(Mr. SCHUMER) was added as a cosponsor of S. 1714, a bill to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas.

S. RES. 98

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. Res. 98, a resolution expressing the sense of the Senate that the President should designate the week of October 12, 2003, through October 18, 2003, as ''National Cystic Fibrosis Awareness Week''.

S. RES. 202

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 205

At the request of Mr. COLEMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 205, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued on the subject of autism awareness.

AMENDMENT NO. 1811

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1811 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1816

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 1816 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1818

At the request of Mr. BYRD, the names of the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 1818 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1825

At the request of Mr. BOND, the names of the Senator from Maine (Ms. COLLINS), the Senator from Washington (Ms. CANTWELL), the Senator from Florida (Mr. GRAHAM) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 1825 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1721. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the American Indian Probate Reform Act of 2003, which builds on the solid foundation laid in Indian Land Consolidation Act Amendments of 2000, P.L. 106–462, and S. 550, the Indian Probate Act of 2003, which I also sponsored. The bill I am introducing today would bring a number of greatly needed amendments to the Indian Land Consolidation Act Amendments of 2000, including a revised uniform Federal probate code applicable to trust and restricted Indian lands, and provisions that will facilitate the consolidation of interests in highly fractionated Indian lands.

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. 1721

*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 ''American Indian Probate Reform Act of 2003''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult; and

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

**SEC. 3. INDIAN PROBATE REFORM.**

(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

''(i) an Indian tribe with jurisdiction over the land; or

''(ii) any Indian; or

''(iii) any lineal descendant of the testator; or

''(iv) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;
in trust or restricted status.

''(B) RULE OF INTERPRETATION.—Any devise of an interest in trust or restricted land or personal property to a devisee listed in subparagraph (A) shall be considered to be a devise of the interest in trust or restricted status, unless—

''(i) language in the will clearly evidences the testator's intent that the interest is to vest in the devisee as a fee interest without restrictions; or

''(ii) the interest devised is a life estate.

''(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

''(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

''(i) as a life estate without regard to waste to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

''(ii) except as provided in subparagraph (B), in fee to any person.

''(B) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

''(i) that section;

''(ii) subparagraph (A)(i); or

''(iii) paragraph (1).

''(3) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED PERSONAL PROPERTY.—

''(A) TRUST OR RESTRICTED PERSONAL PROPERTY DEFINED.—The term 'Trust or restricted personal property' as used in this section includes—

''(i) all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised for the decedent by the Secretary; and

''(ii) absent clear evidence to the contrary, all personal property permanently affixed to trust or restricted lands.

''(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust or restricted personal property, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted personal property may devise such an interest to any person or entity.

''(C) MAINTENANCE AS TRUST OR RESTRICTED PERSONAL PROPERTY.—Except as provided in paragraph (1)(B), where an interest in trust or restricted personal property is devised to a devisee listed in paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust or restricted personal property .

''(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust or restricted personal property to a devisee not listed in paragraph (1)(A), the Secretary shall directly disburse and distribute such personal property to the devisee.

''(4) INELIGIBLE DEVISEES OF TRUST OR RESTRICTED INTEREST; INVALID WILLS.—Any interest in trust or restricted land or personal property that is devised as a trust or restricted interest to a devisee not listed in subparagraph (A) of paragraph (1) shall descend to the devisee as a fee interest. Any interest in trust or restricted land or personal property that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (b).''.

(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

''(b) NONTESTAMENTARY DISPOSITION.—

''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted property, including personal property, that is not disposed of by a valid will—

''(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

''(B) in the case of an interest in trust or restricted property to which such a code does not apply, shall descend in accordance with—

''(i) paragraphs (2) through (4); and

''(ii) other applicable Federal law.

''(2) RULES GOVERNING DESCENT OF ESTATE.—

''(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted property in the estate as follows:

''(i) If the decedent is survived by an heir described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive ⅓ of the trust or restricted personal property of the decedent and a life estate without regard to waste in the interests in trust or restricted lands of the decedent.

''(ii) If there are no heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive all of the trust or restricted personal property of the decedent and a life estate without regard to waste in the trust or restricted lands.

''(iii) The remainder shall pass as set forth in subparagraph (B).

''(B) INDIAN HEIRS.—Where there is no surviving spouse of the decedent, or there is a remainder pursuant to subparagraph (A), the estate or remainder of the decedent shall, subject to subparagraph (A), pass as follows:

''(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation, if such Indian children of the child survive the decedent) in equal shares.

''(ii) If the property does not pass under clause (i), to the surviving Indian great-grandchildren of the decedent in equal shares.

''(iii) If the property does not pass under clause (i) or (ii), to the surviving Indian brothers and sisters who are full siblings of the decedent or who are half-siblings by blood and not by marriage, in equal shares.

''(iv) If the property does not pass under clause (i), (ii), or (iii), to the Indian parent or parents of the decedent in equal shares.

''(v) If the property does not pass under clause (i), (ii), (iii), or (iv), to the Indian tribe with jurisdiction over the interests in trust or restricted lands;

except that notwithstanding clause (v), an Indian co-owner (including the Indian tribe referred to in clause (v)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

''(C) NO INDIAN TRIBE.—If there is no Indian tribe with jurisdiction over the interests in trust or restricted lands that would otherwise descend under subparagraph (B)(v), then such interests shall be divided equally among co-owners of trust or restricted interests in the parcel; if there are no such co-owners, then the Secretary shall accumulate and hold such interests in trust or restricted status for the Indian tribe or tribes from which the decedent descended.

''(3) RIGHT OF REPRESENTATION.—

''(A) IN GENERAL.—Subject to subparagraph (B)—

''(i) the interests passing to children and grandchildren of a decedent under paragraph (2) shall be divided into as many equal shares as there are surviving children of the decedent, deceased children who have died before the decedent without issue, and deceased children who have died before the decedent and have left grandchildren who survive the decedent; and

''(ii) 1 share shall pass to each surviving child of the decedent and 1 share shall pass equally divided among the surviving children of a deceased child.

''(B) EXCEPTION FOR HEIRS OF EQUAL CONSANGUINITY.—Notwithstanding subparagraph (A), when the persons entitled to take under subparagraph (B)(i) of paragraph (2) are all in the same degree of consanguinity to the decedent, they shall take in equal shares.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this subsection, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) STATUS OF INHERITED INTERESTS.—A trust or restricted interest in land or personal property that descends under the provisions of this subsection (not including any interest in land or personal property passing to a surviving spouse under paragraph (2)(A)) shall continue to have the same trust or restricted status in the hands of the heir as such interest had immediately prior to the decedent's death.''.

(c) Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206 (c)) is amended by striking all that follows the heading, ''JOINT TENANCY; RIGHT OF SURVIVORSHIP'', and inserting the following: ''If a testator devises interests in the same parcel of trust or restricted lands to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create joint tenancy with the right of survivorship in the interests involved.''.

(d) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—Any references in subsections (a) and (b) to applicable Federal law include—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this section amends or otherwise affects the application of any law described in paragraph (1), or any other Federal law that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation or for the devise and descent of the allotted lands of a specific tribe or specific tribes.

''(i) RULES OF INTERPRETATION.—In the absence of a contrary intent, and except as otherwise provided under this Act or a tribal probate code approved by the Secretary pursuant to section 206, wills shall be construed as to trust and restricted land and personal property in accordance with the following rules:

''(1) CONSTRUCTION THAT WILL PASSES ALL PROPERTY.—A will shall be construed to apply to all trust and restricted land and personal property which the testator owned at his death, including any such land or property acquired after the execution of his will.

''(2) CLASS GIFTS.—

''(A) Terms of relationship that do not differentiate relationships by blood from those by affinity, such as 'uncles', 'aunts', 'nieces' or 'nephews', are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as 'brothers', 'sisters', 'nieces', or 'nephews', are construed to include both types of relationships.

''(B) MEANING OF 'HEIRS' AND 'NEXT OF KIN,' ETC; TIME OF ASCERTAINING CLASS.—A devise of trust or restricted land or trust funds to the testator's or another designated person's 'heirs', 'next of kin', 'relatives', or 'family' shall mean those persons, including the spouse, who would be entitled to take under the provisions of this Act for nontestamentary disposition. The class is to be ascertained as of the date of the testator's death.

''(C) TIME FOR ASCERTAINING CLASS.—In construing a devise to a class other than a class described in subparagraph (B), the class shall be ascertained as of the time the devise is to take effect in enjoyment. The surviving issue of any member of the class who is then dead shall take by right of representation the share which their deceased ancestor would have taken.

