water supply identified in paragraph (1)(A)(ii). If the repayment entity elects not to enter into a new agreement, the portion of project storage relinquished by such election shall be available to the Secretary for allocation to other project purposes. Additional repayment shall only be warranted for reasonable and unforeseen costs associated with project construction as determined by the Secretary in consultation with the relevant repayment entities.

''(C) REPORT.—Not later than April 1, 2001, the Secretary shall report to Congress on the status of the cost-share agreements contemplated in subparagraph (A). In the event that no agreement is reached with either the Animas-La Plata Conservancy District or the State of Colorado for the water allocations set forth in subclauses (V) and (VI) of paragraph (1)(A)(ii), those allocations shall be reallocated equally to the Colorado Ute Tribes.

''(4) TRIBAL WATER ALLOCATIONS.—

''(A) IN GENERAL.—With respect to municipal and industrial water allocated to a Tribe from the Animas-La Plata Project or the Dolores Project, until that water is first used by a Tribe or used pursuant to a water use contract with the Tribe, the Secretary shall pay the annual operation, maintenance, and replacement costs allocable to that municipal and industrial water allocation of the Tribe.

''(B) TREATMENT OF COSTS.—A Tribe shall not be required to reimburse the Secretary for the payment of any cost referred to in subparagraph (A).

''(5) REPAYMENT OF PRO RATA SHARE.—Upon a Tribe's first use of an increment of a municipal and industrial water allocation described in paragraph (4), or the Tribe's first use of such water pursuant to the terms of a water use contract—

''(A) repayment of that increment's pro rata share of those allocable construction costs for the Dolores Project shall be made by the Tribe; and

''(B) the Tribe shall bear a pro rata share of the allocable annual operation, maintenance, and replacement costs of the increment as referred to in paragraph (4).''.

SEC. 3. MISCELLANEOUS.

The Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973) is amended by adding at the end the following:

''SEC. 15. NEW MEXICO AND NAVAJO NATION WATER MATTERS.

''(a) ASSIGNMENT OF WATER PERMIT.—Upon the request of the State Engineer of the State of New Mexico, the Secretary shall, as soon as practicable, in a manner consistent with applicable law, assign, without consideration, to the New Mexico Animas-La Plata Project beneficiaries or to the New Mexico Interstate Stream Commission in accordance with the request of the State Engineer, the Department of the Interior's interest in New Mexico State Engineer Permit Number 2883, dated May 1, 1956, in order to fulfill the New Mexico non-Navajo purposes of the Animas-La Plata Project, so long as the permit assignment does not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to the use of the water involved.

''(b) NAVAJO NATION MUNICIPAL PIPELINE.—The Secretary is specifically authorized to construct a water line to augment the existing system that conveys the municipal water supplies, in an amount not less than 4,680 acre-feet per year, to the Navajo Indian Reservation at or near Shiprock, New Mexico. The Secretary shall comply with all applicable environmental laws with respect to such water line. Construction costs allocated to the Navajo Nation for such water line shall be nonreimbursable to the United States.

''(c) PROTECTION OF NAVAJO WATER CLAIMS.—Nothing in this Act, including the permit assignment authorized by subsection (a), shall be construed to quantify or otherwise adversely affect the water rights and the claims of entitlement to water of the Navajo Nation.

''SEC. 16. RESOURCE FUNDS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2002 through 2006. Not later than 60 days after amounts are appropriated and available to the Secretary for a fiscal year under this paragraph, the Secretary shall make a payment to each of the Tribal Resource Funds established under subsection (b). Each such payment shall be equal to 50 percent of the amount appropriated for the fiscal year involved.

''(b) FUNDS.—The Secretary shall establish a—

''(1) Southern Ute Tribal Resource Fund; and

''(2) Ute Mountain Ute Tribal Resource Fund.

''(c) TRIBAL DEVELOPMENT.—

''(1) INVESTMENT.—The Secretary shall, in the absence of an approved tribal investment plan provided for under paragraph (2), invest the amount in each Tribal Resource Fund established under subsection (b) in accordance with the Act entitled, 'An Act to authorize the deposit and investment of Indian funds' approved June 24, 1938 (25 U.S.C. 162a). With the exception of the funds referred to in paragraph (3)(B)(i), the Secretary shall disburse, at the request of a Tribe, the principal and income in its Resource Fund, or any part thereof, in accordance with a resource acquisition and enhancement plan approved under paragraph (3).

