S. 570

At the request of Mr. TESTER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 570, a bill to prohibit the Department of Justice from tracking and cataloguing the purchases of multiple rifles and shotguns.

S. 600

At the request of Mr. MENENDEZ, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 600, a bill to promote the diligent development of Federal oil and gas leases, and for other purposes.

S. 634

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 634, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 646

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 646, a bill to reauthorize Federal natural hazards reduction programs, and for other purposes.

S. 671

At the request of Mr. SESSIONS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 671, a bill to authorize the United States Marshals Service to issue administrative subpoenas in investigations relating to unregistered sex offenders.

S. RES. 99

At the request of Mr. DEMINT, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. Res. 99, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

AMENDMENT NO. 197

At the request of Mrs. HUTCHISON, the names of the Senator from Idaho (Mr. RISCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Arkansas (Mr. BOOZMAN), the Senator from South Carolina (Mr. DEMINT), the Senator from Indiana (Mr. COATS), the Senator from Texas (Mr. CORNYN), the Senator from Kentucky (Mr. MCCONNELL), the Senator from South Carolina (Mr. GRAHAM), the Senator from New Hampshire (Ms. AYOTTE), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Alabama (Mr. SESSIONS), the Senator from Florida (Mr. RUBIO), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Illinois (Mr. KIRK) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 197 proposed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

AMENDMENT NO. 220

At the request of Mr. COBURN, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from North Carolina (Mr. BURR), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from New Hampshire (Ms. AYOTTE) were added as cosponsors of amendment No. 220 intended to be proposed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

AMENDMENT NO. 241

At the request of Mr. RISCH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 241 intended to be proposed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

AMENDMENT NO. 267

At the request of Mr. TESTER, the names of the Senator from Delaware (Mr. COONS), the Senator from South Dakota (Mr. THUNE) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of amendment No. 267 intended to be proposed to S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. BEGICH, and Ms. MURKOWSKI):

S. 675. a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President, today I rise to introduce legislation of great importance to my state, the Native Hawaiian Government Reorganization Act of 2011. This bill would ensure parity in federal policy as it relates to the Native Hawaiian people. It would put them on equal footing with American Indians and Alaska Natives. I have sponsored this common-sense legislation since the 106th Congress.

Last December, I spoke here on the Senate floor to reaffirm my commitment to enact this legislation. I made it clear then to my colleagues and my constituents that I would be reintroducing this legislation in the 112th Congress. I am moving forward with the legislation that was reported out of the Senate Committee on Indian Affairs in the 111th Congress.

Throughout my Senate career, I have been a member of the Committee on Indian Affairs. I have worked diligently with my colleagues on the Committee to champion legislation to improve conditions for our Native communities across the United States. At the beginning of the 112th Congress, I became the Chairman of this Committee. I look forward to working on the many pressing issues for American Indians, Alaska Natives, and Native Hawaiians. Reconciliation between the United States and the Native Hawaiian people will be a top priority.

In 1993, I sponsored a measure commonly known as the Apology Resolution. This resolution was signed into law by President Bill Clinton. It outlined the history—prior to—and following the overthrow of the Kingdom of Hawaii, including the involvement in the overthrow by agents of the United States. In the resolution, the United States apologized for its involvement—and acknowledged the ramifications of the overthrow. It committed to support reconciliation efforts between the United States and the Native Hawaiian people.

However, additional Congressional action is needed.

My legislation allows us to take the necessary next step in the reconciliation process. The bill does three things. First, it authorizes an office in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States. Second, it forms an interagency task force chaired by the Departments of Justice and Interior, and composed of officials from federal agencies that administer programs and services impacting Native Hawaiians. Third, it authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally-recognized government-to-government relationship. Once the Native Hawaiian government is recognized, an inclusive democratic negotiations process representing both Native Hawaiians and non-Native Hawaiians would be established. There are many checks and balances in this process. Any agreements reached would still require the legislative approval of the State and Federal governments.

Opponents have spread misinformation about the bill. Let me be clear on some things that this bill does not do. My bill will not allow for gaming. It does not allow for Hawaii to secede from the United States. It does not allow for private land to be taken. It does not create a reservation in Hawaii.

What this bill does do is allow the people of Hawaii to come together and address issues arising from the overthrow of the Kingdom of Hawaii more than 118 years ago.

It is time to move forward with this legislation. To date, there have been a total of 12 Congressional hearings, including 5 joint hearings in Hawaii held by the Senate Committee on Indian Affairs and the House Natural Resources Committee. Our colleagues in the House have passed versions of this bill three times. We, however, have never had the opportunity to openly debate this bill on its merits in the Senate. We have a strong bill that is supported by Native communities across the United States, by the State of Hawaii, and by the Obama Administration.

Last week, I met with officials and community leaders in the state of Hawaii to share my intention to reintroduce this legislation. I received widespread support. This support was not surprising. A poll conducted by the Honolulu Advertiser in May of last year reported that 66 percent of the people of Hawaii support Federal recognition for Native Hawaiians. And 82 percent of Native Hawaiians polled support Federal recognition.

My efforts have the support of the National Congress of American Indians, the Alaska Federation of Natives, and groups throughout the Native Hawaiian community including the Association of Hawaiian Civic Clubs, the Native Hawaiian Bar Association, the Council for Native Hawaiian Advancement, and two state agencies which represent the interests of the Native Hawaiian people, the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands. I have also received support from national organizations such as the American Bar Association, and from President Obama, the Department of Justice, and the Department of Interior.

I encourage all of my colleagues to stand with me and support this legislation. I welcome any of my colleagues with concerns to speak with me so I can explain how important this bill is for the people of Hawaii. The people of Hawaii have waited for far too long. America has a history of righting past wrongs. The United States has federally recognized government-to-government relationships with 565 tribes across our country. It is time to extend this policy to the Native Hawaiians.

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

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

S. 675

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 ''Native Hawaiian Government Reorganization Act of 2011''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States and the Supreme Court has held that under the Indian Commerce, Treaty, Supremacy, and Property Clauses, and the War Powers, Congress may exercise that power to rationally promote the welfare of the native peoples of the United States so long as the native people are a ''distinctly native community'';

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are 1 of the indigenous, native peoples of the United States, and the Native Hawaiian people are a distinctly native community;

(3) the United States has a special political and legal relationship with, and has long enacted legislation to promote the welfare of, the native peoples of the United States, including the Native Hawaiian people;

(4) under the authority of the Constitution, the United States concluded a number of treaties with the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii as a nation;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions of peace, friendship and commerce with the Kingdom of Hawaii to govern trade, commerce, and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land in trust to better address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii and in enacting the Hawaiian Homes Commission Act, 1920, Congress acknowledged the Native Hawaiian people as a native people of the United States, as evidenced by the Committee Report, which notes that Congress relied on the Indian affairs power and the War Powers, including the power to make peace;

(6) by setting aside 203,500 acres of land in trust for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act, 1920, assists the members of the Native Hawaiian community in maintaining distinctly native communities throughout the State of Hawaii;

(7) approximately 9,800 Native Hawaiian families reside on the Hawaiian Home Lands, and approximately 25,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress delegated the authority and responsibility to administer the Hawaiian Homes Commission Act, 1920, lands in trust for Native Hawaiians and established a new public trust (commonly known as the ''ceded lands trust''), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians, and Congress thereby reaffirmed its recognition of the Native Hawaiians as a distinctly native community with a direct lineal and historical succession to the aboriginal, indigenous people of Hawaii;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide important native land reserves and resources for the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the continuity, survival, and economic self-sufficiency of the Native Hawaiian people as a distinctly native political community;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii, including native lands that date back to the ali'i and kuleana lands reserved under the Kingdom of Hawaii;

(12) through the Sovereign Council of Hawaiian Homelands Assembly, Native Hawaiian civic associations, charitable trusts established by the Native Hawaiian ali'i, nonprofit native service providers and other community associations, the Native Hawaiian people have actively maintained native traditions and customary usages throughout the Native Hawaiian community and the Federal and State courts have continuously recognized the right of the Native Hawaiian people to engage in certain customary practices and usages on public lands;

(13) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(14) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States, and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(15)(A) the Apology Resolution expresses the commitment of Congress and the President—