''(3) MEANING OF 'DIE WITHOUT ISSUE' AND SIMILAR PHRASES.—In any devise under this chapter, the words 'die without issue', 'die without leaving issue', 'have no issue', or words of a similar import shall be construed to mean that an individual had no lineal descendants in his lifetime or at his death, and not that there will be no lineal descendants at some future time.

''(4) PERSONS BORN OUT OF WEDLOCK.—In construing provisions of this chapter relating to lapsed and void devises, and in construing a devise to a person or persons described by relationship to the testator or to

another, a person born out of wedlock shall be considered the child of the natural mother and also of the natural father.

''(5) LAPSED AND VOID DEVISES AND LEGACIES; SHARES NOT IN RESIDUE.—Where a devise of property that is not part of the residuary estate fails or becomes void because—

''(A) the beneficiary has predeceased the testator;

''(B) the devise has been revoked by the testator; or

''(C) the devise has been disclaimed by the beneficiary;

the property shall, if not otherwise expressly provided for under this Act or a tribal probate code, pass under the residuary clause, if any, contained in the will.

''(6) LAPSED AND VOID DEVISES AND LEGACIES; SHARES IN RESIDUE.—When a devise as described in paragraph (7) shall be included in a residuary clause of the will and shall not be available to the issue of the devisee, and if the disposition shall not be otherwise expressly provided for by a tribal probate code, it shall pass to the other residuary devisees, if any, in proportion to their respective shares or interests in the residue.

''(7) FAMILY CEMETERY PLOT.—If a family cemetery plot owned by the testator at his decease is not mentioned in the decedent's will, the ownership of the plot shall descend to his heirs as if he had died intestate.

''(8) AFTER-BORN HEIRS.—A child in gestation at the time of decedent's death will be treated as having survived the decedent if the child lives at least 120 hours after its birth.

''(9) ADVANCEMENTS OF TRUST OR RESTRICTED PERSONAL PROPERTY DURING LIFETIME; EFFECT ON DISTRIBUTION OF ESTATE.—

''(A) The trust or restricted personal property of a decedent who dies intestate as to all or a portion of his or her estate, given during the decedent's lifetime to an heir of the decedent, shall be treated as an advancement against the heir's inheritance, but only if the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift is an advancement or is to be taken into account in computing the division and distribution of the decedent's intestate estate.

''(B) For the purposes of this section, trust or restricted personal property advanced during the decedent's lifetime is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

''(C) If the recipient of the property predeceases the decedent, the property is not treated as an advancement or taken into account in computing the division and distribution of the decedent's intestate estate unless the decedent's contemporaneous writing provides otherwise.

''(10) HEIRS RELATED TO DECEDENT THROUGH 2 LINES; SINGLE SHARE.—A person who is related to the decedent through 2 lines of relationship is entitled to only a single share based on the relationship that would entitle the person to the larger share.

''(j) HEIRSHIP BY KILLING.—

''(1) 'HEIR BY KILLING' DEFINED.—As used in this subsection, 'heir by killing' means any person who participates, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

''(2) NO ACQUISITION OF PROPERTY BY KILLING.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, no heir by killing shall in any way acquire any interests in trust or restricted property as the result of the death of the decedent, but such property shall pass in accordance with this subsection.

''(3) DESCENT, DISTRIBUTION, AND RIGHT OF SURVIVORSHIP.—The heir by killing shall be deemed to have predeceased the decedent as to decedent's interests in trust or restricted property which would have passed from the decedent or his estate to the heir by killing—

''(A) under intestate succession under this chapter;

''(B) under a tribal probate code, unless otherwise provided for;

''(C) as the surviving spouse;

''(D) by devise;

''(E) as a reversion or a vested remainder;

''(F) as a survivorship interest; and

''(G) as a contingent remainder or executory or other future interest.

''(4) JOINT TENANTS, JOINT OWNERS, AND JOINT OBLIGEES.—

''(A) Any trust or restricted land or personal property held by only the heir by killing and the decedent as joint tenants, joint owners, or joint obligees shall pass upon the death of the decedent to his or her estate, as if the heir by killing had predeceased the decedent.

''(B) As to trust or restricted property held jointly by 3 or more persons, including both the heir by killing and the decedent, any income which would have accrued to the heir by killing as a result of the death of the decedent shall pass to the estate of the decedent as if the heir by killing had predeceased the decedent and any surviving joint tenants.

''(C) Notwithstanding any other provision of this subsection, the decedent's interest in trust or restricted property that is held in a joint tenancy with the right of survivorship shall be severed from the joint tenancy as though the property held in the joint tenancy were to be severed and distributed equally among the joint tenants and the decedent's interest shall pass to his estate; the remainder of the interests shall remain in joint tenancy with right of survivorship among the surviving joint tenants.

''(5) LIFE ESTATE FOR THE LIFE OF ANOTHER.—If the estate is held by a third person whose possession expires upon the death of the decedent, it shall remain in such person's hands for the period of the life expectancy of the decedent.

''(6) PREADJUDICATION RULE.—

''(A) IN GENERAL.—If a person has been charged, whether by indictment, information, or otherwise by the United States, a tribe, or any State, with voluntary manslaughter or homicide in connection with a decedent's death, then any and all trust or restricted land or personal property that would otherwise pass to that person from the decedent's estate shall not pass or be distributed by the Secretary until the charges have been resolved in accordance with the provisions of this paragraph.

''(B) DISMISSAL OR WITHDRAWAL.—Upon dismissal or withdrawal of the charge, or upon a verdict of not guilty, such land and funds shall pass as if no charge had been filed or made.

''(C) CONVICTION.—Upon conviction of such person, the trust and restricted land and personal property in the estate shall pass in accordance with this subsection.

''(7) BROAD CONSTRUCTION; POLICY OF SUBSECTION.—This subsection shall not be considered penal in nature, but shall be construed broadly in order to effect the policy that no person shall be allowed to profit by his own wrong, wherever committed.

''(k) GENERAL RULES GOVERNING PROBATE.—

''(1) SCOPE.—The provisions of this subsection shall apply only to estates that are subject to probate under the provisions of subsections (a) and (b).

''(2) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

''(ii) EXCEPTION.—Clause (i) shall not apply to an interest in trust or restricted land where—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

''(iii) SPOUSES MARRIED AT THE TIME OF THE WILL.—Should the surviving spouse of the testator be omitted from the will of the testator, the surviving spouse shall be treated, for purposes of trust or restricted land or personal property in the testator's estate, as though there was no will under the provisions of section 207(b)(2)(A) if—

''(I) the testator and surviving spouse were continuously married without legal separation for the 10-year period preceding the decedent's death;

''(II) the testator and surviving spouse have a surviving child who is the child of the testator;

''(III) the surviving spouse has made substantial payments on or improvements to the trust or restricted land in such estate; or

''(IV) the surviving spouse is under a binding obligation to continue making loan payments for the trust or restricted land for a substantial period of time;

except that if there is evidence that the testator adequately provided for the surviving spouse and any minor children by a transfer of funds or property outside of the will, this clause shall not apply.

''(iv) DEFINED TERMS.—The terms 'substantial payments or improvements' and 'substantial period of time' as used in subparagraph (A)(iii) (III) and (IV) shall have the meanings given to them in the regulations adopted by the Secretary under the provisions of this Act.

''(B) CHILDREN.—

''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

''(iii) ADOPTED-OUT CHILDREN.—

''(I) IN GENERAL.—For purposes of this Act, an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural

kin, other than the natural parent, who has maintained a family relationship with the adopted person. If a natural parent shall have married the adopting parent, the adopted person for purposes of inheritance by, from and through him shall also be considered the issue of such natural parent.

''(II) ELIGIBLE HEIR PURSUANT TO OTHER FEDERAL LAW OR TRIBAL LAW.—Notwithstanding the provisions of subparagraph (B)(iii)(I), other Federal laws and laws of the Indian tribe with jurisdiction over the trust or restricted land may otherwise define the inheritance rights of adopted-out children.

''(3) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, as of the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

''(4) NOTICE.—

''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).''.

**SEC. 4. PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.**

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—

''(1) APPLICABILITY.—This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

''(2) REQUIREMENTS.—Subject to section 223 of this Act, but notwithstanding any other provision of law, the Secretary shall ensure that each partition action meets the following requirements:

''(A) REQUEST.—The Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by—

''(i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or

''(ii) any person owning an undivided trust or restricted interest in the parcel of land.

''(B) DETERMINATION.—Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 202(6) (25 U.S.C. 2201(6)) to be classified as a parcel of highly fractionated Indian land.