''(2) INVESTMENT PLAN.—

''(A) IN GENERAL.—In lieu of the investment provided for in paragraph (1), a Tribe may submit a tribal investment plan applicable to all or part of the Tribe's Tribal Resource Fund, except with respect to the funds referred to in paragraph (3)(B)(i).

''(B) APPROVAL.—Not later than 60 days after the date on which an investment plan is submitted under subparagraph (A), the Secretary shall approve such investment plan if the Secretary finds that the plan is reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Resource Fund involved shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan, subject to subsection (d).

''(C) COMPLIANCE.—The Secretary may take such steps as the Secretary determines to be necessary to monitor the compliance of a Tribe with an investment plan approved under subparagraph (B). The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds.

''(D) ECONOMIC DEVELOPMENT PLAN.—The principal and income derived from tribal investments under an investment plan approved under subparagraph (B) shall be subject to the provisions of this section and shall be expended only in accordance with an economic development plan approved under paragraph (3)(B).

''(3) ECONOMIC DEVELOPMENT PLAN.—

''(A) IN GENERAL.—Each Tribe shall submit to the Secretary a resource acquisition and enhancement plan for all or any portion of its Tribal Resource Fund.

''(B) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under subparagraph (A), the Secretary shall approve such plan if it is consistent with the following requirements:

''(i) With respect to at least ¾ of the funds appropriated pursuant to this section and consistent with the long-standing practice of the Tribes and other local entities and communities to work together to use their respective water rights and resources for mutual benefit, at least ¾ of the funds appropriated pursuant to this section shall be utilized to enhance, restore, and utilize the Tribes' natural resources in partnership with adjacent non-Indian communities or entities in the area.

''(ii) The plan must be reasonably related to the protection, acquisition, enhancement, or development of natural resources for the benefit of the Tribe and its members.

''(iii) Notwithstanding any other provision of law and in order to ensure that the Federal Government fulfills the objectives of the Record of Decision referred to in section 1(b)(8)(F) of the Colorado Ute Settlement Act Amendments of 2000 by requiring that the funds referred to in clause (i) are expended directly by employees of the Federal Government, the Secretary acting through the Bureau of Reclamation shall expend not less than ⅓ of the funds referred to in clause (i) for municipal or rural water development and not less than ⅔ of the funds referred to

such clause for resource acquisition and enhancement.

''(C) MODIFICATION.—Subject to the provisions of this Act and the approval of the Secretary, each Tribe may modify a plan approved under subparagraph (B).

''(D) LIABILITY.—The United States shall not be directly or indirectly liable for any claim or cause of action arising from the approval of a plan under this paragraph, or from the use and expenditure by the Tribe of the principal or interest of the Funds.

''(d) LIMITATION ON PER CAPITA DISTRIBUTIONS.—No part of the principal contained in the Tribal Resource Fund, or of the income accruing to such funds, or the revenue from any water use contract, shall be distributed to any member of either Tribe on a per capita basis.

''(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because the requirements of subsection (c) are not complied with or implemented.

''(f) LIMITATION ON DISBURSEMENT OF TRIBAL RESOURCE FUNDS.—Any funds appropriated under this section shall be placed into the Southern Ute Tribal Resource Fund and the Ute Mountain Ute Tribal Resource Fund in the Treasury of the United States but shall not be available for disbursement under this section until the final settlement of the tribal claims as provided in section 18. The Secretary of the Interior may, in the Secretary's sole discretion, authorize the disbursement of funds prior to the final settlement in the event that the Secretary determines that substantial portions of the settlement have been completed. In the event that the funds are not disbursed under the terms of this section by December 31, 2012, such funds shall be deposited in the general fund of the Treasury.

''SEC. 17. COLORADO UTE SETTLEMENT FUND.

''(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States a fund to be known as the 'Colorado Ute Settlement Fund'.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Colorado Ute Settlement Fund such funds as are necessary to complete the construction of the facilities described in sections 6(a)(1)(A) and 15(b) within 7 years of the date of enactment of this section. Such funds are authorized to be appropriated for each of the first 5 fiscal years beginning with the first full fiscal year following the date of enactment of this section.

''SEC. 18. FINAL SETTLEMENT.

''(a) IN GENERAL.—The construction of the facilities described in section 6(a)(1)(A), the allocation of the water supply from those facilities to the Tribes as described in that section, and the provision of funds to the Tribes in accordance with section 16 and the issuance of an amended final consent decree as contemplated in subsection (c) shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers in the State of Colorado.