(i) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii; and

(ii) to support reconciliation efforts between the United States and Native Hawaiians;

(B) Congress established the Office of Hawaiian Relations within the Department of the Interior with 1 of its purposes being to consult with Native Hawaiians on the reconciliation process; and

(C) the United States has the duty to reconcile and reaffirm its friendship with the Native Hawaiian people because, among other things, the United States Minister and United States naval forces participated in the overthrow of the Kingdom of Hawaii;

(16)(A) despite the overthrow of the Government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a single distinctly native political community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency; and

(B) there is clear continuity between the aboriginal, indigenous, native people of the Kingdom of Hawaii and their successors, the Native Hawaiian people today;

(17) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction; and

(xii) traditional justice programs; and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(18) Native Hawaiian people are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(19) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(20) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a single unified Native Hawaiian governing entity for the purpose of giving expression to their rights as a native people to self-determination and self-governance;

(21) Congress—

(A) has declared that the United States has a special political and legal relationship for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as an indigenous, distinctly native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(22) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the exclusive right of the United States to consent to any actions affecting the lands included in the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(23) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a direct geneological, cultural, historic, and land-based connection to their forebears, the aboriginal, indigenous, native people who exercised original sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the native people of a prior-sovereign nation with whom the United States has a special political and legal relationship; and

(D) the special relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(24) the State of Hawaii supports the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States, as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003, and March 1, 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means a people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893, overthrow of the Kingdom of Hawaii.

(3) COMMISSION.—The term ''Commission'' means the Commission established under section 8(b).

(4) COUNCIL.—The term ''Council'' means the Native Hawaiian Interim Governing Council established under section 8(c)(2).

(5) INDIAN PROGRAM OR SERVICE.—

(A) IN GENERAL.—The term ''Indian program or service'' means any federally funded or authorized program or service provided to an Indian tribe (or member of an Indian tribe) because of the status of the members of the Indian tribe as Indians.

(B) INCLUSIONS.—The term ''Indian program or service'' includes a program or service provided by the Bureau of Indian Affairs, the Indian Health Service, or any other Federal agency.

(6) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(8) INTERAGENCY COORDINATING GROUP.—The term ''Interagency Coordinating Group'' means the Native Hawaiian Interagency Coordinating Group established under section 6.

(9) NATIVE HAWAIIAN GOVERNING ENTITY.—The term ''Native Hawaiian governing entity'' means the governing entity organized pursuant to this Act by the qualified Native Hawaiian constituents.

(10) NATIVE HAWAIIAN MEMBERSHIP ORGANIZATION.—The term ''Native Hawaiian Membership Organization'' means an organization that—

(A) serves and represents the interests of Native Hawaiians, has as a primary and stated purpose the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs;

(B) has leaders who are elected democratically, or selected through traditional Native leadership practices, by members of the Native Hawaiian community;

(C) advances the cause of Native Hawaiians culturally, socially, economically, or politically;

(D) is a membership organization or association; and

(E) has an accurate and reliable list of Native Hawaiian members.

(11) OFFICE.—The term ''Office'' means the United States Office for Native Hawaiian Relations established by section 5(a).

(12) QUALIFIED NATIVE HAWAIIAN CONSTITUENT.—For the purposes of establishing the roll authorized under section 8, and prior to the recognition by the United States of the Native Hawaiian governing entity, the term ''qualified Native Hawaiian constituent'' means an individual who the Commission determines has satisfied the following criteria and who makes a written statement certifying that he or she—

(A) is—

(i) an individual who is 1 of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(I) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(II) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(ii) an individual who is 1 of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), or a direct lineal descendant of that individual;

(B) wishes to participate in the reorganization of the Native Hawaiian governing entity;

(C) is 18 years of age or older;

(D) is a citizen of the United States; and

(E) maintains a significant cultural, social, or civic connection to the Native Hawaiian community, as evidenced by satisfying 2 or more of the following 10 criteria:

(i) Resides in the State of Hawaii.

(ii) Resides outside the State of Hawaii and—

(I)(aa) currently serves or served as (or has a parent or spouse who currently serves or served as) a member of the Armed Forces or as an employee of the Federal Government; and

(bb) resided in the State of Hawaii prior to the time he or she (or such parent or spouse) left the State of Hawaii to serve as a member of the Armed Forces or as an employee of the Federal Government; or

(II)(aa) currently is or was enrolled (or has a parent or spouse who currently is or was enrolled) in an accredited institution of higher education outside the State of Hawaii; and

(bb) resided in the State of Hawaii prior to the time he or she (or such parent or spouse) left the State of Hawaii to attend such institution.

(iii)(I) Is or was eligible to be a beneficiary of the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), and resides or resided on land set aside as ''Hawaiian home lands'', as defined in such Act; or

(II) Is a child or grandchild of an individual who is or was eligible to be a beneficiary of the programs authorized by such Act and who resides or resided on land set aside as ''Hawaiian home lands'', as defined in such Act.

(iv) Is or was eligible to be a beneficiary of the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42).

(v) Is a child or grandchild of an individual who is or was eligible to be a beneficiary of the programs authorized by the Hawaiian

Homes Commission Act, 1920 (42 Stat. 108, chapter 42).

(vi) Resides on or has an ownership interest in, or has a parent or grandparent who resides on or has an ownership interest in, ''kuleana land'' that is owned in whole or in part by a person who, according to a genealogy verification by the Office of Hawaiian Affairs or by court order, is a lineal descendant of the person or persons who received the original title to such ''kuleana land'', defined as lands granted to native tenants pursuant to Haw. L. 1850, p. 202, entitled ''An Act Confirming Certain Resolutions of the King and Privy Council Passed on the 21st day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges'', as amended by Haw. L. 1851, p. 98, entitled ''An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges'' and as further amended by any subsequent legislation.

(vii) Is, or is the child or grandchild of, an individual who has been or was a student for at least 1 school year at a school or program taught through the medium of the Hawaiian language under section 302H–6, Hawaii Revised Statutes, or at a school founded and operated primarily or exclusively for the benefit of Native Hawaiians.

(viii) Has been a member since September 30, 2009, of at least 1 Native Hawaiian Membership Organization.

(ix) Has been a member since September 30, 2009, of at least 2 Native Hawaiian Membership Organizations.

(x) Is regarded as a Native Hawaiian and whose mother or father is (or if deceased, was) regarded as Native Hawaiian by the Native Hawaiian community, as evidenced by sworn affidavits from two or more qualified Native Hawaiian constituents certified by the Commission as possessing expertise in the social, cultural, and civic affairs of the Native Hawaiian community.

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

(14) SPECIAL POLITICAL AND LEGAL RELATIONSHIP.—The term ''special political and legal relationship'' shall refer, except where differences are specifically indicated elsewhere in the Act, to the type of and nature of relationship the United States has with the several federally recognized Indian tribes.

SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people, which includes promoting the welfare of Native Hawaiians;

(3)(A) Congress possesses and hereby exercises the authority under the Constitution, including but not limited to Article I, Section 8, Clause 3, to enact legislation to better the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(i) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(ii) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4); and

(iii) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(B) other sources of authority under the Constitution for legislation on behalf of the indigenous, native peoples of the United States, including Native Hawaiians, include but are not limited to the Property, Treaty, and Supremacy Clauses, War Powers, and the Fourteenth Amendment, and Congress hereby relies on those powers in enacting this legislation; and

(C) the Constitution's original Apportionment Clause and the 14th Amendment Citizenship and amended Apportionment Clauses also acknowledge the propriety of legislation on behalf of the native peoples of the United States, including Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—The purpose of this Act is to provide a process for the reorganization of the single Native Hawaiian governing entity and the reaffirmation of the special political and legal relationship between the United States and that Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Relations.

(b) DUTIES.—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the government-to-government relationship between the single Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) provide timely notice to, and consult with, the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) work with the Interagency Coordinating Group, other Federal agencies, and the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and may provide recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Office.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) ESTABLISHMENT.—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group, to be known as the ''Native Hawaiian Interagency Coordinating Group''.

(b) COMPOSITION.—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency whose actions may significantly or uniquely impact Native Hawaiian programs, resources, rights, or lands; and

(2) the Office.

(c) LEAD AGENCY.—

(1) IN GENERAL.—The Department of the Interior and the White House Office of Intergovernmental Affairs shall serve as the leaders of the Interagency Coordinating Group.