''(C) CONSENT REQUIREMENTS.—A parcel of land may be partitioned under this subsection only with the written consent of—

''(i) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;

''(ii) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has—

''(I) continuously maintained a bona fide residence on the parcel; or

''(II) continuously operated a bona fide farm, ranch, or other business on the parcel; and

''(iii) the owners of at least 50 percent of the undivided interests in the parcel if, based on the final appraisal prepared pursuant to subparagraph (F), the Secretary determines that any person's undivided trust or restricted interest in the parcel has a value in excess of $1,000, except that the Secretary may consent on behalf of undetermined heirs, minors, and legal incompetents having no legal guardian, and missing owners or owners whose whereabouts are unknown but only after a search for such owners has been completed in accordance with the provisions of this subsection.

''(D) PRELIMINARY APPRAISAL.—After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (B), the Secretary shall cause a preliminary appraisal of the subject parcel to be made.

''(E) NOTICE TO OWNERS ON COMPLETION OF PRELIMINARY APPRAISAL.—Upon completion of the preliminary appraisal, the Secretary shall give written notice of the requested partition and preliminary appraisal to all owners of undivided interests in the parcel, in accordance with the following requirements:

''(i) CONTENTS OF NOTICE.—The notice required by this subsection shall state—

''(I) that a proceeding to partition the parcel of land by sale has been commenced;

''(II) the legal description of the subject parcel;

''(III) the owner's ownership interest in the subject parcel;

''(IV) the results of the preliminary appraisal;

''(V) the owner's right to request a copy of the preliminary appraisal;

''(VI) the owner's right to comment on the proposed partition and the preliminary appraisal;

''(VII) the date by which the owner's comments must be received, which shall not be less than 60 days after the date that the notice is mailed or published under paragraph (2); and

''(VIII) the address for requesting copies of the preliminary appraisal and for submitting written comments.

''(ii) MANNER OF SERVICE.—

''(I) SERVICE BY MAIL.—The Secretary shall attempt to provide all owners of interests in the subject parcel with actual notice of the partition proceeding by mailing a copy of the written notice described in clause (i) by first class mail to each such owner at the owner's last known address. In the event the written notice to an owner is returned undelivered, the Secretary shall, in accordance with regulations adopted to implement the provisions of this section, attempt to obtain a current address for such owner by inquiring with—

''(aa) the owner's relatives, if any are known;

''(bb) the Indian tribe of which the owner is a member; and

''(cc) the Indian tribe with jurisdiction over the subject parcel.

''(II) SERVICE BY PUBLICATION.—In the event that the Secretary is unable to serve the notice by mail pursuant to subclause (II), the notice shall be served by publishing the notice 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located.

''(F) FINAL APPRAISAL.—After reviewing and considering comments or information submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (E), the Secretary may—

''(i) modify the preliminary appraisal and, as modified, determine it to be the final appraisal for the parcel; or

''(ii) determine that preliminary appraisal should be the final appraisal for the parcel, without modifications.

''(G) NOTICE TO OWNERS ON DETERMINATION OF FINAL APPRAISAL.—Upon making the determination under subparagraph (F) the Secretary shall provide to each owner of the parcel of land and the Indian tribe with jurisdiction over the subject land, written notice served in accordance with subparagraph (E)(ii) stating—

''(i) the results of the final appraisal;

''(ii) the owner's right to review a copy of the appraisal upon request; and

''(iii) that the land will be sold in accordance with subparagraph (G) for not less than the final appraised value subject to the consent requirements under paragraph (2)(C).

''(H) SALE.—Subject to the requirements of paragraph (2)(C), the Secretary shall—

''(i) provide every owner of the parcel of land and the Indian tribe with jurisdiction over the subject land with notice that—

''(I) the decision to partition by sale is final; and

''(II) each owner has the right to appeal the determination of the Secretary to partition the parcel of land by sale, including the right to appeal the final appraisal;

''(ii) after providing public notice of the sale pursuant to regulations adopted by the Secretary to implement this subsection, offer to sell the land by competitive bid for not less than the final appraised value to the highest bidder from among the following eligible bidders:

''(I) any owner of a trust or restricted interest in the parcel being sold;

''(II) the Indian tribe, if any, with jurisdiction over the parcel being sold; and

''(III) any member of the Indian tribe described in subclause (II); and

''(iii) if no bidder described in clause (ii) presents a bid that equals or exceeds the appraised value, provide notice to the owners of the parcel of land and terminate the partition process.

''(I) DECISION NOT TO SELL.—If the required owners do not consent to the partition by sale of the parcel of land, in accordance with paragraph (2)(C), by a date established by the Secretary, the Secretary shall provide each Indian tribe with jurisdiction over the subject land and each owner notice of that fact.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any

conveyance necessary to implement the partition, then any affected owner or the United States may—

''(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

''(ii) request that the court issue an appropriate order for the partition of the land in kind or by sale.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is 1 against the United States or that the United States is an indispensable party.

''(4) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection.''.

**SEC. 5. OWNER-MANAGED INTERESTS.**

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

**''SEC. 221. OWNER-MANAGED INTERESTS.**

''(a) PURPOSE.—The purpose of this section is to provide a means for the co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel without approval of the Secretary.

''(b) MINERAL INTERESTS.—Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

''(c) OWNER MANAGEMENT.—

''(1) IN GENERAL.—Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases or mortgages of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a), and the Secretary has approved such applications under subsection (d), such owners may, without further approval by the Secretary, do either of the following with respect to their interest in such parcel:

''(A) Enter into a lease of the parcel for any purpose authorized by section 1 of the Act of August 9, 1955 (25 U.S.C. 415(a)), for an initial term not to exceed 25 years.

''(B) Renew any lease described in paragraph (1) for 1 renewal term not to exceed 25 years.

''(2) RULE OF CONSTRUCTION.—No such lease or renewal of a lease shall be effective until the owners of all undivided trust or restricted interests in the parcel have executed such lease or renewal.

''(d) APPROVAL OF APPLICATIONS FOR OWNER MANAGEMENT.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence.

''(2) COMMENCEMENT OF OWNER-MANAGEMENT STATUS.—Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no interest in a parcel of trust or restricted land shall have owner-management status until applications for all of the trust or restricted interests in such parcel have been submitted and approved by the Secretary pursuant to this section and in accordance with regulations adopted pursuant to subsection (l).

''(e) VALIDITY OF LEASES.—A lease of trust or restricted interests in a parcel of land that is owner-managed under this section that violates any requirement or limitation set forth in subsection (c) shall be null and void and unenforceable against the owners of such interests, or against the land, the interest or the United States.

''(f) LEASE REVENUES.—The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests subject to this section while such interest is in owner-management status under the provisions of this section.

''(g) JURISDICTION.—

''(1) JURISDICTION UNAFFECTED BY STATUS.—The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes owner-managed in accordance with this section shall continue to have jurisdiction over the interest in trust or restricted land to the same extent and in all respects the tribe had prior to the interest acquiring owner managed status.

''(2) PERSONS USING LAND.—Any person holding, leasing, or otherwise using such interest in land shall be considered to consent to the jurisdiction of the Indian tribe with jurisdiction over the interest, including such tribe's laws and regulations, if any, relating to the use, and any effects associated with the use, of the interest.

''(h) CONTINUATION OF OWNER-MANAGED STATUS; REVOCATION.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2), after the applications of the owners of all of the trust or restricted interests in a parcel of land have been approved by the Secretary pursuant to subsection (d), each such interest shall continue in owner-managed status under this section notwithstanding any subsequent conveyance of the interest in trust or restricted status to another person or the subsequent descent of the interest in trust or restricted status by testate or intestate succession to 1 or more heirs.

''(2) REVOCATION.—Owner-managed status of an interest may be revoked upon written request of owners (including the parents or legal guardians of minors or incompetent owners) of all trust or restricted interests in the parcel, submitted to the Secretary in accordance with regulations adopted under subsection (l). The revocation shall become effective as of the date on which the last of all such requests have been delivered to the Secretary.

''(3) EFFECT OF REVOCATION.—Revocation of owner-managed status under paragraph (2) shall not affect the validity of any lease made in accordance with the provisions of this section prior to the effective date of the revocation, provided that, after such revocation becomes effective, the Secretary shall be responsible for the collection of, and accounting for, all future lease revenues accruing to the trust or restricted interests in the parcel from and after such effective date.

''(i) DEFINED TERMS.—

''(1) For purposes of subsection (d)(1), the term 'qualified applicant' means—

''(A) a person over the age of 18 who owns a trust or restricted interest in a parcel of land; and

''(B) the parent or legal guardian of a minor or incompetent person who owns a trust or restricted interest in a parcel of land.

''(2) For purposes of this section, the term 'owner-managed status' means, with respect to a trust or restricted interest, that the interest—

''(A) is a trust or restricted interest in a parcel of land for which applications covering all trust or restricted interests in such parcel have been submitted to and approved by the Secretary pursuant to subsection (d);

''(B) may be leased without approval of the Secretary pursuant to, and in a manner that is consistent with the requirements of, this section; and

''(C) no revocation has occurred under subsection (h)(2).

