S. 1794

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1794, a bill to amend title 49, United States Code, to prohibit the unauthorized circumvention of airport security systems and procedures.

S. 1899

At the request of Mr. BROWNBACK, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1995

At the request of Ms. SNOWE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1995, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. RES. 206

At the request of Mr. MURKOWSKI, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Dakota (Mr. CONRAD), the Senator from Tennessee (Mr. FRIST), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 206, a resolution designating the week of March 17 through March 23, 2002 as ''National Inhalants and Poison Prevention Week.''

S. RES. 219

At the request of Mr. GRAHAM, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 219, a resolution expressing support for the democratically elected Government of Colombia and its efforts to counter threats from United States-designated foreign terrorist organizations.

S. RES. 221

At the request of Mr. DEWINE, his name was added as a cosponsor of S. Res. 221, a resolution to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. CON. RES. 84

At the request of Mr. SCHUMER, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Con. Res. 84, a concurrent resolution providing for a joint session of Congress to be held in New York City, New York.

AMENDMENT NO. 3008

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 3008 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. DURBIN, Mrs. CLINTON, and Mr. SCHUMER):

S. 2013. A bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today I am introducing the Meat and Poultry Pathogen Reduction Act of 2002. On December 6, 2001, the Fifth Circuit Court of Appeals upheld and expanded an earlier District Court decision that removes the U.S. Department of Agriculture's, USDA, authority to enforce its Pathogen Performance Standard for *Salmonella*. Passage of this bill is vital because the Fifth Circuit's decision in Supreme Beef v. USDA, Supreme Beef, seriously weakens the substantial food safety improvements adopted by USDA in its 1996 Hazard Analysis Critical Control Point and Pathogen Reduction, HACCP, rule.

According the Fifth Circuit's opinion in Supreme Beef, today, USDA does not have the authority to enforce Performance Standards for reducing viral and bacterial pathogens. This decision seriously undermines the new meat and poultry inspection system.

The Pathogen Performance Standard rule recognized that bacterial and viral pathogens were the foremost food safety threat in America, responsible for 5,000 deaths, 325,000 hospitalizations and 76 million illnesses each year. To address the threat of foodborne illness, USDA developed a modern inspection system based on two fundamental principles.

The first was that industry has the primary responsibility to determine how to produce the safest products possible. Industry must examine its plants and determine how to control contamination throughout the food production process, from the moment a product arrives at their door until the moment it leave their plant.

The second, even more crucial principle was that plants nationwide must reduce levels of dangerous pathogens in meat and poultry products. To ensure the new inspection system accomplished this, USDA developed Pathogen Performance Standards. These standards provide targets for reducing levels of pathogens and require all USDA-inspected facilities to meet them. Facilities failing to meet a standard may be shut down until they create a corrective action plan to meet the standard.

So far, USDA has only issued one Pathogen Performance Standard, for Salmonella. The vast majority of plants in the U.S. have been able to meet the new standard, so it is clearly workable. in addition, USDA reports that Salmonella levels for meat and poultry products have fallen substantially. The Salmonella standard, therefore has been successful. The Fifth Circuit Court's decision threatens to destroy this success and set our food safety system back by years.

The other major problem is that we have an industry dead set on striking down USDA's authority to enforce meat and poultry pathogen standards. Ever since the original Supreme Beef decision, I have spent many hours trying to find a compromise that will allow us to ensure we have enforceable, science-based standards for pathogens in meat and poultry products. I have previously introduced legislation to address this issue and I have worked with industry leaders attempting to reach a reasonable compromise.

However, despite repeated attempts to address industry concerns, industry has continually back-tracked and moved the finish line. Many times, I have made changes in my legislation to address their concerns of the moment only to have them come back and say we have not gone far enough. We cannot let the intransigence of the meat and poultry industry place our children and our families at increased risk of getting ill or dying, because some in the industry want to backtrack on food safety.

I plan to seek every opportunity to get the Meat and Poultry Pathogen Reduction Act enacted. I think it is essential, both to ensuring the modernization of our food safety system, and ensuring consumers that we are making progress in reducing dangerous pathogens.

I hope that both parties, and both houses of Congress will be able to act to pass this legislation without delay. The public's confidence in our meat and poultry inspection system depends on it.