(2) MEETINGS.—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) DUTIES.—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) consult with the Native Hawaiian governing entity, through the coordination referred to in paragraph (1), but the consultation obligation established in this provision shall apply only after the satisfaction of all of the conditions referred to in section 8(c)(8); and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

(e) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Interagency Coordinating Group.

SEC. 7. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the Office in the implementation and protection of the rights of Native Hawaiians and their political and legal relationship with the United States, and upon the recognition of the Native Hawaiian governing entity as provided for in section 8, in the implementation and protection of the rights of the Native Hawaiian governing entity and its political and legal relationship with the United States.

SEC. 8. PROCESS FOR REORGANIZATION OF NATIVE HAWAIIAN GOVERNING ENTITY AND REAFFIRMATION OF SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN UNITED STATES AND NATIVE HAWAIIAN GOVERNING ENTITY.

(a) RECOGNITION OF NATIVE HAWAIIAN GOVERNING ENTITY.—The right of the qualified Native Hawaiian constituents to reorganize the single Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) COMMISSION.—

(1) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purposes of—

(A) preparing and maintaining a roll of qualified Native Hawaiian constituents; and

(B) certifying that the individuals on the roll of qualified Native Hawaiian constituents meet the definition of qualified Native Hawaiian constituent set forth in section 3.

(2) MEMBERSHIP.—

(A) APPOINTMENT.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the

Commission in accordance with subparagraph (B).

(ii) CONSIDERATION.—In making an appointment under clause (i), the Secretary may take into consideration a recommendation made by any Native Hawaiian Membership Organization.

(B) REQUIREMENTS.—Each member of the Commission shall demonstrate, as determined by the Secretary—

(i) not less than 10 years of experience in the study and determination of Native Hawaiian genealogy (traditional cultural experience shall be given due consideration); and

(ii) an ability to read and translate into English documents written in the Hawaiian language.

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

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(3) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) DUTIES.—The Commission shall—

(A) prepare and maintain a roll of qualified Native Hawaiian constituents as set forth in subsection (c); and

(B) certify that the individuals on the roll of qualified Native Hawaiian constituents meet the definition of that term as set forth in section 3.

(5) STAFF.—

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

(B) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

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

(6) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(7) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(8) EXPIRATION.—The Secretary shall dissolve the Commission upon the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States.

(c) PROCESS FOR REORGANIZATION OF NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) ROLL.—

(A) CONTENTS.—The roll shall include the names of the qualified Native Hawaiian constituents who are certified by the Commission to be qualified Native Hawaiian constituents, as defined in section 3.

(B) FORMATION OF ROLL.—Each individual claiming to be a qualified Native Hawaiian constituent shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition set forth in section 3; *Provided*, That an individual presenting evidence that he or she satisfies the definition in section 2 of Public Law 103–150 shall be presumed to meet the requirement of section 3(12)(A)(i).

(C) DOCUMENTATION.—The Commission shall—

(i)(I) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of qualified Native Hawaiian constituent set forth in section 3;

(II) recognize an individual's identification of lineal ancestors on the 1890 Census by the Kingdom of Hawaii as a reliable indicia of lineal descent from the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(III) permit elderly Native Hawaiians and other Native Hawaiians lacking birth certificates or other documentation due to birth on Hawaiian Home Lands or other similar circumstances to establish lineal descent by sworn affidavits from 2 or more qualified Native Hawaiian constituents;

(ii) establish a standard format for the submission of documentation and a process to ensure veracity; and

(iii) publish information related to clauses (i) and (ii) in the Federal Register.

(D) CONSULTATION.—In making determinations that each individual proposed for inclusion on the roll of qualified Native Hawaiian constituents meets the definition of qualified Native Hawaiian constituent in section 3, the Commission may consult with Native Hawaiian Membership Organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(E) NOTIFICATION.—The Commission shall—

(i) inform an individual whether they have been deemed by the Commission a qualified Native Hawaiian constituent; and

(ii) inform an individual of a right to appeal the decision if deemed not to be a qualified Native Hawaiian constituent.

(F) CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.—The Commission shall—

(i) submit the roll containing the names of those individuals who meet the definition of qualified Native Hawaiian constituent in section 3 to the Secretary within 2 years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the qualified Native Hawaiian constituents proposed for inclusion on the roll meets the definition set forth in section 3.

(G) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of qualified Native Hawaiian constituent set forth in section 3, the Commission shall publish the notice of the certification of the roll in the Federal Register, notwithstanding pending appeals pursuant to subparagraph (H).

(H) APPEAL.—The Secretary, in consultation with the Commission, shall establish a mechanism for an administrative appeal for any person whose name is excluded from the roll who claims to meet the definition of qualified Native Hawaiian constituent in section 3.

(I) PUBLICATION; UPDATE.—The Commission shall—

(i) publish the notice of the certification of the roll regardless of whether appeals are pending;

(ii) update the roll and provide notice of the updated roll on the final disposition of any appeal;

(iii) update the roll to include any person who has been certified by the Commission as meeting the definition of qualified Native Hawaiian constituent in section 3 after the initial publication of the roll or after any subsequent publications of the roll; and

(iv) provide a copy of the roll and any updated rolls to the Council.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of qualified Native Hawaiian constituents whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF COUNCIL.—

(A) ORGANIZATION.—The Commission, in consultation with the Secretary, shall hold a minimum of 3 meetings and each meeting shall be at least 2 working days of the qualified Native Hawaiian constituents listed on the roll established under this section—

(i) to develop criteria for candidates to be elected to serve on the Council;

(ii) to determine the structure of the Council, including the number of Council members; and

(iii) to elect members from individuals listed on the roll established under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) shall represent those listed on the roll established under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council shall conduct, among the qualified Native Hawaiian constituents listed on the roll established under this subsection, a referendum for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for future membership in the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council shall develop proposed organic governing documents for the Native Hawaiian governing entity and may seek technical assistance from the Secretary on the draft organic governing documents to ensure that the draft organic governing documents comply with this Act and other Federal law.

(III) DISTRIBUTION.—The Council shall publish to all qualified Native Hawaiian constituents of the Native Hawaiian governing entity listed on the roll published under this subsection notice of the availability of—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—

(aa) IN GENERAL.—Not sooner than 180 days after the proposed organic governing documents are drafted and distributed, the Council, with the assistance of the Secretary, shall hold elections for the purpose of ratifying the proposed organic governing documents.

(bb) PURPOSE.—The Council, with the assistance of the Secretary, shall hold the election for the purpose of ratifying the proposed organic governing documents 60 days after publishing notice of an election.

(cc) OFFICERS.—On certification of the organic governing documents by the Secretary in accordance with paragraph (4), the Council, with the assistance of the Secretary, shall hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 9(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 180 days, which may be extended an additional 90 days if the Secretary deems necessary, after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify or decline to certify that the organic governing documents—

(i) establish the criteria for membership in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of those qualified Native Hawaiian constituents whose names are listed on the roll published by the Secretary and who voted in the election;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of inherent and other appropriate governmental authorities by the Native Hawaiian governing entity;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE.—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A); and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under this paragraph shall be deemed to have been made if the Secretary has not acted within 180 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council, with the assistance of the Secretary, shall hold elections of the officers of the Native Hawaiian governing entity.

(6) PROVISION OF ROLL.—The Council shall provide a copy of the roll of qualified Native Hawaiian constituents to the governing body of the Native Hawaiian governing entity.

(7) TERMINATION.—The Council shall cease to exist and shall have no power or authority under this Act after the officers of the governing body who are elected as provided in paragraph (5) are installed.

(8) REAFFIRMATION.—Notwithstanding any other provision of law, the special political and legal relationship between the United States and the Native Hawaiian people is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative sovereign governing body of the Native Hawaiian people after—

(A) the approval of the organic governing documents by the Secretary under subparagraph (A) or (C) of paragraph (4); and

(B) the officers of the Native Hawaiian governing entity elected under paragraph (5) have been installed.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY TO STATE OF HAWAII; NEGOTIATIONS; CLAIMS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement or agreements addressing such matters as—

(A) the transfer of State of Hawaii lands and surplus Federal lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the exercise of other powers and authorities that are recognized by the United States as powers and authorities typically exercised by governments representing indigenous, native people of the United States;

(E) any residual responsibilities of the United States and the State of Hawaii; and

(F) grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States or the State of Hawaii, and the Native Hawaiian governing entity, the parties may submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the governments.