''(j) SECRETARIAL APPROVAL OF OTHER TRANSACTIONS.—Except with respect to the specific lease transactions described in paragraphs (1) and (2) of subsection (c), interests held in owner-managed status under the provisions of this section shall continue to be subject to all Federal laws requiring the Secretary to approve transactions involving trust or restricted land that would otherwise apply to such interests.

''(k) EFFECT OF SECTION.—Subject to subsections (c), (f), and (h), nothing in this section limits or otherwise affects any authority or responsibility of the Secretary with respect to an interest in trust or restricted land.

''(l) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.''.

**SEC. 6. ADDITIONAL AMENDMENTS.**

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

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

''(2) in section 205 (25 U.S.C. 2204), by adding subsection (c) as follows:

''(c) PURCHASE OPTION AT PROBATE.—

''(1) IN GENERAL.—Subject to section 207(b)(2)(A) of this Act (25 U.S.C. 2206(b)(2)(A)), interests in a parcel of trust or restricted land in the decedent's estate may be purchased at probate in accordance with the provisions of this subsection.

''(2) SALE OF INTEREST AT MINIMUM FAIR MARKET VALUE.—Subject to paragraph (3), the Secretary is authorized to sell trust or restricted interests subject to this subsection at no less than fair market value to the highest bidder from among the following eligible bidders:

''(A) The heirs taking by intestate succession or the devisees listed in section 207(a)(1)(A).

''(B) All persons who own undivided trust or restricted interests in the same parcel of land involved in the probate proceeding.

''(C) The Indian tribe with jurisdiction over the interest, or the Secretary on behalf of such Indian tribe.

''(3) REQUEST FOR AUCTION.—No auction and sale of an interest in probate shall occur under this subsection unless—

''(A) except as provided in paragraph (6), the heirs or devises of such interest consent to the sale; and

''(B) a person or the Indian tribe eligible to bid on the interest under paragraph (2) submits a request for the auction prior to the distribution of the interest to heirs or devisees of the decedent and in accordance with any regulations of the Secretary.

''(4) APPRAISAL AND NOTICE.—Prior to the sale of an interest pursuant to this subsection, the Secretary shall—

(A) appraise the interest; and

(B) publish notice of the time and place of the auction (or the time and place for submitting sealed bids), a description, and the appraised value, of the interest to be sold.

''(5) RIGHTS OF SURVIVING SPOUSE.—Nothing in this subsection shall be construed to diminish or otherwise affect the rights of a surviving spouse under section 207(b)(2)(A).

''(6) HIGHLY FRACTIONATED INDIAN LANDS.—Notwithstanding paragraph (3)(A), the consent of an heir shall not be required for the auction and sale of an interest at probate under this subsection if—

''(A) the interest is passing by intestate succession; and

''(B) prior to the auction the Secretary determines that the interest involved is an interest in a parcel of highly fractionated Indian land.

''(7) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of this subsection.'';

(3) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land by—

''(A) an Indian lineal descendant of the original allottee; or

''(B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest;

unless the code provides for—

''(i) the renouncing of interests to eligible devisees in accordance with the code;

''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and

''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

''(1) AUTHORITY.—

''(A) IN GENERAL.—'';

(II) in the first sentence of subparagraph (A) (as redesignated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(a)(2)(A)(ii) of this title''; and

(III) by striking the last sentence and inserting the following:

''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall not apply'' and inserting the following:

''(A) INAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph (1) shall not apply'';

(bb) in clause (i) (as redesignated by item (aa)), by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(cc) by striking the period at the end and inserting ''; or''; and

(dd) by adding at the end the following:

''(II)—

''(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

''(bb) the devisee agrees that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

''(iv) DEFINITION OF 'MEMBER OF THE FAMILY'.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

''(I) a lineal descendant of a decedent or landowner;

''(II) a lineal descendant of the grandparent of a decedent or landowner;

''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

''(IV) the spouse of a decedent or landowner.'';

(4) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

(5) in section 207 (25 U.S.C. 2206), subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(6) in section 213 (25 U.S.C. 2212)—

(A) by striking the section heading and inserting the following:

**''SEC. 2212. FRACTIONAL INTEREST ACQUISITION PROGRAM.'';**

(B) in subsection (a)—

(i) by striking ''(2) AUTHORITY OF SECRETARY.—'' and all that follows through ''the Secretary shall submit'' and inserting the following:

''(2) AUTHORITY OF SECRETARY.—The Secretary shall submit''; and

(ii) by striking ''whether the program to acquire fractional interests should be extended or altered to make resources'' and inserting ''how the fractional interest acquisition program should be enhanced to increase the resources made'';

(C) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

''(A) conveyance documents;

''(B) administrative proceedings; and

''(C) transactions.''.

(D) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''at least 5 percent of the'' and inserting in its place ''an'';

(II) in subparagraph (A), by inserting ''in such parcel'' following ''the Secretary shall convey an interest'';

(III) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if—

''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

(IV) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

(ii) in paragraph (3), by striking ''10 percent or more of the undivided interests'' and inserting ''an undivided interest'';

(7) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

''(3) REMOVAL OF LIENS AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) REMOVAL OF LIENS UPON PAYMENT INTO THE ACQUISITION FUND.—The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215 of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

''(5) OTHER REMOVAL OF LIENS.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(8) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

(9) in section 217 (25 U.S.C. 2216)—

(A) in subsection (b)(1) by striking subparagraph (B) and inserting a new subparagraph (B) as follows—

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of an interest in trust or restricted land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

''(i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or

''(ii) to an Indian co-owner or to a tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.''.

(B) in subsection (e), by striking the matter preceding paragraph (1), and inserting ''Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to—'';

(C) in subsection (e)(1), by striking ''Indian'';

(D) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

(E) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

''(A) to match any offer contained in the application; or

''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

''(2) EXCEPTION FOR FAMILY FARMS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if the conveyance requires that in the event that the interest is offered for sale to an entity that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

''(B) APPLICABILITY OF OTHER PROVISION.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).''; and

(10) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) 'Indian' means—

''(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2003) of an interest in trust or restricted land;

''(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder;

''(C) any person not included in subparagraph (A) or (B) who is a lineal descendant within 3 degrees of a person described in subparagraph (A);

''(D) an owner of a trust or restricted interest in a parcel of land for purposes of inheriting another trust or restricted interest in such parcel; and

''(E) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person who meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679)(b)).''; and

(2) by adding at the end the following:

''(6) 'Parcel of highly fractionated Indian land' means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have at the time of the determination—

''(A)(i) 100 or more but less than 200 co-owners of undivided trust or restricted interests; and

''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 2 percent of the total undivided ownership of the parcel; or

''(B)(i) 200 or more but less than 350 co-owners of undivided trust or restricted interests; and

''(ii) no undivided trust or restricted interest owned by any 1 person which represents more than 5 percent of the total undivided ownership of the parcel; or

''(C) 350 or more co-owners of undivided trust or restricted interests.

''(7) 'Person' means a natural person.''.

(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: '*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

(d) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by—

(1) striking '', in accordance with'' and all that follows through ''or in which the subject matter of the corporation is located,'';

(2) striking '', except as provided by the Indian Land Consolidation Act'' and all that follows through the colon; and

(3) inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

(e) ESTATE PLANNING.—

(1) CONDUCT OF ACTIVITIES.—Section 207(f)(1) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking paragraph (1) and inserting the following—

''(1) IN GENERAL.—

''(A) The activities conducted under this subsection shall be conducted in accordance with any applicable—

''(i) tribal probate code; or

''(ii) tribal land consolidation plan.

''(B) The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.''.

(2) REQUIREMENTS.—Section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)) is amended by striking ''and'' at the end of subparagraph (A), redesignating subparagraph (B) as subparagraph (D), and adding the following—

''(B) dramatically increase the use of wills and other methods of devise among Indian landowners;

''(C) substantially reduce the quantity and complexity of Indian estates that pass intestate through the probate process, while protecting the rights and interests of Indian landowners; and''; and

(3) by striking ''(3) CONTRACTS.—'' and inserting the following—

''(3) INDIAN CIVIL LEGAL ASSISTANCE GRANTS.—In carrying out this section, the Secretary shall award grants to nonprofit entities, as defined under section 501(c)(3) of the Internal Revenue Code of 1986, which provide legal assistance services for Indian tribes, individual owners of interests in trust or restricted lands, or Indian organizations pursuant to Federal poverty guidelines which submit an application to the Secretary, in such form and manner as the Secretary may prescribe, for the provision of civil legal assistance to such Indian tribes, individual owners, and Indian organizations for the development of tribal probate codes, for estate planning services or for other purposes consistent with the services they provide to Indians and Indian tribes.''; and

(4) by adding at the end of section 207 (25 U.S.C. 2206) the following:

''(k) NOTIFICATION TO LANDOWNERS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide to each Indian landowner a report that lists, with respect to each tract of trust or restricted land in which the Indian landowner has an interest—

''(A) the location of the tract of land involved;

''(B) the identity of each other co-owner of interests in the parcel of land; and

''(C) the percentage of ownership of each owner of an interest in the tract.