Mr. DURBIN. Mr. President, today I am joining Senator HARKIN in introducing legislation that will clarify the United States Department of Agriculture's, USDA, authority to enforce pathogen reduction standards in meat and poultry products. I am pleased to join in this very important effort.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world. However, we can do better. While food may never be completely free of risk, we must strive to make our food as safe as possible. Foodborne illnesses and hazards are still a significant problem that cannot be passively dismissed.

The Centers for Disease Control and Prevention, CDC, estimate that as many as 76 million people suffer from foodborne illnesses each year. Of those individuals, approximately 325,000 will be hospitalized, and more than 5,000 will die. Children and the elderly are especially vulnerable. In terms of medical costs and productivity losses, foodborne illnesses cost the nation billions of dollars annually, and the situation is not likely to improve without decisive action. In fact, the Department of Health and Human Services

predicts that foodborne illnesses and deaths will increase 10–15 percent over the next decade.

In an age where our Nation's food supply is facing tremendous pressures, from emerging pathogens to an ever-growing volume of food imports, from changing food consumption patterns to an aging population susceptible to food-related illnesses, and from age-old bacterial threats to new potential food security risks, we must have a stronger system in place to ensure the safety of our food.

A key tool for addressing foodborne illness in this country has been USDA's Pathogen Reduction/Hazard Analysis and Critical Control Point, PR/HACCP, regulations that were phased in beginning in January 1998. Under these regulations, USDA developed a scientific approach aimed at protecting consumers from foodborne pathogens. Instead of a system based on sight, smell and touch, USDA moved to a system that would successfully detect harmful pathogens whether visible or not and keep them from entering the food supply. A major part of this system included testing for Salmonella, which is not only one of the most common foodborne pathogens, but also one of the easiest to detect. USDA used this testing data to determine if meat and poultry plants were producing products that were safe for human health.

Research indicates that USDA's system was working well. According to former Secretary of Agriculture, Dan Glickman, the testing techniques were successful in controlling Salmonella and other deadly pathogens. In less than three years, the Salmonella standard was working, cutting the incidence of Salmonella in ground beef by a third.

USDA's pathogen testing regulations provided consumers with much needed confidence in the safety of meat and poultry products. However, that confidence has been shattered by a recent court decision. Last December, the 5th Circuit Court of Appeals ruled that USDA could not close down the meat processor Supreme Beef, Inc., a supplier providing products to our Nation's school children through the Federal school lunch program, even after USDA inspectors tested and found the presence of potentially harmful levels of Salmonella at the plant on three separate occasions. The result of this court case is that USDA can no longer ensure that meat and poultry plants comply with pathogen standards. This creates a significant risk that meat and poultry products contaminated with common but potentially deadly foodborne pathogens will be sold to unsuspecting consumers.

The legislation we are introducing today will clarify USDA's authority to enforce strong safety standards for contamination in meat and poultry products. Specifically, this legislation will provide the Secretary of Agriculture with the clear authority to control for pathogens and enforce pathogen performance standards for meat and poultry products. Only with this authority will the Secretary of Agriculture be able to ensure the safety of the meat and poultry products sold in this country.

The court's decision in the Supreme Beef case is a step back for food safety. We must work together to ensure that USDA has the necessary authority to enforce pathogen performance standards that will protect public health. Let's not turn our back on food safety and consumer protection at such a critical time for food safety and security. I encourage my colleagues to join us in this effort to protect our food supply and public health.

By Mr. FEINGOLD (for himself, and Ms. COLLINS):

S. 2014. A bill to provide better Federal interagency coordination and support for emergency medical services; to the Committee on Governmental Affairs.

By Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine to introduce legislation that will help to improve and streamline Federal support for community-based emergency medical services. Our proposal will also provide an avenue for local officials and EMS providers to help Federal agencies improve existing programs and future initiatives.

Five Federal agencies currently provide technical assistance and funding to State and local EMS systems. These Agencies are the National Highway Traffic Safety Administration, the Department of Health and Human Services' Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Federal Emergency Management Agency's U.S. Fire Administration, and the Centers for Medicare and Medicaid Services.

Last year, the General Accounting Office cited the need to increase coordination between these agencies as they address the needs of local emergency medical service providers. According to GAO, these needs, including personnel, training, equipment, and more emergency personnel in the field, tend to vary between urban and rural communities.