''(b) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the right of the Tribes to water rights on the streams and rivers described in the Agreement, other than the Animas and La Plata Rivers, to receive the amounts of water dedicated to tribal use under the Agreement, or to acquire water rights under the laws of the State of Colorado.

''(c) ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall file with the District Court, Water Division Number 7, of the State of Colorado, such instruments as may be necessary to request the court to amend the final consent decree to provide for the amendments made to this Act under the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000. The amended final consent decree shall specify terms and conditions to provide for an extension of the current January 1, 2005, deadline for the Tribes to commence litigation of their reserved rights claims on the Animas and La Plata Rivers.

''SEC. 19. STATUTORY CONSTRUCTION; TREATMENT OF CERTAIN FUNDS.

''(a) IN GENERAL.—Nothing in the amendments made by the Colorado Ute Settlement Act Amendments of 2000 shall be construed to affect the applicability of any provision of this Act.

''(b) TREATMENT OF UNCOMMITTED PORTION OF COST-SHARING OBLIGATION.—The uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in section 6(a)(3) shall be made available, upon the request of the State of Colorado, to the State of Colorado after the date on which payment is made of the amount specified in that section.''.

● Mr. CAMPBELL. Mr. President, today I am submitting an amendment which supercedes S. 2508, legislation I introduced earlier this year to provide for the final settlement of the Colorado Ute Indians Water Rights Settlement Act of 1988. I am proud to have my colleague Senator WAYNE ALLARD as an original cosponsor of this legislation.

These amendments come after prolonged negotiations with officials of the Department of Interior, the Tribes and other parties to this agreement. It is our last opportunity to fulfill our treaty obligations and prevent the Tribes from suing the federal government for the water they were promised more than 12 years ago.

I am aware of the precious little time we have left in this session and the huge legislative task we have with the remaining important legislation which remains on our calendar. Unfortunately, the Secretary of the Interior waited until September 25, 2000 to sign a Record of Decision supporting these amendments, amendments his staff helped negotiate. It was my intent to move forward long before this.

However, I am compelled to introduce this amended legislation now, because by law, the Tribes already have the ability to sue the federal government to have their treaty obligations for water fulfilled. And, I believe the Tribes will undoubtedly prevail and the damages awarded them could far exceed what it will cost us to do what is already prescribed by law and federal treaty.

The record, the law and our moral obligation in this matter are clear. I believe the Administration and my colleagues agree with me, the time to put this matter behind us has come. We teach our children that our country was built on honesty, respect for the law and integrity. But, we cannot hold up our respect for treaties we have entered into with American Indians, because we have never honored any of those treaties we have signed. It is time to do what is right and to make water available to the Ute Tribes. This legislation does so in a manner that minimizes the environmental impacts and the burden on the American taxpayers.

I urge my colleagues to support passage of this legislation before Congress adjourns for the year.●

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 1999

On October 5, 2000, the Senate amended and passed S. 1756, as follows:

S. 1756

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 ''National Laboratories Partnership Improvement Act of 2000''.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term ''Department'' means the Department of Energy;

(2) the term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law;

(3) the term ''institution of higher education'' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term ''National Laboratory'' means any of the following institutions owned by the Department of Energy—

(A) Argonne National Laboratory;

(B) Brookhaven National Laboratory;

(C) Idaho National Engineering and Environmental Laboratory;

(D) Lawrence Berkeley National Laboratory;

(E) Lawrence Livermore National Laboratory;

(F) Los Alamos National Laboratory;

(G) National Renewable Energy Laboratory;

(H) Oak Ridge National Laboratory;

(I) Pacific Northwest National Laboratory; or

(J) Sandia National Laboratory;

(5) the term ''facility'' means any of the following institutions owned by the Department of Energy—

(A) Ames Laboratory;

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Fermi National Accelerator Laboratory;

(E) Kansas City Plant;

(F) National Energy Technology Laboratory;

(G) Nevada Test Site;

(H) Princeton Plasma Physics Laboratory;

(I) Savannah River Technology Center;

(J) Stanford Linear Accelerator Center;

(K) Thomas Jefferson National Accelerator Facility;

(L) Waste Isolation Pilot Plant;

(M) Y–12 facility at Oak Ridge National Laboratory; or

(N) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities;

(6) the term ''nonprofit institution'' has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(5));

(7) the term ''Secretary'' means the Secretary of Energy;

(8) the term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632);