''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall preclude any individual Indian from obtaining from the Secretary, upon the request of that individual, any information specified in paragraph (1) before the expiration of the 2-year period specified in paragraph (1).

''(3) REQUIREMENTS FOR NOTIFICATION.—Each notification made under paragraph (1) shall include information concerning estate planning and land consolidation options under the provisions of this Act and other applicable Federal law, including information concerning—

''(A) the preparation and execution of wills;

''(B) negotiated sales;

''(C) gift deeds;

''(D) exchanges; and

''(E) life estates without regard to waste.

''(4) PROHIBITION.—No individual Indian may be denied access to information relating to land in which that individual has an interest described in this section on the basis of section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act').

''(1) PRIVATE AND FAMILY TRUSTS PILOT PROJECT.—

''(1) DEVELOPMENT PILOT PROJECT.—

''(A) The Secretary shall consult with tribes, individual landowner organizations, Indian advocacy organizations, and other interested parties to—

''(i) develop a pilot project for the creation and management of private and family trusts for interests in trust or restricted lands; and

''(ii) develop proposed rules, regulations, and guidelines to implement the pilot project.

''(B) The pilot project shall commence on the date of enactment of the American Indian Probate Reform Act of 2003 and shall continue for 3 years after the date of enactment of this subsection.

''(2) CHARACTERISTICS OF PRIVATE AND FAMILY TRUSTS.—For purposes of this subsection and any proposed rules, regulations, or guidelines developed under this subsection—

''(A) the terms 'private trust' and 'family trust' shall both mean trusts created pursuant to this subsection for the management and administration of interests in trust or restricted land, held by 1 or more persons, which comprise the corpus of a trust, by a private trustee subject to the approval of the Secretary;

''(B) private and family trusts shall be created and managed in furtherance of the purposes of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

''(C) private and family trusts shall not be construed to impair, impede, replace, abrogate, or modify in any respect the trust duties or responsibilities of the Secretary, nor shall anything in this subsection or in any rules, regulations, or guidelines developed under this subsection enable any private or family trustee of interests in trust or restricted lands to exercise any powers over such interests greater than that held by the Secretary with respect to such interests.

''(3) REPORT TO CONGRESS.—Prior to the expiration of the pilot project provided for under this subsection, the Secretary shall submit a report to Congress stating—

''(A) a description of the Secretary's consultation with Indian tribes, individual landowner associations, Indian advocacy organizations, and other parties consulted with regarding the development of rules, regulations, and/or guidelines for the creation and management of private and family trusts over interests in trust and restricted lands;

''(B) the feasibility of accurately tracking such private and family trusts;

''(C) the impact that private and family trusts would have with respect to the accomplishment of the goals of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

''(D) a final recommendation regarding whether to adopt the creation of a permanent private and family trust program as a management and consolidation measure for interests in trust or restricted lands.''.

**SEC. 7. UNCLAIMED AND ABANDONED PROPERTY.**

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 5) is amended by adding at the end the following:

**''SEC. 222. UNCLAIMED AND ABANDONED PROPERTY.**

''(a) INTERESTS PRESUMED ABANDONED.—An undivided trust or restricted interest in a parcel of land owned by a person shall be presumed abandoned and subject to the provisions of this section if the Secretary makes a determination that—

''(1) a period of 6 consecutive years next preceding such determination has passed during which the person owning such interest has not made any indication or expression of interest in the trust or restricted interest as set forth in subsection (b);

''(2) the person owning the trust or restricted interest was, at all times during the 6-year period described in paragraph (1), over the age of 18; and

''(3) as of the expiration of the 6-year period described in paragraph (1), such parcel was a parcel of highly fractionated Indian land.

''(b) INDICATORS OF OWNER INTEREST.—For purposes of subsection (a), an indication or expression of an owner's interest in the property shall mean the owner or any person acting on behalf of the owner—

''(1) making a deposit to, withdrawal from, or inquiry into an individual Indian money account associated with such interest;

''(2) negotiating a Treasury check derived from such interest or account;

''(3) providing the Secretary with a valid address; or

''(4) communicating with the Secretary regarding such interest or account.

''(c) RELATED PROPERTY.—At the time that property is presumed to be abandoned under this section, any other property right accrued or accruing to the owner as a result of the interest, including funds in an associated individual Indian money account, that has not previously been presumed abandoned under this section, also shall be presumed abandoned.

''(d) ANNUAL LIST OF PROPERTY; NOTICE TO OWNERS.—No later than the first day of November of each year, the Secretary shall prepare and distribute a list of names of persons owning property presumed abandoned under this section during the preceding fiscal year and provide notice to such persons in accordance with the following requirements:

''(1) CONTENTS OF ANNUAL LIST.—The list shall set forth—

''(A) the names of all persons owning interests in land and property presumed to be abandoned under this section;

''(B) with respect to each person named on the list, the reservation, if any, and the county and State in which the person's interest in land is located;

''(C) the reservation, if any, the city or town, county and State of the person's last known address; and

''(D) the name, address, and telephone number of the official or officials within the Department of the Interior to contact for purposes of identifying persons or lands included on the list.

''(2) DISTRIBUTION OF LIST.—The list shall be distributed to all regional offices and agencies of the Bureau of Indian Affairs and to all reservations where land described on this list is located and shall cause the list to be published in the Federal Register within 15 days after the list is prepared.

''(3) NOTICE BY MAIL.—In addition to publishing and distributing the list described in paragraph (1), the Secretary shall attempt to provide the persons owning such trust or restricted interests with actual written notice that the interest and any associated funds or property is presumed abandoned under the provisions of this section. Such notice shall be sent by first class mail to the owner at the owner's last known address and shall include the following:

''(A) A legal description of the parcel of which the interest is a part.

''(B) A description of the owner's interest.

''(C) A statement that the owner has not indicated or expressed an interest in the trust or restricted interest for a period of 6 consecutive years and that such interest, and any funds in an associated individual Indian money account, is presumed abandoned.

''(D) A statement that the interest will be appraised and sold for its appraised value unless the owner responds to the notice within 60 days after the notice is mailed or published.

''(E) A statement that in the event the owner fails to respond and the notice and the property is sold, the proceeds of such sale and any funds in any associated individual Indian money account will be deposited in an unclaimed property account.

''(4) SEARCH FOR WHEREABOUTS OF OWNER.—If the notice described in paragraph (3) is returned undelivered, the Secretary shall attempt to locate the owner by—

''(A) searching publicly available records and Federal records, including telephone and address directories and using electronic search methods;

''(B) inquiring with—

''(i) the owner's relatives, if any are known;

''(ii) any Indian tribe of which the owner is a member; and

''(iii) the Indian tribe, if any, with jurisdiction over the interest; and

''(C) if the value of the interest and any funds in an associated individual Indian money account exceeds $1,000, engaging an independent search firm to perform a missing person search.

''(5) NOTICE BY PUBLICATION.—In the event that the Secretary is unable to locate the owner pursuant to paragraph (4), the Secretary shall publish a notice not later than November 30 following the fiscal year in which the property was presumed to be abandoned under this section. The notice shall include the same information required for the notice described in paragraph (3) and shall be—

''(A) published in a newspaper of general circulation on or near the apparent owner's home reservation and near the last known address of the owner; and

''(B) in a form that is likely to attract the attention of the apparent owner of the property.

''(e) CONVERSION OF ABANDONED INTERESTS.—If, after 2 years from the date the notice is published under subsection (d)(3), any such real property or interest therein remains unclaimed, the Secretary shall appraise such property in a manner consistent with section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) and shall purchase the property at its appraised value, or sell the property to an Indian tribe with jurisdiction over such property or a person who owns an undivided trust or restricted interest in such property, by competitive bid for not less than the appraised value. The Secretary shall then transfer any monetary interest that the Secretary holds for the previous apparent owner to the unclaimed property account described in subsection (f).

''(f) UNCLAIMED PROPERTY ACCOUNT.—

''(1) Except as otherwise provided by this section, the Secretary shall promptly deposit in a special unclaimed property account all funds received under this section. The Secretary shall pay all claims under subsection (g) from this account. The Secretary shall record the name and last known address of each person appearing to be entitled to the property.