The Federal Government needs to step up to the plate and provide support to our firefighters, EMTs, emergency physicians, emergency nurses, state medical directors, and others who provide the emergency care to those in need. And the Federal agencies must listen to their priorities. We have five Federal agencies currently involved in supporting EMS services, but they lack coordination and the necessary input from our local EMS providers.

Over the past few years, each of the five Federal agencies has separately initiated attempts to promote activities to strengthen support for EMS providers and address the needs cited in the GAO report. While these efforts are certainly welcome, our legislation will help to coordinate and prioritize Federal EMS activities that support first responders, and at the same time, ensure effective utilization of taxpayer dollars.

This legislation does not begin to address many of the challenges facing our local EMS providers, but it is an important first step. I know it is an important step because this legislation is a direct result of the input by Wisconsin's fire chiefs, members of Emergency Medical Service Board and others. In particular, I would like to thank Dr. Marvin Birnbaum of the University of Wisconsin, Fire Chief Dave Bloom of the Town of Madison, and Dan Williams, the Chair of Wisconsin's EMS advisory board, for their advice and guidance.

I am also pleased that my legislation has support from public health groups such as the American Heart Association and other important groups such as the State EMS Directors. In particular, I would like to express my appreciation to Steve Hise of the State EMS Directors and Karl Moeller of the American Heart Association for their input and consistent advocacy on issues facing the EMS community.

We must be aggressive in seeking the advice of our local EMS providers, and helping them to attain the resources that they need to provide effective services. They are on the front lines, and deserve our support. I ask my colleagues to join me in taking this important first step to cosponsor this legislation and improve and streamline Federal support for community-based emergency medical services.

By Mr. SMITH of New Hampshire:

S. 2015. A bill to exempt certain users of fee demonstration areas from fees imposed under the recreation fee demonstration program; to the Committee on Energy and Natural Resources.

Mr. SMITH of New Hampshire. Mr. President, I rise today to introduce legislation that would provide equity and fairness to the application of the Recreational Fee Demonstration Program, or the Fee Demo Program, as it is more commonly called. This bill, the Host Community Fairness Act, would exempt local residents from fees imposed as part of the Fee Demo Program.

As I am sure my colleagues are all aware, the Fee Demo Program, which started in fiscal year 1996, was established to fund recreational and resource needs, and repair facilities throughout our national forests, parks and other public lands. Currently, each land management agency can establish any number of fee projects and retain and spend all the revenue collected. However, at least 80 percent of the fees collected are retained at the site where collected. The program was originally supposed to end at the end of FY98; however, due to extensions that have occurred through the appropriations process, it is now set to expire at the end of FY04.

While I agree that the intentions of this program are good, there are flaws that must be addressed. What concerns me most is double-taxation for the local residents who live in and around these Fee Demo areas. These individuals should not also be required to pay to use these lands. Especially when they already suffer from a decreased tax-base due to the presence of Federal lands in their community and who help to provide emergency services. It is wrong to ask them to pay to use land that they already support and is essentially in their own backyard.

Just to be clear, this legislation would exempt residents of any county or counties that host any Federal land that has a Fee Demo project from paying the fee, regardless of where in the forest or park the fee is being imposed. When I say Federal land, I mean any National Forest, National Park, National Wildlife Refuge or Bureau of Land Management land.

I would like to take a moment to talk about how this impacts the State of New Hampshire. Nearly 50-percent of Berlin, New Hampshire, which has a population of about 10,000, falls within the boundaries of the White Mountain National Forest. Unfortunately, the city of Berlin has dealt with several economic setbacks, including the recent closure of a local paper mill, its largest employer. When this situation is combined with the fact that half their land is tied up in the National Forest, the result is a severe hit to this city's tax base. Asking these citizens to pay a fee to hike in their own backyard is not only unfair, it is also wrong. I think it is also reasonable to assume that this kind of economic situation is not unique to host communities in New Hampshire.

Finally, it should be noted that a clear and convincing majority of the New Hampshire House of Representatives sent a message to the U.S. Congress regarding their serious concerns with this program. On February 14, 2002, the New Hampshire House overwhelmingly voted in favor of a resolution that clearly outlines what they see as the negative effect this program has had on their local communities.