(3) GOVERNMENTAL AUTHORITY AND POWER.—The Native Hawaiian governing entity shall be vested with the inherent powers and privileges of self-government of a native government under existing law, except as set forth in section 10(a). Said powers and privileges may be modified by agreement between the Native Hawaiian governing entity, the United States, and the State pursuant to paragraph (1), subject to the limit described by section 10(a). Unless so agreed, nothing in this Act shall preempt Federal or State authority over Native Hawaiians or their property under existing law or authorize the State to tax or regulate the Native Hawaiian governing entity.

(4) MEMBERSHIP.—Once the United States extends Federal recognition to the Native Hawaiian governing entity, the United States will recognize and affirm the Native Hawaiian governing entity's inherent power and authority to determine its own membership criteria, to determine its own membership, and to grant, deny, revoke, or qualify membership without regard to whether any person was or was not deemed to be a qualified Native Hawaiian constituent under this Act.

(c) CLAIMS.—Nothing in this Act—

(1) alters existing law, including case law, regarding obligations of the United States or the State of Hawaii relating to events or actions that occurred prior to recognition of the Native Hawaiian governing entity;

(2) creates, enlarges, revives, modifies, diminishes, extinguishes, waives, or otherwise alters any claim or cause of action against the United States or its officers or the State of Hawaii or its officers, or any defense (including the defense of statute of limitations) to any such claim or cause of action; or

(3) amends section 2409a of title 28, United States Code (commonly known as the ''Quiet Title Act''), chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), section 1491 of title 28, United States Code (commonly known as the ''Tucker Act''), section 1505 of title 28, United States Code (commonly known as the ''Indian Tucker Act''), the Hawaii Organic Act (31 Stat. 141), or any other Federal statute, except as expressly amended by this Act.

SEC. 10. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) IN GENERAL.—The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

(2) APPLICABILITY.—The prohibition contained in paragraph (1) regarding the use of Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) and inherent authority to game applies regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or territory of the United States.

(b) SINGLE GOVERNING ENTITY.—This Act will result in the recognition of the single Native Hawaiian governing entity. Additional Native Hawaiian groups shall not be eligible for acknowledgment pursuant to the Federal Acknowledgment Process set forth in part 83 of title 25, Code of Federal Regulations, or any other administrative acknowledgment or recognition process.

(c) INDIAN CIVIL RIGHTS ACT OF 1968.—The Council and the subsequent governing entity recognized under this Act shall be an Indian tribe, as defined in section 201 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301) for purposes of sections 201 through 203 of that Act (25 U.S.C. 1301–1303).

(d) INDIAN PROGRAMS, SERVICES, AND LAWS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, nothing in this Act extends eligibility for any Indian program or service to the Native Hawaiian governing entity or its members unless a statute governing such a program or service expressly provides that Native Hawaiians or the Native Hawaiian governing entity is eligible for such program or service. Nothing in this Act affects the eligibility of any person for any program or service under any statute or law in effect before the date of enactment of this Act.

(2) APPLICABILITY OF OTHER TERMS.—In Federal statutes or regulations in force prior to the United States' recognition of the Native Hawaiian governing entity, the terms ''Indian'' and ''Native American'', and references to Indian tribes, bands, nations, pueblos, villages, or other organized groups or communities, shall not apply to the Native Hawaiian governing entity or its members, unless the Federal statute or regulation expressly applies to Native Hawaiians or the Native Hawaiian governing entity.

(e) REAL PROPERTY TRANSFERS.—Section 2116 of the Revised Statutes (commonly known as the ''Indian Trade and Intercourse Act'') (25 U.S.C. 177) does not apply to any purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from Native Hawaiians, Native Hawaiian entities, or the Kingdom of Hawaii that occurred prior to the date of the United States' recognition of the Native Hawaiian governing entity.

SEC. 11. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. AKAKA (for himself, Mr. CONRAD, Mr. FRANKEN, Mr. INOUYE, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 676. A bill to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce a technical amendment to the Act of June 18, 1934, the Indian Reorganization Act.

Trust land is essential to a tribe's ability to exercise their inherent sovereignty. It allows Tribal Nations to protect their historic, cultural and religious ties to the lands where their ancestors lived. Trust lands are also vital to tribal economic development and self-government as tribes provide a wide range of governmental services to their members including, running schools, community centers, health clinics, law enforcement and numerous other social and governmental services.

Federal Indian policy regarding tribal lands has not always been favorable to the Tribal governments and individuals. The General Allotment Act of 1887 led to land losses of more than 100 million acres of tribal homelands. Those land losses had a devastating effect on the tribal communities, institutions and economies that relied on their homelands. Seeking to address the consequences of that ill-advised policy, Congress enacted the Indian Reorganization Act in 1934.

This act was intended to reverse the prior federal policy of allotment. By passing the Indian Reorganization Act, Congress recognized that a land base was essential for the economic advancement and self-support of Indian communities. The IRA allowed tribes to restore their homelands and to rehabilitate their economies and communities. Restoration of land to tribal ownership was central to the overall purposes of the Indian Reorganization Act.

Unfortunately, a recent Supreme Court decision has brought uncertainty to 75 years interpretation regarding trust land acquisition under the Indian Reorganization Act. On February 24, 2009, the Supreme Court issued its decision in the Carcieri v. Salazar case. In that decision the Supreme Court held that the Secretary of the Interior exceeded his authority in taking land into trust for a tribe that was not under Federal jurisdiction at the time the Indian Reorganization Act was enacted in 1934. The Supreme Court decided that the act only applied to tribes who were ''under federal jurisdiction'' when it was passed in 1934.

The legislation I am introducing today is necessary to clarify the continuing authority of the Secretary of the Interior, under the Indian Reorganization Act of 1934, to take land into trust for all Indian tribes that are federally recognized on the date the land is placed into trust. The legislation also ratifies the prior trust acquisitions of the Secretary, who for the past 75 years has been exercising his authority to take lands into trust, as intended by the Indian Reorganization Act.

Inaction by Congress on the Carcieri decision will create two classes of tribes—those who are considered ''under federal jurisdiction'' and can have lands taken into trust and those who cannot. Creating two classes of tribes is unacceptable and runs counter to federal Indian policy, the Indian Reorganization Act, and subsequent Congressional Acts intended to ensure that all tribes are treated equally and have the same sovereign rights. The decision will also significantly impact planned development projects on Indian trust lands, such as housing, schools, community, and health centers, and result in a loss of jobs in an already challenging economic environment.

I want to thank Senators CONRAD, FRANKEN, INOUYE, JOHNSON, KERRY, TESTER and UDALL for their support on this critical legislation. My cosponsors are well aware of the negative impact this decision has already had, and would continue to have on our Native American communities. Affected tribes deserve our timely consideration of this bill. I urge my colleagues to join me in supporting the passage of this legislation.

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

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

S. 676

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

SECTION 1. MODIFICATION OF DEFINITION.

(a) MODIFICATION.—

(1) IN GENERAL.—The first sentence of section 19 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 479), is amended—

(A) by striking ''The term'' and inserting ''Effective beginning on June 18, 1934, the term''; and

(B) by striking ''any recognized Indian tribe now under Federal jurisdiction'' and inserting ''any federally recognized Indian tribe''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 479), on the date of enactment of that Act.

(b) RATIFICATION AND CONFIRMATION OF PRIOR ACTIONS.—Any action taken by the Secretary of the Interior pursuant to the Act of June 18, 1934, (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 461 et seq.) for any Indian tribe that was federally recognized on the date of that action is ratified and confirmed, to the extent that the action is challenged based on the question of whether the Indian tribe was federally recognized or under Federal jurisdiction on June 18, 1934, as if the action had, by prior act of Congress, been specifically authorized and directed.

(c) EFFECT ON OTHER LAWS.—

(1) IN GENERAL.—Nothing in this Act or the amendments made by this Act affects—

(A) the application or effect of any Federal law other than the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (as amended by subsection (a)); or

(B) any limitation on the authority of the Secretary of the Interior under any Federal law or regulation other than the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (as so amended).