''(2) The Secretary is authorized to use interest earned on the special unclaimed property account to pay—

''(A) the administrative costs of conversion of real property under subsection (g); and

''(B) costs of mailing and publication in connection with abandoned property.

''(3) The Secretary shall retain a sufficient balance in the account at all times from which to pay claims duly allowed. All other funds shall be available to the Secretary to use for the purposes of land consolidation pursuant to 25 U.S.C. 2212.

''(g) CLAIMS.—

''(1) FILING OF CLAIM.—An individual, or the heirs of an individual, may file a claim to recover property or the proceeds of the conversion of the property on a form prescribed by the Secretary.

''(2) ALLOWANCE OR DENIAL OF CLAIM.—Not more than 180 days after a claim is filed, the Secretary shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Secretary shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Secretary or maintain an action under this subsection.

''(3) PAYMENT OF ALLOWED CLAIM.—Not more than 60 days after a claim is allowed, the property or the net proceeds of the conversion of the property shall be delivered or paid by the Secretary to the claimant, together with any interest, or other increment to which the claimant is entitled under this section.

''(4) JUDICIAL REVIEW.—An individual aggrieved by a decision of the Secretary under this subsection or whose claim has not been acted upon within 180 days may, after exhausting administrative remedies, seek—

''(A) judicial review or other appropriate relief against the Secretary in a United States district court, which may include an order quieting beneficial title in the name of petitioner whose property was sold by the Secretary in violation of this section; and

''(B) recover reasonable attorneys fees if he is the prevailing party.

''(h) VOLUNTARY ABANDONMENT.—Any person who is an owner of an interest subject to this section may, with the Secretary's approval, voluntarily abandon that interest to the benefit of the tribe with jurisdiction over the parcel of land or a co-owner of a trust or restricted interest in the same parcel of land in accordance with regulations adopted pursuant to subsection (j).

''(i) TRANSFER OF ABANDONED INTERESTS IN LAND.—

''(1) Any interest in land acquired under subsection (e) or (h) over which an Indian tribe has jurisdiction shall be held in trust by the Secretary for the benefit of that tribe, provided that the tribe may decline any such property in its discretion, and provided that if the tribe declines or does not currently own any interest within that parcel a co-owner with a majority interest shall have the first right of purchase of the property at the appraised price.

''(2) Any interest in real property acquired under subsection (e) or (h) that is not subject to the jurisdiction of an Indian tribe shall be held in trust by the Secretary for all of the other co-owners of undivided trust or restricted interests in the parcel in proportion to their respective interests in the property, provided that any owner may decline to accept such interest, in which case that interest shall be allocated proportionately among such other co-owners who do not decline.

''(3) The Indian tribe or other subsequent owner described in paragraph (2) takes such interest free of all claims by the owner who abandoned the interest and of all persons claiming through or under such owner.

''(j) REGULATIONS.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this section.''.

**SEC. 8. MISSING HEIRS.**

Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding the following:

''(m) NOTICE.—Prior to holding a hearing to determine the heirs to trust or restricted property, or making a decision determining such heirs, the Secretary shall seek to provide actual written notice of the proceedings to all heirs, including notice of the provisions of this subsection and of section 207(n) of this Act. Such efforts shall include—

''(1) a search of publicly available records and Federal records, including telephone and address directories and including electronic search methods;

''(2) an inquiry with family members and co-heirs of the property;

''(3) an inquiry with the tribal government of which the owner is a member, and the tribal government with jurisdiction over the property, if any; and

''(4) if the property is of a value greater than $1,000, an independent firm shall be contracted to conduct a missing persons search.

''(n) MISSING HEIRS.—

''(1) For purposes of this subsection and subsection (m), an heir will be presumed missing if his whereabouts remain unknown 60 days after completion of notice efforts under subsection (m) and they have had no contact with other heirs or the Department for 6 years prior to a hearing or decision to ascertain heirs.

''(2) Before the date for declaring an heir missing, any person may request an extension of time to locate an heir. An extension may be granted for good cause.

''(3) An heir shall be declared missing only after a review of the efforts made and a finding that this section has been complied with.

''(4) A missing heir shall be presumed to have predeceased the decedent for purposes of descent and devise.''.

**SEC. 9. ANNUAL NOTICE AND FILING REQUIREMENT FOR OWNERS OF INTERESTS IN TRUST OR RESTRICTED LANDS.**

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (as amended by section 7) is amended by adding at the end the following:

**''SEC. 222. ANNUAL NOTICE AND FILING; CURRENT WHEREABOUTS OF INTEREST OWNERS.**

''(a) IN GENERAL.—On an annual basis, the Secretary shall send a notice, response form, and a change of name and address form to each owner of an interest in trust or restricted land. The notice shall inform owners of their interest and obligation to provide the Secretary with a notice of any change in their name or address immediately upon such change. The response form should include a section in which the owner may confirm or update his name and address. The change of name and address form may be used by the owner at any time when his name or address changes subsequent to his annual filing of the response form.

''(b) OWNER RESPONSE.—The owner of an interest in trust or restricted land shall file the response form upon receipt to confirm or update his name and address on an annual basis.

''(c) NO RESPONSE; INITIATION OF SEARCH.—In the event that an owner does not file the response form or provide the Secretary with a confirmation or update of his name and address through other means, the Secretary shall initiate a search in order to ascertain the whereabouts and status of the owner.''.

**SEC. 10. EFFECTIVE DATE.**

The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

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By Mr. DOMENICI:

S. 1727. A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce crucial legislation regarding the safety of America's Dams. Ensuring the safety of the Bureau of Reclamation's dams must be a national priority. One of the surest ways to protect the integrity of this existing infrastructure is to ensure that adequate funding is accessible to properly maintain and rehabilitate these great structures.

The Bureau of Reclamation has existing authority that would allow them to expend approximately $974 million dollars on Safety of Dam Projects; but only $109 million dollars of this authorization remains uncommitted. By the end of fiscal year 2002, over 61 dam modifications had been completed under existing authority. Over the next several years, at least 46 projects have been identified as critical. Unfortunately, these projects alone represent an additional authorization need of close to $540 million. Thus, a huge gap exists and it is something we must correct. The bill that I am introducing today, would raise the current ceiling on the Safety of Dams Program to meet the additional $540 million needed and by so doing to meet the needs already identified by Reclamation in 11 of the 17 Reclamation States.

Let me take a few moments to highlight exactly what it is I am talking about. The United States Bureau of Reclamation currently has reservoirs impounded by 457 dams and dikes. Of these structures, 362 dams and dikes would likely cause loss of life if they were to fail. These 362 structures, located at 252 different project facilities, form the core of Reclamation's Dam Safety Program.

Approximately 50 percent of Reclamation's dams were built between 1900 and 1950. Additionally, an estimated 90 percent of the dams were built before currently used state-of-the-art design and construction practices. A strong dam safety program must be maintained to identify potential adverse performance within Reclamation's inventory of aging dams and to carry out corrective actions expeditiously when unreasonable public risk is identified.

I plan to take action on this measure during this Congress and I urge my colleagues to join with me in ensuring the safety and reliability of these dams. 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. 1727

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

**SECTION 1. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978.**

(a) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking ''(c) With respect to''

and all that follows through ''2001'' and inserting the following:

''(c) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—With respect to the additional amounts authorized to be appropriated by section 5''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence—

(1) by striking ''and effective October 1, 2001'' and inserting ''effective October 1, 2001'';

(2) by inserting ''and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels),'' after ''(October 1, 2001, price levels),''; and

(3) by striking ''$750,000'' and inserting ''$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,''.

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By Mr. GRAHAM of Florida (for himself and Ms. SNOWE):

S. 1729. A bill to establish an informatics grant program for hospitals and skilled nursing facilities in order to encourage health care providers to make major information technology advances; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce the Medication Errors Reduction Act of 2003 with my friend and colleague Senator OLYMPIA SNOWE.

In recent years we've heard much about the consequences of medication errors. What we haven't heard as much about are the root causes for the medication errors, or the solutions that are available to us to reduce errors, save lives, prevent injuries, and reduce costs. Simply put, our legislation is necessary because as a nation we face a serious patient-safety problem. The good news is that we have a solution to the problem: we have the technological ability to dramatically reduce medication errors and thus save lives.

The bad news is that the start-up costs and a lack of awareness have to this point been preventing us from reaping the benefits of the new technologies. The solution is right in front of us, but has been just out of reach.

The legislation we are introducing today would bring the solution within our reach. It would address the causes of medication errors—which are systems breakdowns—and the solutions—use of clinical computerized information systems that can save lives.