The New Hampshire House is one the largest parliamentary bodies in the world. Its 400 members receive only a $100 per year stipend and they are truly citizen legislators. The resolution's primary sponsors included both Republicans and Democrats as well as the Speaker of the House and the former Speaker of the House, who is now a State Senator.

What concerns me most with what these citizen legislators are saying is that, ''. . . the Recreational Fee Demonstration Program has undermined the longstanding goodwill between the White Mountain National Forest and New Hampshire citizens and communities . . .'' and ''. . . the traditional support of the New Hampshire citizens for activities such as trail maintenance and fire safety have been compromised . . .''. As the senior Senator from New Hampshire, I find these statements very disheartening. In New Hampshire, there is a longstanding tradition of open access to both public and private lands. The Fee Demo program runs counter to that tradition. Members of Congress have a duty to their constituents to maintain a cooperative relationship between the Federal land management agencies and the communities that are required to host them.

Enactment of the Host Community Fairness Act is one small step we can take in addressing these legitimate concerns and restoring the goodwill previously enjoyed between the Federal lands across this country and their host communities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2015

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 ''Host Community Fairness Act of 2002''.

SEC. 2. LOCAL EXEMPTIONS FROM USER FEES.

Section 315 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1996 (16 U.S.C. 460*l*–6a note; Public Law 104–134) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

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

''(c) LOCAL EXEMPTIONS FROM USER FEES.—

''(1) IN GENERAL.—A person that resides in a county in which a fee demonstration area is located, in whole or in part, shall be exempt from any recreational user fees imposed under this section for access to any portion of the fee demonstration area.

''(2) ADMINISTRATION.—The Secretary of the Interior and the Secretary of Agriculture in consultation with affected State and local governments, shall establish a method for identifying and exempting persons covered by this subsection from the user fees.''.

By Mr. MURKOWSKI.

S. 2016. A bill to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation to address a critical concern for one of Alaska's rural villages.

The village of Newtok, in far western Alaska, is facing the loss of its homes and facilities to ever-encroaching erosion by the Ninglick River. The village is presently located on the north bank of the river, just downstream of a sweeping bend, which is reclaiming the bank at a rate of several feet per year.

By at least 2008, some homes will no longer be habitable and the village airport will begin to suffer irreparable damage. It is critical for the future of Newtok's residents that Congress act this year to make provision for the relocation of the village.

Newtok is located within the boundaries of the Yukon Delta National Wildlife Refuge. Under the Alaska Native Claims Settlement Act of 1971, Newtok had land selection rights within the Refuge. Most of the lands selected by and conveyed to the village by the United States lie on the north side of the Ninglick River, although a portion of the village land holdings are on Nelson Island, to the south.

The village has identified 5,580 acres on Nelson Island that will be more suitable for a permanent village location. The land on Nelson Island is higher in elevation and is underlain with rock and gravel. Furthermore, it is situated such that hydraulic forces of the river are unlikely to pose any future threat to the well-being of the village.

The proposed legislation authorizes an equal value exchange of lands between the Fish and Wildlife Service and the Newtok Native Corporation, the ANCSA corporation organized by the village which owns the Newtok Village lands. The proposed exchange is the first important step in allowing the Newtok villagers to relocate their village to safe ground.

The exchange is proposed primarily for health and safety reasons, to protect the lives and property of Alaska Native villagers. However, there is a direct benefit to the broader interest of the United States. The land Newtok proposes to relinquish contains habitat of higher value for geese, brant, and Spectacled Eider than the land on Nelson Island that has been selected for the new village location. Thus the Yukon Delta National Wildlife Refuge, while receiving lands of equal economic value in the exchange, will actually be receiving lands of greater value for waterfowl habitat.

We should not underestimate the importance of congressional action this year on this matter. It will take several years to actually relocate the village. Facilities must be constructed and homes must be built. Before any of that can begin, the land must be exchanged. I therefore urge my colleagues to support this important legislation.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 2017. A bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, it is my pleasure to introduce the Indian Financing Act Amendments of 2002 to improve the effectiveness of an economic development program essential to our Native American community. As one of the legislative flowerings of President Nixon's ''Special Message to Congress on Indian Affairs,'' the Indian Financing Act joins the Indian Self Determination and Education Assistance Act as pillars of Federal Indian policy. Since Congress enacted the Indian Financing Act of 1974 and established the

Indian Revolving Loan Fund program, the Secretary of the Interior has had the ability to insure and guaranty the repayment by qualified Native American borrowers of small business loans issued by private banks and lenders. The focus of the loan program is commercial lending to Native American-owned businesses who cannot otherwise obtain financing in conventional credit markets.