(2) REFERENCES IN OTHER LAWS.—An express reference to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) contained in any other

Federal law shall be considered to be a reference to that Act as amended by subsection (a).

By Mr. KOHL (for himself, Mr. WHITEHOUSE, and Mr. COONS):

S. 678. A bill to increase the penalties for economic espionage; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, the ability of American companies to out innovate and better compete with their global competitors is more important today than ever. Yet, the FBI estimates that U.S. companies lose billions of dollars each year to criminals who steal their trade secrets—their innovative ideas, formulas, designs and other proprietary information. For example, last year, a Chinese national working for an American automobile manufacturer was convicted of stealing trade secrets for a Chinese competitor. His actions were estimated to cost the American company between $50 and $100 million.

That is why I rise today with Senators WHITEHOUSE and COONS to introduce the Economic Espionage Penalty Enhancement Act of 2011. This bill is simple and straightforward—it increases the maximum penalties for stealing a trade secret to benefit a foreign company. The measures in this bill were recommended to Congress by the U.S. Intellectual Property Enforcement Coordinator, in conjunction with the Departments of Commerce, Homeland Security, Justice and State, and the U.S. Trade Representative. The Economic Espionage Act Penalty Enhancement Act, while a modest bill, is intended to be a starting point for a larger discussion about the implementation of the Economic Espionage Act, EEA, and whether additional updates and improvements are needed in light of the global economy and advances in technology.

In 1996, Congress enacted the EEA, making it a federal crime to steal a trade secret. Nearly fifteen years later, trade secret theft and economic espionage continue to pose a threat to U.S. companies to the tune of billions of dollars a year. As we reexamine the law, we will be looking at how we can help prosecutors bring more of these criminals to justice and companies better protect their trade secrets. Among the issues we will look at are whether additional protections are needed for trade secrets as part of EEA prosecutions, whether whistleblower protections should be added, and whether we need a federal civil private right of action.

Businesses spend every resource at their disposal to develop proprietary economic information including their customer lists, pricing schedules, business agreements, and manufacturing processes, to name a few. This information is literally a business's lifeblood. Stealing it can be the death knell for a company. The chief executive of GM recently said that industrial espionage is a major threat to the company and that he worries about it ''every day.'' But these thefts have a much greater impact beyond the American company that falls victim to an economic spy. The economic strength, competitiveness, and security of our country rely upon the ability of industry to compete without unfair interference from foreign governments and from their own domestic competitors. Without freedom from economic sabotage, our companies lose their hard-earned advantages and their competitive edge.

This problem is not new, but it has grown and evolved in the fifteen years since the Economic Espionage Act became law. U.S. corporations face intense competition at home and abroad. As much as 80 percent of the assets of today's companies are intangible trade secrets. They must be able to protect their trade secrets to remain competitive and keep our economy strong. Advances in technology make the protection of trade secrets more difficult and more critical than ever. Trade secrets can simply be downloaded from a company's computer, uploaded to the Internet, and transferred anywhere in the world in a matter of minutes. Within a matter of days, a U.S. corporation can lose complete control over its trade secrets. Unfortunately, we have many examples of the risk and harm posed by economic espionage. In 2009, a Chinese-born engineer who had been employed by a leading aerospace company was convicted of economic espionage and sentenced to fifteen years in prison for collecting sensitive information about the U.S. space shuttle that he intended to share with the Chinese government. Prior to his sentencing, the district court judge said that although we do not know how much information he shared with China, we do know that he hurt not only his former employer but also the national security of the United States.

Domestic economic espionage, known as industrial espionage, can be just as threatening to American companies. For example, just this month a former computer programmer for a Wall Street bank was sentenced to eight years in prison for stealing secret code used in the bank's valuable high-frequency trading system. The trading system earned the bank $300 million in 2009 alone. He took a job at a startup company that was planning to directly compete with the Wall Street bank, and gave that company the stolen code.

In my home State of Wisconsin a disgruntled employee of a company that manufactures aftermarket airplane parts was prosecuted under the economic espionage statute and sentenced to thirty months in prison for attempting to sell trade secrets to competitors. The trade secret—details and measurements of particular airplane parts—took years and hundreds of thousands of dollars for the manufacturer to create, test and gain Federal Aviation Administration approval. Fortunately, the perpetrator was caught before he sold the trade secrets, but had he been successful the manufacturer would likely have been forced out of business.

The examples above illustrate the seriousness of these crimes. The legislation that we introduce today will increase the maximum sentence for economic espionage from 15 years to 20 years and to direct the Sentencing Commission to consider increasing the penalty range for theft of trade secrets and economic espionage. This is a first step in our efforts to do more to stem the flow of valuable business information out of our country. We must definitively punish anyone who steals information from American companies. Over the coming months, this measure will provide a framework for our discussions about how we can do more to solve this problem. I look forward to working with my colleagues on this critical problem.

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

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

S. 678

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 ''Economic Espionage Penalty Enhancement Act''.

SEC. 2. AMENDMENT TO TITLE 18.

Section 1831(a) of title 18, United States Code, is amended by striking ''15 years'' and inserting ''20 years''.

SEC. 3. DIRECTIVE TO SENTENCING COMMISSION.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review its guidelines and policy relating to a two-level enhancement for economic espionage; and

(2) as a part of such review consider amending such guidelines to—

(A) apply the two-level enhancement to the simple misappropriation of a trade secret;

(B) apply an additional two-level enhancement if the defendant transmits or attempts to transmit the stolen trade secret outside of the United States and an additional three-level enhancement if the defendant instead commits economic espionage (i.e., he/she knew or intended that the offense would benefit a foreign government, foreign instrumentality, or foreign agent); and

(C) provide when a defendant transmits trade secrets outside of the United States or commits economic espionage, that the defendant should face a minimum offense level.

By Mr. SCHUMER (for himself, Mr. ALEXANDER, Mr. REID, Mr. MCCONNELL, Mr. LIEBERMAN, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. DURBIN, Mr. JOHANNS, Mr. LUGAR, Mr. REED, Mr. WHITEHOUSE, Mr. CARPER, and Mr. KYL):

S. 679. A bill to reduce the number of executive positions subject to Senate confirmation; to the Committee on Homeland Security and Governmental Affairs.

Mr. ALEXANDER. Mr. President, the Senator from New York and I are on the Senate floor today to introduce

legislation that will help make the Senate a more effective place to deal with the big issues facing our country, such as the debt, our national defense, and other issues.

This is the result of discussions we have had over the last several months with many Members of the Senate on both sides of the aisle. It began with some reforms in Senate rules, which included eliminating the so-called secret hold and doing other steps. It is the culmination of work by a number of Senators on both sides of the aisle—including Senator LIEBERMAN; Senator COLLINS; the leaders, Senator REID and Senator MCCONNELL, when they were whips; Senator SCHUMER and I; and others. We had bipartisan breakfasts on these reforms a couple years ago, and it came down to the questions: How many confirmations should the Senate have? How many confirmations are enough confirmations? Is it in the public interest to allow a new President, whether Democratic or Republican, to staff the government promptly? And is it in the public interest to get rid of this syndrome that is established in Washington, which I call ''innocent until nominated,'' where we invite a distinguished person to come in and run that person through a gauntlet that makes him or her out to be a criminal for making some mistake in the process of being confirmed?

We have worked together, and we have come up with legislation that Senator SCHUMER is introducing on behalf of both of us—on behalf of the leaders, Senator REID and Senator MCCONNELL, and on behalf of Senator LIEBERMAN and Senator COLLINS.

This legislation would answer the question, how many confirmations are enough confirmations, by reducing or streamlining the nomination process for about 450 nominees—out of a total of about 1,400 nominations. Over 1,000 Senate confirmed nominations will remain unchanged. Just to put that into perspective, that is still more confirmations than existed when President Clinton was President of the United States. It is almost four times as many confirmations as existed when President Kennedy was President of the United States. In other words, like many things in government, the number of confirmations has grown over time.

We have ended up confirming people we have no business confirming—people who are public relations officers, people who are financial information people—and we have made it difficult for the government to be staffed.