We are here today to lend a helping hand, not to point a finger. We all share the goal of improving patient safety, and our bill will do that in a very simple, straightforward manner. The legislation establishes a voluntary grant program to encourage hospitals and skilled nursing facilities to become the pioneers of new, life-saving technologies. It does that by assisting with the often prohibitive start-up costs associated with purchasing and implementing information systems—systems that are designed to reduce medication errors and improve patient safety.

I want to stress the goal of this legislation: to help build a safer medication-delivery system. The great successes of our health care system are largely due to our highly committed and talented doctors, nurses, pharmacists, hospitals, nursing homes and other health care providers. The problem we are addressing today is not theirs, but is a problem with the system they rely on to provide inpatient care.

The Institute of Medicine report that kicked off much of this discussion 4 years ago tells us that we must address the ''systems problems'' and design systems that will prevent errors—just as cars are designed so that drivers cannot start them while in reverse helps prevent automobile accidents.

The systems we want to fund would improve the medication-delivery system at many stages.

We leave it up to the hospitals and nursing homes to determine exactly what types of technology would best fit their institutions and their needs. The grants could be used to purchase or improve computer software and hardware, purchase or lease communications capabilities, or provide education and training staff on computer patient safety programs.

The grants could be used to improve patient safety at every stage of the medication delivery process. For example, a hospital or nursing home could use the funds to implement 1. electronic prescribing systems that can intercept errors at the time medications are ordered, 2. electronic medical records to alert doctors to possible drug interactions and complications related to the patient's medical history, 3. automated pharmacy dispensing to make sure the nurse receives the correct medication in the correct dosage for the correct patient, and 4. bedside verification—using bar codes on patient wristbands and the medications to ensure that the right medication is administered to the right patient at the right time.

We could only have dreamed about clinical computerized information systems when the Medicare program was implemented. Today, we have them at our disposal. The sooner we get them into our hospitals and nursing homes, the sooner we start saving lives.

The Medication Errors Reduction Act is supported by the Florida Hospital Association, National Rural Health Association, National Association of Children's Hospitals, Healthcare Leadership Council, AFSCME, Federation of American Hospitals, Catholic Health Association of the United States, Association of American Medical Colleges, Premier, Inc., the American Society of Heath-System Pharmacists, McKesson Corporation, IBM, VHA, Inc., Vanderbilt University Medical Center, New York Presbyterian Hospital, Aetna, Siemens, AmerisourceBergen Corporation, American Health Packaging, AutoMed, Choice Systems, Inc., Pharmacy Healthcare Solutions, Telepharmacy Solutions, Verizon, Becton Dickinson, American Health Care Association, AFL–CIO, Cardinal Health, and the eHealth Initiative.

I ask their letters of support to be included for the RECORD. With their help, this bill will become law and we will be well on our way to improving patient safety.

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

OCTOBER *13, 2003*.

Hon. ROBERT GRAHAM,
*U.S. Senate*,

Hon. OLYMPIA SNOWE,
*U.S. Senate*,

Hon. AMO HOUGHTON,
*House of Representatives*,

Hon. EARL POMEROY,
*House of Representatives*,
*Washington, DC*.

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMERY: Long engaged in efforts to improve patient safety, the undersigned organizations strongly support the ''Medication Errors Reduction Act of 2003.'' This critical legislation would fund efforts to improve our nation's clinical safety systems. Since the release of the 1999 Institute of Medicine report, *to Err is Human*, we have collectively embraced a more vigorous commitment to the advancement of patient safety in our healthcare system.

Concern over improving the quality of our nation's health care extends far beyond the provider community. The business community, consumers, and Labor have an equally vested interest. While the issues surrounding the improvement of patient safety are numerous and complex, we agree that the facilitated deployment of new technologies to certain providers would be of immense benefit. Further, we believe that clinical healthcare informatics systems designed to reduce the incidence of adverse events and complications stemming from medication errors great promise.

New and evolving technologies like computer physician order-entry (CPOE), bedside verification, and automated pharmacy dispensing could prove particularly beneficial to many healthcare providers. Still, sizable barriers to acquisition and deployment exist. The inability to finance such systems in perhaps the most insurmountable—but the easiest to address, as well. This legislation would permit providers and their patients to reap the rewards of these critical patient safety improvement technology tools.

Again, we thank you for having introduced the ''Medication Errors Reduction Act of 2003,'' and look forward to working with you toward enactment.

Sincerely,
Premier, Inc.;
IBM;
VHA, Inc.;
Vanderbilt University Medical Center;
New York Presbyterian Hospital;
Aetna;
McKession Corporation;
Siemens;
AmerisourceBergen Corporation;
American Health Packaging;
AutoMed;
Choice Systems, Inc.;
Pharmacy Healthcare Solutions;
Telepharmacy Solutions;
National Rural Health Association;
National Association of Children's Hospitals;
Verizon;
Becton Dickenson;
Federation of American Hospitals;
American Health Care Association;
AFL–CIO;
Cardinal Health;

American Society of Health-System Pharmacists;
Healthcare Leadership Council;
eHealth Initiative;
Catholic Health Association of the United States;
Association of American Medical Colleges; and
AFSCME.

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PREMIER ADVOCACY,
*September 12, 2003.*

Hon. ROBERT GRAHAM,
*U.S. Senate,*

Hon. OLYMPIA SNOWE,
*U.S. Senate,*

Hon. AMO HOUGHTON,
*House of Representatives,*

Hon. EARL POMEROY,
*House of Representatives,*
*Washington, DC.*

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMEROY:

On behalf of the more than 1,500 leading not-for-profit hospitals and health systems allied in Premier, Inc., and the millions of patients whose healthcare needs they serve, we extend our vigorous support for the Medication Errors Reduction Act of 2003.

This innovative legislation would provide grants to hospitals and nursing facilities to offset the prohibitively high costs of developing and implementing new patient safety and information technologies to reduce medical errors and adverse events. As such, the measure would undoubtedly contribute to the sustained improvement of quality health care in America.

The legislation's establishment of a ten-year, $1 billion grant program would effectively mitigate the most formidable barrier to hospitals' implementation of new, life-saving technologies—namely, cost. In this way, the efforts of early adopters of new technologies are simultaneously rewarded and facilitated.

As you know, Premier is a long-standing champion of patient safety and quality improvement. At present, we are hosting a series of collaborative meetings designed to help members implement and adopt computerized physician order entry (CPOE). Participation by hospital executives, including CIOs, CMOs and CEOs, as well as their CPOE project leaders, facilitate and energize the exchange of knowledge and experience, which are invaluable to the advancement of CPOE adoption. In addition, Premier has long championed industry adoption of the bar code for drug, biological, and appropriate medical device labeling to reduce the incidence of adverse events, and improve patient safety overall.

Premier and its member hospitals believe that the Medication Errors Reduction Act represents a significant step on the path to improved patient care. We applaud your efforts, and look forward to working with you toward passage of this critical legislation.

Sincerely,

HERB KUHN,
*Corporate Vice President.*

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MCKESSON CORPORATION,
*San Francisco, CA, September 12, 2003.*

Hon. BOB GRAHAM,
*U.S. Senate,*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Washington, DC.*

DEAR SENATORS GRAHAM AND SNOWE: On behalf of McKesson Corporation, I would like to thank you for authorizing the Medication Errors Reduction Act of 2003. We strongly support this legislation and applaud your leadership in identifying ways to help reduce medication errors and improve the quality of health care in our nation.

As the world's largest healthcare services company, McKesson provides automation, information systems, and pharmacy services that enable medication management accuracy. We have pioneered advances in medication management technology by providing hospitals, retail pharmacies and other clinical settings with unique robotic pharmaceutical dispensing and bedside bar-coding technologies to ensure that the right drug, in the appropriate dosage, is administered to the right patient via the right route at the right time. In addition, McKesson provides computerized physician order systems, pharmacy information systems, and clinical consulting services designed to improve the quality and delivery of health care.

As early as 1993, the University of Wisconsin Hospitals and Clinics (UWHC) embraced McKesson's automation and bar code solutions for pharmaceutical distribution. Building on this system, they have implemented point-of-care bar code scanning at the bedside. In partnership with McKesson on clinical programs and adverse drug event tracking, UWHC has demonstrated a significant reduction in medication errors, enhanced efficiency, increased clinician satisfaction, and improved medication documentation. As an example of these successes,they have achieved an 89 percent reduction in medication administration errors due to point-of-care bar code scanning, as well as a reduction in dispensing errors from 1.43 percent to 0.13 percent. UWHC also realized a return on investment in two years.

We commend you for recognizing the need for economic incentives to accelerate the adoption of innovative technology so critically needed in today's health care environment. By providing grants to hospitals and skilled nursing facilities, your legislation will facilitate the widespread use of technology designed to prevent medication errors and enhance patient safety. We stand ready to work with you and your staff to support passage of this legislation.