The Indian Revolving Fund Program has grown over the past 28 years to reach $60 million in annual lending to Native Americans, though the need for capital in Indian economies far outstrips this amount. The ''Mortgage Finance News'' reports that for housing finance alone, there is $2.7 billion in pent-up demand in the Indian community. In addition, the ''Native American Lending Study'' released by the Community Development Financial Institutions shows, there are great needs in Native communities for more capital and liquidity. These unmet needs are holding back the growth of Indian economies.

The purpose of a Federal loan guaranty is to stimulate the private lending community into being more active with clients and customers they should be serving. Under the current Indian guaranteed loan program, the lender shares in the cost of any loan default, and is not 100 percent guaranteed by the government.

Lenders across the country have told the Committee on Indian Affairs that a major problem restraining their participation in this program is the lack of liquidity once the loan is made. These small business loans tend to stay on the books for a long time. They are paid down but not as rapidly refinanced as conventional loans. Therefore, a bank has its capital tied up in these loans, and cannot easily turn around and use that capital again.

The financial community long ago came up with a system to respond to this general need, and that is to allow investors to buy loans on the secondary market. This is the cornerstone for our private mortgage market and the essential job of Fannie Mae and Freddie Mac. But it is also an important part of commercial lending. The Small Business Administration, which makes loan guaranties available through over 1,000 lenders nationwide, 17 years ago recognized the importance of secondary market for its SBA loan guaranties. At its request, Congress enacted legislation which allows for the orderly transfer and sales of the guaranteed portion of the SBA loans through a secondary market fiscal transfer agent. This system operates largely at no cost to the government, as the fees for the transfer are paid by the buyers and sellers of the loans, and not passed back to the borrowers.

The SBA loan program is highly successful. It assists smaller lenders who may not regularly participate in these government programs by giving them a standardized and simple process for transfer of the loan. The use of the fiscal transfer agent ensures that loan repayments made to the original lender are properly flowed through any investors. Most importantly, the ability of the SBA to regulate or otherwise discipline originating lenders is unimpeded by the secondary market.

The ''Indian Financing Act Amendments of 2002'' directs the Secretary of the Interior to take similar steps to the SBA program by allowing the efficient functioning of a secondary market for Native American loans or loan guaranties made by the Interior Department.

It is my hope that the Indian Financing Act Amendments of 2002 will profoundly effect Native American small business owners throughout the United States, and that the support of the Department, and the Native American and financial communities, we can effect positive change not just for Native American small business owners, and for Indian communities generally.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2017

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Financing Act Amendments of 2002.''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial capital sources that, but for that Act, would not be available through loans guaranteed by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees available, acceptance of loan guarantees by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after enactment of the Act, the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) acceptance by lenders of the loan guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the guaranteed loan program to—

(A) encourage the orderly development and expansion of a secondary market for loans guaranteed by the Secretary; and

(B) expand the number of lenders originating loans under that Act.

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

(1) to stimulate the use by lenders of secondary market investors for loans guaranteed by the Secretary of the Interior;

(2) to preserve the authority of the Secretary to administer the program and regulate lenders;

(3) to clarify that a good faith investor in loans guaranteed by the Secretary will receive appropriate payments;

(4) to provide for the appointment by the Secretary of a qualified fiscal transfer agent to administer a system for the orderly transfer of the loans;

(5) to authorize the Secretary to—

(A) promulgate regulations to encourage and expand a secondary market program for loans guaranteed by the Secretary; and

(B) allow the pooling of the loans as the secondary market develops; and

(6) to authorize the Secretary to establish a schedule for assessing lenders and investors for the necessary costs of the fiscal transfer agent and system.

SEC. 3. LOAN GUARANTEES.

Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Any loan''; and

(2) by adding at the end the following:

''(b) TRANSFER OF LOANS AND UNGUARANTEED PORTIONS OF LOANS.—

''(1) TRANSFER.—

''(A) IN GENERAL.—The lender of a loan guaranteed under this title may transfer to any person—

''(i) all of the rights and obligations of the lender under the loan, or in an unguaranteed portion of the loan; and

''(ii) the security given for the loan or unguaranteed portion.