Is it in our interest, and the citizens', to staff the government promptly? Yes, I think it is. We have created this phenomenon where Administrations are slow to get staffed up. For example, when President Obama came in, Secretary Geithner, the Treasury Secretary, was sitting over at Treasury almost home alone during the middle of the worst recession since the Great Depression. According to news accounts, he did not have much help. The key vacant positions in Treasury were Assistant Secretary for Tax Policy, the Deputy Assistant Secretary for Tax Policy, the Deputy Assistant Secretary for Tax Analysis, Deputy Assistant Secretary for Tax, Trade, and Tariff Policy, and a variety of others. That situation was not helping any of us. Whether we agreed with President Obama or Secretary Geithner or not, after an election a President should be able to promptly staff the government, and we in the Senate should have procedures to give us a chance to review those nominees and offer our advice and consent and confirm or reject those nominees in a reasonable period of time.

If we are spending our time dealing with junior officials or PR officers, we are spending less time dealing with the Assistant Secretary for Tax Policy, on whom we should be focusing a lot of time, and to whom we should be asking a lot of questions.

Then, there is this business of what I call ''innocent until nominated''—all of us know this exists. It really exists by sloppiness on our part, both in the legislative branch and the executive branch. If you are asked to serve in the Federal Government—and I know this because I was asked by the first President Bush—you fill out forms. Well, there are many forms. There are many forms in the executive branch. They have different definitions; for example, the definition of ''income.'' If you were to carelessly fill out the same definition of ''income'' on one form as another form, you might have been incorrect on one of the forms, and then someone might say you were telling a lie and were not fit to serve. That has been called by others, including me, as being ''innocent until nominated.''

I remember when Ron Kirk, the former mayor of Dallas, was nominated by President Obama to be the Trade Representative. There was some issue about whether he had properly reported a speech fee he gave to charity. What difference did it make in terms of his overall fitness to serve? It held him up. It embarrassed him. It was not relevant to the inquiry.

So the legislation we have will do the following: It proposes eliminating the need for Senate confirmation or streamlining over 450 positions. About 200 of these nominations will be eliminated as Senate confirmations. These are the ones the Senate does not need to spend time on. The other half will come directly to the desk. Then, unless an individual Senator says: Send it on to committee to go through the regular order, it will be expedited. That still leaves us with 1,000 Senate confirmations that we can have—1,000 hostages we can take. That is more hostages than we could take under Bill Clinton. That is almost four times as many hostages than the Senate could take under President Kennedy. That ought to be plenty of hostages for any Senator to make his or her point if that is what we seek to do.

Second, the legislation would set up a process whereby an executive branch working group would review the various forms that nominees are expected to fill out, and try to have a single smart form in the executive branch. The working group will consult with committees of Congress. It might make sense to see if we can do the same thing with our forms, and make it possible that we can get all the information we want without unnecessarily subjecting nominees to harassment or trickery just because they are not wise enough to fill out different forms with different definitions.

I think this is a substantial step forward. It may not sound like much to those watching the Senate, but let me just say that both of our leaders, REID and MCCONNELL, have said they tried this and could not get it done. Senator LIEBERMAN and Senator COLLINS have tried, and they could not get it done. I worked with Senator LIEBERMAN 2 years ago and we could not get it done.

What has happened this time is a result of the discussion we had earlier in the year about making the Senate a more effective place to work—with the full support of the leaders, REID and MCCONNELL; with the full support of Senator LIEBERMAN and Senator COLLINS; and with the good work of Senator SCHUMER. We have come up with a consensus piece of legislation which has broad bipartisan support from both sides of the aisle, including chairmen and ranking members of the committees you would think might be the first ones to object. This legislation would still leave the Senate with the prerogatives it ought to have in terms of reviewing Presidential nominees and separates out those who take our time away from the more important things we ought to be doing.

I thank the Senator from New York for the way he has worked on this issue. He has been constructive and direct and helpful. I thank the leaders for their support. I hope the committees will rapidly consider the legislation Senator SCHUMER is introducing on our behalf, and I hope it will show we can take another small step in making the Senate a more effective place to work.

Mr. President, I ask unanimous consent to have printed in the RECORD a document entitled ''List of Presidential Appointments No Longer Requiring Senate Confirmation''—there are about 200 of those—and a document entitled ''Privileged Nominations.'' Those are the ones that will be expedited, unless a single Senator decides he or she wants to have this nominee sent to committee, and that is about another 240.

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

LIST OF PRESIDENTIAL APPOINTMENTS NO LONGER REQUIRING SENATE CONFIRMATION

Agriculture (11): Assistant Secretary for Congressional Relations, Department of Agriculture; Chief Financial Officer, Department of Agriculture; Assistant Secretary for

Administration, Department of Agriculture; Rural Utilities Service Administrator; Directors (7), Commodity Credit Corporation.

Armed Services (12): Assistant Secretary of Defense (Networks and Information Integration); Assistant Secretary of Defense (Public Affairs); Assistant Secretary of Defense (Legislative Affairs); Assistant Secretary of the Air Force (Comptroller); Assistant Secretary of the Army (Comptroller); Assistant Secretary of Navy (Comptroller); Members (6), National Security Education Board.

Banking (8): Assistant Secretary for Administration, Human Capital Officer, HUD; Chief Financial Officer, HUD; Assistant Secretary for Congressional and Intergovernmental Relations, HUD; Assistant Secretary for Public Affairs, HUD; Director of the Mint, Department of the Treasury; Members (2), Council of Economic Advisers; Administrator, Community Development Financial Institution Fund.

Budget (0).

Commerce (14 regular positions and 319 NOAA Officer Corps positions): Assistant Secretary for Legislative Affairs, Department of Commerce; Assistant Secretary for Administration and Chief Financial Officer, Department of Commerce; Assistant Secretary for Communication and Information, Department of Commerce; Chief Scientist, NOAA; Assistant Secretary for Budget and Programs—CFO, Department of Transportation; Assistant Secretary for Government Affairs, Department of Transportation; Deputy Administrator, Federal Aviation Administration (FAA); Chief Financial Officer, NASA; Associate Director, Office of Science and Technology Policy; Associate Director, Office of Science and Technology Policy; Associate Director, Science, Office of Science and Technology Policy; Associate Director, Technology, Office of Science and Technology Policy; Administrator, St. Lawrence Seaway Development Corporation; Federal Coordinator, Alaska Natural Gas Transportation Project; Officer Corps of NOAA (319 additional positions).

Energy (2): Chief Financial Officer, Department of Energy; Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy.

Environment and Public Works (9): Alternate Federal Co-Chairman, Appalachian Regional Commission; Chief Financial Officer, EPA; Commissioners (7), Mississippi River Corporation.

Finance (4): Deputy Under Secretary/Assistant Secretary for Legislative Affairs, Department of Treasury; Assistant Secretary for Public Affairs and Director of Policy Planning, Department of Treasury; Assistant Secretary for Management and Chief Financial Officer, Department of Treasury; Treasurer of the United States.

Foreign Relations (14): Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State; Assistant Secretary for Public Affairs, Department of State; Assistant Secretary for Administration, Department of State; Chief Financial Officer, Department of State; Assistant Administrator for Legislative and Public Affairs, USAID; Assistant Administrator for Management, USAID; Governor, African Development Bank; Alternate Governor, African Development Bank; Governor, Asian Development Bank; Alternate Governor, Asian Development Bank; Governor, International Monetary Fund and International Bank for Reconstruction and Development; Alternate Governor, International Monetary Fund and International Bank for Reconstruction and Development; Governor, African Development Fund; Alternate Governor, African Development Fund.

HELP (101 regular positions and 2,536 Public Health Service Officer Corps positions): Chief Financial Officer, Department of Education; Assistant Secretary for Management, Department of Education; Assistant Secretary for Legislation and Congressional Affairs, Department of Education; Commissioner—Rehabilitation Services Administration; Commissioner—Education Statistics; Assistant Secretary for Resources and Technology/CFO, Department of HHS; Assistant Secretary for Public Affairs, Department of HHS; Assistant Secretary for Legislation, Department of HHS; Commissioner, Administration for Children, Youth, Families; Commissioner, Administration for Native Americans; Assistant Secretary for Administration and Management, Department of Labor; Chief Financial Officer, Department of Labor; Assistant Secretary for Congressional Affairs, Department of Labor; Assistant Secretary for Public Affairs, Department of Labor; Director of the Women's Bureau, Department of Labor; Chairperson, National Council on Disability; Vice Chairperson (2), National Council on Disability; Members (12), National Council on Disability; Members (24), National Science Foundation; Managing Directors (2), Corporation on National and Community Service; Members (15), National Board of Education Sciences; Members (20), National Museum and Library Services Board; Members (10), National Institute for Literary Advisory Board; Public Health Services Corps (2,536 additional positions).