Sincerely,

ANN RICHARDSON BERKEY,
*Vice President, Public Affairs.*

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AMERICAN SOCIETY OF HEALTH-SYSTEM PHARMACISTS,
*Bethesda, MD, September 17, 2003.*

Hon. ROBERT GRAHAM,
*U.S. Senate, Washington, DC.*
Hon. OLYMPIA SNOWE,
*U.S. Senate, Washington, DC.*
Hon. AMO HOUGHTON,
*House of Representatives,*
*Washington, DC.*
Hon. EARL POMEROY,
*House of Representatives,*
*Washington, DC.*

DEAR SENATORS GRAHAM AND SNOWE AND REPRESENTATIVES HOUGHTON AND POMEROY: The American Society of Health-System Pharmacists (ASHP), the 30,000-member national professional association that represents pharmacists who practice in hospitals, health maintenance organizations, long-term care facilities, home care, and other components of health care systems, would like to commend you on introduction of the ''Medication Errors Reduction Act of 2003.''

The Institute of Medicine (IOM) report, To Err is Human: Building a Safer Health System, pointed out as many as 98,000 patients die annually as the result of medical errors, 7,000 of which are the direct result of medication-related complications. Handwritten clinical data, incomplete, outdated, or improperly implemented information technology within our nation's health system contributes to the high number of adverse events or health care complications due to medication use.

Research demonstrates that information technology enhancements, when appropriately implemented, enhance the appropriate, accurate, and timely distribution of medications, and improve the quality of patient care.

The voluntary grant program for which your legislation provides would allow early adopters of new technology to meet the high price tag associated with this technology as well as the necessary and important expense of properly educating and training staff on the correct use of the information system.

ASHP hopes to foster a fail-safe medication process. Your legislation helps move toward that goal and we look forward to a continued partnership to make this a reality. For more information, please contact Kathleen M. Cantwell, Director, Federal Legislative Affairs and Government Affairs Counsel, at 301/657–3000, ext. 1326.

Sincerely,

HENRI R. MANASSE, Jr.,
*Executive Vice President and*
*Chief Executive Officer.*

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FLORIDA HOSPITAL ASSOCIATION,
*October 14, 2003.*

Hon. BOB GRAHAM,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the more than 230 members of the Florida Hospital Association, I want to commend you for introducing legislation to provide financial assistance to help hospitals take patient safety to the next level. Your bill, the ''Medication Errors Reduction Act of 2003,'' represents a significant step toward assisting hospitals in Florida and throughout the country in their continuous efforts to improve their clinical safety systems.

Your initiative recognizes that our commitment to patient safety requires more financial resources than are currently available to hospitals, which continue to experience extraordinary financial pressures. You are a realist—matching resources in support of a great need.

The FHA will encourage other members of the Florida Congressional Delegation to support your bill—a measure that targets our desire to improve patient safety. It will be important for the bill to retain its clear focus, and not become weighted down with extraneous legislative baggage that could change its focus.

Thank you for moving so swiftly to help us protect patients while protecting the integrity of the Hospital Trust Fund.

Sincerely yours,

WAYNE NESMITH,
*President.*

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator BOB GRAHAM of Florida, in reintroducing the Medication Errors Reduction Act, which will serve to improve the quality of health care delivered in hospitals and skilled nursing facilities by reducing medical errors. The lack of quality assurances in America's health care system has been documented many times. We believe this bill is the first step in the process to correct this troubling circumstance and to ensure that the American health system is the world's safest.

We first began development of this legislation in 2001, following the release of the Institute of Medicine's (IOM) report ''To Err Is Human: Building a Safer Health System.'' We were prompted by the startling revelations contained in the report that showed up

to 98,000 people per year lose their lives because of a medical error and the annual financial impact that results from these mistakes is believed to be as high as $29 billion.

As you might imagine, a medical error can be many things, but the Institute defines it as ''the failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim.'' The Institute sites among the problems that commonly occur during the course of providing health care—adverse drug events and improper transfusions, surgical injuries and wrong-site surgery, suicides, restraint-related injuries or death, falls, burns, pressure ulcers and mistaken patient identities. All of these can have tragic endings, but all are preventable.

In developing the solution, we looked to incentives that would prompt hospitals and skilled nursing facilities to utilize technology to identify inaccuracies and prevent medical errors before they happen. Senator GRAHAM and I developed a proposal that provides Federal matching funds to hospitals and skilled nursing facilities that integrate into their medical systems technology that can prevent medical errors. Technology exists, as never before, that can help identify errors before they happen, and save lives. But this technology is rendered useless if it is not being utilized. That is why the Federal Government must step forward and provide the necessary incentives to prompt innovation.

In taking this step, we believe it is imperative that the Federal Government invest time and funding in not just identifying the solution, but to provide the means to implement the solution. It is the role of the Federal Government to lead, and I believe that providing grant funding to hospitals and skilled nursing facilities to integrate technology into their health care delivery systems will in fact provide the necessary leadership to see this idea become a reality.

More specifically, the grants provided by this legislation can be used to purchase or improve computer software and hardware, and provide education and training to staff on computer patient safety programs. They also may be used to improve patient safety at every stage of the medication delivery process through: electronic prescribing systems that can intercept errors at the time medications are ordered; electronic medical records to alert doctors to possible drug interactions and complications related to the patient's medical history; automated pharmacy dispensing to make sure the nurse receives the correct medication in the correct dosage for the correct patient; and bedside verification—using bar codes on patient wristbands and the medications to ensure that the right medication is administered to the right patient at the right time.

Further, we direct the funding to hospitals that serve predominately patients who receive insurance coverage through Medicare, Medicaid and S–CHIP. And to ensure that all hospitals, especially those in rural communities that have smaller operating margins, can afford to utilize this innovative new program, we set aside 20 percent of the funding for rural hospitals. I believe this is an important and necessary step to protect our rural communities and provide families with the highest quality care.

I hope my colleagues will join us in support of this legislation so we soon will be able to reduce the number of Americans who are harmed by medical errors.

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By Ms. SNOWE (for herself, Mrs. MURRAY, Mr. BIDEN, and Mrs. FEINSTEIN):

S. 1730. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce the Women's Health and Cancer Rights Act. I am pleased to be joined by my friends, Senator MURRAY of Washington and Senator BIDEN of Delaware, and Senator FEINSTEIN of California, as original cosponsors of this bill.

This bill has a two-fold purpose. First, it will ensure that appropriate medical care determines how long a woman stays in the hospital after undergoing a mastectomy—not a predetermined amount of time legislated by Congress. This provision says that inpatient coverage with respect to the treatment of mastectomy, lumpectomy, or lymph node dissection—regardless of whether the patient's plan is regulated by ERISA or State regulations—will be provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate. Second, this bill allows any person facing a cancer diagnosis of any type to get a second opinion on their course of treatment.

A diagnosis of breast cancer is something that every woman dreads. But for an estimated 192,020 American women, this is the year their worst fears will be realized. One thousand new cases of breast cancer will be diagnosed among the women in Maine, and 200 women in my home State will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and 54, there is no other disease which will claim more lives.

It's not hard to understand why the words ''you have breast cancer'' are some of the most frightening words in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. Despite the medical and scientific advances that have been made, despite the advances in early detection technology that more and more often negate the need for radical surgery, it still remains a fact of life at the beginning of the 21st century these procedures can be the most prudent option in attacking and eradicating cancer found in a woman's breast.

These are the kind of decisions that come with a breast cancer diagnosis. These are the kind of questions women must answer, and they must do so under some of the most stressful and frightening circumstances imaginable. The last question a woman should have to worry about at a time like this is whether or not their health insurance plan will pay for appropriate care after a mastectomy or lumpectomy, or that she won't be able to remain in a doctor's immediate care for as long as she needs to be. A woman diagnosed with breast cancer in many ways already feels as though she has lost control of her life. She should not feel as though she has also lost control of her course of treatment.

The evidence for the need for this bill—especially when it comes to so-called ''drive through mastectomies'', is more than just allegorical. Indeed, the facts speak for themselves—between 1986 and 1995, the average length of stay for a mastectomy dropped from about six days to about two to three days. Thousands of women across the country are undergoing radical mastectomies on an outpatient basis and are being forced out of the hospital before either they or their doctor think it's reasonable or prudent.

This decision must be returned to physicians and their patients, and all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate and necessary medical care.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1828. Mr. COCHRAN (for himself, Mr. CRAPO, Mr. DOMENICI, Mrs. LINCOLN, Mr. CRAIG, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BAUCUS, Ms. MURKOWSKI, Mr. THOMAS, Mr. DASCHLE, Mr. BURNS, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table.