''(B) REGULATIONS.—A transfer under subparagraph (A) shall be consistent with such regulations as the Secretary shall promulgate under subsection (g).

''(C) NOTICE.—A lender that completes a transfer under subparagraph (A) shall give notice of the transfer to the Secretary (or a designee of the Secretary).

''(2) EFFECT OF TRANSFER.—On any transfer under this subsection, the transferee shall—

''(A) be considered to be the lender under this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan or portion of the loan, as appropriate, in accordance with the terms of guarantee of the Secretary of the loan or portion of the loan.

''(c) TRANSFER OF GUARANTEED PORTIONS OF LOANS.—

''(1) TRANSFER.—

''(A) IN GENERAL.—The lender of a loan guaranteed under this title, and any subsequent transferee of all or part of the guaranteed portion of the loan, may transfer to any person—

''(i) all or part of the guaranteed portion of the loan; and

''(ii) the security given for the guaranteed portion transferred.

''(B) REGULATIONS.—A transfer under subparagraph (A) shall be consistent with such regulations as the Secretary shall promulgate under subsection (g).

''(C) NOTICE.—A lender that completes a transfer under subparagraph (A) shall give notice of the transfer to the Secretary (or a designee of the Secretary).

''(D) ACKNOWLEDGEMENT.—On receipt of notice of a transfer under subparagraph (C), the Secretary (or a designee of the Secretary) shall issue to the transferee the acknowledgement of the Secretary of—

''(i) the transfer; and

''(ii) the interest of the transferee in the guaranteed portion of a loan that was transferred.

''(2) EFFECT.—Notwithstanding any other provision of law, with respect to any transfer under this subsection, the lender shall—

''(A) remain obligated under the guarantee agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with the guarantee agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees made under this title.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee of a loan under this title shall be incontestable if the guarantee is held by a transferee of a guaranteed obligation whose interest in a guaranteed loan has been acknowledged by the Secretary (or a designee of the Secretary) under subsection (c)(1)(D).

''(B) FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which the Secretary determines that a transferee of a loan or portion of a loan transferred under this section has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with the loan.

''(e) DAMAGES.—The Secretary may recover from a lender any damages suffered by the Secretary as a result of a material breach of an obligation of the lender under the guarantee of the loan.

''(f) FEE.—The Secretary may collect a fee for any loan or guaranteed portion of a loan transferred in accordance with subsection (b) or (c).

''(g) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate such regulations as are necessary to facilitate, administer, and promote the transfer of loans and guaranteed portions of loans under this section.

''(h) CENTRAL REGISTRATION.—On promulgation of final regulations under subsection (g), the Secretary shall—

''(1) provide for the central registration of all loans and portions of loans transferred under this section; and

''(2) contract with a fiscal transfer agent—

''(A) to act as a designee of the Secretary; and

''(B) on behalf of the Secretary—

''(i) to carry out the central registration and paying agent functions; and

''(ii) to issue acknowledgements of the Secretary under subsection (c)(1)(D).

''(i) POOLING.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans, or portions of loans, transferred under this section.

''(2) REGULATIONS.—The Secretary may promulgate regulations to effect orderly and efficient pooling procedures under this title.''.

By Mr. SARBANES:

S. 2019. A bill to extend the authority of the Export-Import Bank until April 30, 2002; considered and passed.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce a bill that would create a unique area within the Cibola National Forest in New Mexico, entitled the T'uf Shur Bien Preservation Trust Area. The importance of this bill cannot be overstated. It would resolve, through a negotiated agreement, the Pueblo of Sandia's land claim to Sandia Moutain, an area of significant value and use to all New Mexicans. The bill would also maintain full public ownership and access to the National Forest and Sandia Mountain Wilderness lands within the Pueblo's claim area; clear title for affected homeowners; and grant the necessary rights-of-way and easements to protect private property interests and the public's ongoing use of the Area.