HSGAC (6): Chief Financial Officer, Department of Homeland Security; Controller, Office of Federal Financial Management, OMB; Director, Office of Counternarcotics Enforcement, DHS; Assistant Secretary for Health Affairs Chief Medical Officer, DHS; Administrator, U.S. Fire Administration, Department of Homeland Security; Assistant Administrator, Grants, FEMA.

Indian Affairs (14): Commissioner, Navajo and Hopi Relocation; Members (13), Board of Trustees, Institute of American Indian and Alaska Native Culture.

Intelligence (0).

Judiciary (10): Assistant Attorney General—Legislative Affairs, Department of Justice; Director, Bureau of Justice Statistics; Director, Bureau of Justice Assistance; Director, National Institute of Justice; Administrator, Office of Juvenile Justice and Delinquency Prevention; Director, Office for Victims of Crime; Deputy Director, National Drug Control Policy; Deputy Director, Demand Reduction, National Drug Control Policy; Deputy Director, State and Local Affairs, National Drug Control Policy; Deputy Director, Supply Reduction, National Drug Control Policy.

Rules (0).

Small Business (0).

Veterans Affairs (5): Assistant Secretary for Management, Department of Veterans Affairs; Assistant Secretary for Human Resources and Administration, Department of Veterans Affairs; Assistant Secretary for Public and Intergovernmental Affairs, Department of Veterans Affairs; Assistant Secretary for Congressional and Legislative Affairs, Department of Veterans Affairs; Assistant Secretary for Information and Technology, Department of Veterans Affairs.

*Does not include NOAA Officer Corps and Public Health Services Officer Corps.

PRIVILEGED NOMINATIONS

Agriculture (5): Members (5), Board of Directors, Federal Agricultural Mortgage.

Armed Services (0).

Banking (23): Members (15), Board of Directors, National Institute of Building Sciences; Members (3), Board of Directors, National Consumer Cooperative Bank; Directors (5), Securities Investors Protection Corporations.

Budget (0).

Commerce (8): Members (3), Board of Directors, Metropolitan Washington Airport Authority; Members (5), St. Lawrence Seaway Development Corporation.

Energy (0).

Environment and Public Works (9): Members (9), Board of Trustees, Morris K. Udall Scholarship and Excellence in National; Environmental Policy Foundation.

Finance (16): Member (7), IRS Oversight; Members (2), Board of Trustees, Federal Hospital Insurance Trust Fund; Member (2), Board of Trustees, Federal Old Age and Survivors Fund; Members (2), Board of Trustees, Federal Supplemental Insurance Trust Fund; Members (3), Social Secretary Advisory Board.

Foreign Relations (59): Chairman, Advisory Board for Cuba Broadcasting; Members (8), Advisory Board for Cuba Broadcasting; Members (4), Millennium Challenge Corporation Board of Directors; Board Members (8), Overseas Private Investment Corporation; Members (15), National Peace Corps Advisory Council; Commissioners (7), Commission on Public Diplomacy; Members (9), Board of Directors, Inter-American Foundation; Members (7), Board of Directors, African Development Foundation.

HELP (104): Members (15), Corporation on National and Community Service; Members (26), National Council on the Humanities; Chairman, Board of Directors, US Institute of Peace; Vice Chairman, Board of Directors, US Institute of Peace; Members (10), Board of Directors, US Institute of Peace; Members (8), Board of Trustees, Goldwater Scholarship; Members (8), Board of Trustees, Truman Scholarship; Members (6), Board of Trustees, Madison Fellowship; Members (11), Board of Directors, Legal Services Corporation; Members (18), National Council on the Arts.

HSGAC (5): Members (5), Federal Retirement Thrift Investment Board.

Intelligence (0).

Judiciary (13): Members (2), Foreign Claims Settlement Commission; Members (11), Board of Directors, State Justice Institute.

Rules (0).

Small Business (0).

Veterans Affairs (0).

Mr. ALEXANDER. I thank the Presiding Officer, and I notice that the Senator from New York is also on the Senate floor. I thank him for his work on this issue.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank my colleague from Tennessee. He has been a great partner in this effort. In fact, I would say it was his impetus that brought us here. He had thought about this long and hard and worked on it previously. As usual, it has been a pleasure to work with Senator ALEXANDER on the Rules Committee or anywhere else, and I thank him for spearheading this effort.

I also want to thank the two leaders, Senator REID, of course, my friend—and I am so proud to work under his leadership—and Senator MCCONNELL. I have to say this: Senator MCCONNELL and I have our differences, but on all of these issues of moving the Senate forward he has been operating in good faith, and his support of this legislation has allowed us to get here.

Also, the committee chair, Senator LIEBERMAN, as well as Ranking Member

COLLINS, have been equal partners in this legislation, and it will go through their committee.

Finally, I thank all the committee chairs. They have been very understanding of the need to do this. Obviously, committee chairs might say: I want to have before my committee every single person, but ultimately they have realized it slows down the Senate.

While we are introducing the legislation today, a number of committee chairs on our side—probably with the consent of their ranking members—have come to me and said there might be other positions they want to add to the list. That would be a good idea. We have tried to be careful. We do not want to step on any toes or prerogatives. In the past, when this legislation was attempted, people said: Well, just, I don't want this one; I don't want that one. So we were fairly minimal. It will have a real effect on the Senate. It is close to one-third of the appointments. But there may be different committees that say: I don't need to approve this. In my committee, the committee on which I am the chair, the committee on which I am the ranking member, we do not need to approve these five or six more. Add them to your list.

We would hope our committee chairs would do that before the bill is considered because it will be considered by Senator LIEBERMAN's committee, and there they could make such additions.

So let me say this about the process: One of the most important duties of the Senate is the constitutional advice-and-consent power. We were careful to balance this interest with the importance of making the confirmation process more efficient—not only for the benefit of the Senate but as well for the benefit of the administration, its agencies, and, as Senator ALEXANDER so aptly pointed out, for those individuals who are nominated as well.

The Senate was designed to be a thoughtful and deliberative body, but the confirmation process has often become dangerously close to being gridlocked. The American public is harmed when we are not able to get qualified people confirmed to positions in a timely manner. All of the positions covered in this proposal tend to be noncontroversial and more closely resemble appointments that are currently made without Senate approval.

This legislation consists of a stand-alone bill, the Presidential Appointment Efficiency and Streamlining Act, and a resolution. Senator ALEXANDER touched on the stand-alone bill, which will eliminate from Senate confirmation over 200 executive nomination positions and nearly 3,000 additional officer corps positions. The resolution will create a standing order that will streamline approval of almost 250 part-time board members.

We intend to move both of these pieces together in an effort to reform this process. Together, these two pieces will remove or streamline, as I mentioned, nearly one-third of currently confirmable Senate appointments.

The act will remove the need for confirmation for several categories of positions, including legislative and public affairs positions, chief financial officers, information technology administrators, internal management and administrative positions, and deputies or non-policy-related assistant secretaries who report to individuals who are Senate-confirmed. Removing these positions from Senate confirmation will allow a new administration to be set up with more efficiency and speed, thus making government work better for the people.

In addition, we have removed thousands of positions from the Public Health Service officers corps and the National Oceanic and Atmospheric Administration officer corps in the process. They are noncontroversial, and their removal will help prevent the possibility of further gridlock.

This act will also create a working group—because this is a work in progress, and Senator ALEXANDER has been working on it longer than I have or most of us in this body—that will provide recommendations on the process to further streamline the appointment and confirmation process. The group will make recommendations to the President and the Senate about streamlining the paperwork process for nominees by creating a single, searchable, electronic ''smart form'' and will also conduct a review of the current background investigation requirements.

Senators LIEBERMAN and COLLINS held a hearing on the confirmations process last month in the Homeland Security and Governmental Affairs Committee, which will have jurisdiction over this piece of the package. The hearing was extremely helpful to our working group efforts and further highlighted the fact that our system of dealing with executive nominations needs reform.