The need for this bill and the basis for Sandia Pueblo's claim arise from a 1748 grant to the Pueblo from a representative of the King of Spain. That grant was recognized and confirmed by Congress in 1858, 11 Stat. 374). There remains, however, a dispute over the location of the eastern boundary of the Pueblo that stems from an 1859 survey of the grant. That survey fixed the eastern boundary roughly along the top of a foothill on the western slope of the mountain, rather than along the true crest of the mountain. The Pueblo has contended that the interpretation of the grant, and thus the survey and subsequent patent, are erroneous, and that the true eastern boundary is the crest of the mountain.

In the early 1980's, the Pueblo approached the Department of the Interior seeking a resurvey of the grant to locate the eastern boundary of the Pueblo along the main ridge of Sandia Mountain. In December 1988, the Solicitor of the Department of the Interior issued an opinion rejecting the Pueblo's claim. The Pueblo challenged the opinion in federal district court and in 1998, the court issued on Order setting aside the 1988 opinion and remanding the matter to Interior for forther proceedings. *Pueblo of Sandia* v. *Babbitt*, Civ. No. 94–2624, D.D.C., July 18, 1998. The Order was appealed but appellate proceedings were stayed for more than a year while a settlement was being negotiated. Ultimately, on April 4, 2000, a settlement agreement was executed between the United States, Pueblo, and the Sandia Peak Tram Company. That agreement was conditioned on congressional ratification, but remains effective until November 15, 2002.

In November, 2000, the Court of Appeals of the District of Columbia Circuit dismissed the appeal for lack of jurisdiction because the District Court's action was not a final appealable decision. Upon dismissal, the Department of the Interior proceeded with its reconsideration of the 1988 Solicitor's opinion in accord with the 1998 Order of the District Court. On January 19, 2001, the Solicitor issued a new opinion that concluded that the 1859 survey of the Sandia Pueblo grant was erroneous and that a resurvey should be conducted. Implementation of the opinion would therefore remove the area from its National Forest status and convey it to the Pueblo. The Department stayed the resurvey, however, until after November 15, 2002, so that there would be time for Congress to legislate the settlement and make it permanent.

To state the obvious, this is a very complicated situation. The area that is the subject of the Pueblo's claim has been used by the Pueblo and its members for centuries and is of great significance to the Pueblo for traditional and cultural reasons. The Pueblo strongly desires that the wilderness character of the area continue to be preserved and its use by the Pueblo protected. Notwithstanding that interest and use, the Federal Government has administered the claim area as a unit of the National Forest system for most of the last century and over the years has issued patents for several hundred acres of land within the area to persons who had no notice of the Pueblo's claim. As a result, there are now several subdivisions within the external boundaries of the area, and although the Pueblo's lawsuit specifically disclaimed any title or interest in privately-owned lands, the residents of the subdivisions have concerns that the claim and its associated litigation have resulted in hardships by clouding titles to land. Finally, as a unit of the National forest system, the areas has great significance to the public and in particular, the people in the State of New Mexico, including the residents of the Counties of Bernalillo and Sandoval and the City of Albuquerque, who use the claim area for recreational and other purposes and who desire that the public use and natural character of the area be preserved.

Because of the complexity of the situation, including the significant and overlapping interests just mentioned, Congress has not yet acted in this matter. In particular, concerns about the settlement were expressed by parties who did not participate in the final stages of the negotiations. I have worked with those parties to address their concerns while still trying to maintain the benefits secured by the parties in the Settlement Agreement. I believe the legislation that I have introduced today is a fair compromise. It provides the Pueblo specific rights and interests in the area that help to resolve its claim with finality but also, as noted earlier, maintains full public ownership and access to the National Forest system lands. In that sense, using the term ''Trust'' in the title recognizes those specific interests but does not confer the same status that exists when the Secretary of the Interior accepts title to land in trust on behalf of an Indian tribe.

Most importantly, the bill I am introducing today relies on a settlement as the basis for resolving this claim. Although other approaches have been circulated, this bill is the only one with the potential to secure a consensus of the interested parties. Not only is a negotiated settlement the appropriate manner by which to resolve the Pueblo's claim, it also allows for a solution that fits the unique circumstances of this situation. To my knowledge, Sandia Pueblo's claim is the only Indian land claim that exists where the tribe may effectively recover ownership of federal land without an Act of Congress. Nonetheless, the parties have negotiated a creative arrangement to address the Pueblo's interest, protect private property, and still maintain public ownership of the land. That is to be commended and I am proud to introduce this legislation to preserve the substance of that arrangement.