The resolution piece of the package will create a streamlined process for part-time positions on boards or commissions. A majority of these boards require political balance—a certain number of Democrats and a certain number of Republicans. We are doing this rather than eliminating Senate consideration in its entirety in order to ensure that these politically balanced boards remain bipartisan. This was actually a recommendation, I believe, by Senator MCCONNELL, and I think it is an apt one.

The resolution creates a standing order that will provide for an expedited process for this class of ''privileged nominations'' by creating new pages on the Executive Calendar. When the Senate receives a nomination from the President, it will be placed on a new section on the Executive Calendar called ''Privileged Nomination—Information Requested'' while the nominee submits paperwork to the committee of jurisdiction. When the chair of that committee certifies that all committee questionnaires have been received from the nominee, the nomination will be placed on the ''Privileged Nomination—Information Received'' section of the Executive Calendar.

As Senator ALEXANDER mentioned, after 10 session days, the nomination is placed on the full Executive Calendar and will await action by the full Senate, with the presumption that these positions will be passed by unanimous consent. So any single Senator can object, although we doubt in almost every case that any will.

From the beginning of the process until the expiration of 10 session days, any Member can request on his or her own behalf or on behalf of any identified Member that the nomination be referred to committee. We think that incorporating this safeguard is in line with our elimination of secret holds earlier this year.

The presumption for these part-time positions is, as I said, that they will be approved by unanimous consent and not be held up as part of other battles or leverage or whatever else.

This resolution would come before the Rules Committee, which Senator ALEXANDER and I lead, and we hope to take action on it very soon. We are confident this package will eliminate many of the delays in the current confirmation process. These delays are very detrimental to the efficient operation of government and to the efforts to recruit the most qualified people to these Federal jobs.

The package we propose today is the first step in protecting the American people's interests in having a newly elected President move quickly and efficiently to set up a government.

Before I yield the floor, I note that the Senator from New Mexico, Mr. UDALL, in his impetus to reform the Senate, can claim some credit for this move as well.

We are introducing this bipartisan legislation—Senator ALEXANDER and myself, along with Senators REID, MCCONNELL, COLLINS, LIEBERMAN, and I think about eight or nine other cosponsors as well—this afternoon.

Mr. LIEBERMAN. Mr. President, I rise today in support of legislation offered by Senators SCHUMER and ALEXANDER to streamline the nomination process so incoming Presidents can get their teams in place more quickly and put them to work doing the people's business.

On August 5, 1789, the Senate took up and confirmed 102 executive nominations that had been sent up by President Washington just 2 days earlier—rejecting only one nominee.

Our first President, in a letter to the Senate, complained about the one he didn't get. If the Senate ever doubted the fitness of one of his nominees it should—and I quote ''communicate that circumstance to me, and thereby avail yourselves of the information which led me to make them and which I would with pleasure lay before you.''

Modern Presidents of both parties would sigh over this bit of history because nowadays the process by which a person is selected, vetted, nominated, and then considered and confirmed by the Senate has become—in the words of one scholar—''nasty and brutish, without being short.''

One hundred days into President Obama's administration, only 14 percent of the Senate-confirmed positions in his administration had been filled. After 18 months, 25 percent of these positions were still vacant. This is not an aberration or anomaly. The timetables for putting in place a leadership team across the government has been pretty much the same each of the last three times there has been a change of occupant in the White House.

We have known about this problem a long time, but failed to act.

In 2001, the then Governmental Affairs Committee under former Chairman Fred Thompson, held hearings titled the State of the Presidential Appointment Process and recommended legislation, which did not pass.

In 2003, a bipartisan commission headed by Paul Volker recommended ways to speed up the nominations process. That got nowhere.

In 2004, the 9–11 Commission said the delays in getting a new government up and running actually pose a threat to our national security and in its report it also recommended ways to speed up the process.

Well after years of talk, it may be that we now finally have bipartisan support for change, although as the saying goes: ''It ain't over til it's over.''

In January, Majority Leader REID and Minority Leader MCCONNELL established a working group on executive nominations and appointed Senators SCHUMER and ALEXANDER—chairman and ranking member, respectively, of the Rules Committee—to lead it.

Senator COLLINS and I—as chairman and ranking member of the Homeland Security and Governmental Affairs Committee—have been part of this working group and the bill being introduced today has my full support.

In fact, we held a hearing earlier this month on the need for nomination reform and the numbers showed just how compelling the case for reform is.

A study by the Congressional Research Service says that delay occurs not so much at the Cabinet level positions. Presidents Reagan, George W. Bush, Clinton, and Obama all were able to get the vast majority of their nominees for Cabinet Secretaries in place on or shortly after Inauguration Day.

Where the delay is most pronounced, according to CRS, is in the sub-cabinet level positions. Under President Reagan, nominees averaged 114 days from the President's election to final confirmation. Under Clinton, George W. Bush, and Obama those numbers jumped to 185, 198, and 195 respectively.

Part of the problem is that the number of positions requiring confirmation has grown over time.

When President Reagan took office, he had 295 key policy positions requiring confirmation. By the time President Obama was inaugurated, that number had grown to 422 key positions, plus another nearly 800 lesser positions that also required Senate confirmation.

These numbers do not include foreign service officers, or public health officials who also require Senate confirmation.

The legislation Senators SCHUMER and ALEXANDER are introducing recommends eliminating Senate confirmation for approximately 200 presidential appointments to positions in the Executive Branch, including for legislative and public affairs positions, chief information officers, and internal management positions at or below the Assistant Secretary level.

This will free the Senate to concentrate on the more important policymaking nominees.

The bill also calls for a working group to simplify, standardize and centralize the forms and documentation required by both the White House and Senate so a nominee isn't burdened with duplicative paperwork and information requests.

Senators SCHUMER and ALEXANDER are also introducing a standing order this morning that would streamline the confirmation process for approximately 200 other Presidential appointments that receive Senate confirmation. Under the standing order, some nominees to part-time boards and commissions could have their nominations expedited by being held at the desk for a certain number of days and then placed directly onto the Executive Calendar rather than being referred to a Senate committee. I would also like to express my support for the standing order.

In the past, nominations reform legislation has stalled because of the perceived fears of some of our colleagues, particularly committee chairs and ranking members, that they would be giving up some of their jurisdiction and authority. But the simple truth is that some of these nominations shouldn't require Senate confirmation and, frankly, take up valuable time that should be used for more important work.

Nothing in the legislation we offer today will weaken in any way the Senate's important Constitutional role of ''advice and consent'' or our delicate system of checks and balances.

But if we don't fix what is broken in this system, I fear we risk discouraging some of our nation's most talented individuals from accepting nominations, thus leaving important positions unfilled.

If I may end with a little history, as Governeur Morris, one of the architects of the Constitution, said when speaking in favor of the ''advice and consent'' clause: ''As the President was to nominate, there would be responsibility. As the Senate was to concur, there would be security.''

Those founding principals will be unaffected by the kinds of modest changes this bill calls for, and I believe and hope we can get it done this year.

I call on my fellow chairmen, ranking members, and colleagues on both sides of the aisle to work with us on addressing this challenge so the next new administration, regardless of party, can recruit the best candidates and then put them to work quickly addressing the many challenges our Nation faces.

Ms. COLLINS. Mr. President, I rise today to support the Presidential Appointment Efficiency and Streamlining Act of 2011, as well as the Senate resolution to create an expedited confirmation process for some part-time boards and commissions.

I want to commend Senators SCHUMER and ALEXANDER for their work on this issue and to express my appreciation for all the members of the nomination reform working group—Senators REID, MCCONNELL, and LIEBERMAN. I was pleased to be a part of what has truly been a bipartisan effort.

The Constitution, in the Appointments Clause, makes the appointment of senior Federal executive officers a joint responsibility of the President and the Senate. The President determines who, in his view, is the best qualified to serve in the most senior and critical positions across the executive branch of our Government. It also requires that we, the Senate, exercise our independent judgment and experience to determine if nominees have the necessary qualifications and character to serve our Nation in these important positions of public trust.

The confirmation process must be thorough enough for the Senate to fulfill its Constitutional duty, but it should not be so onerous as to deter qualified people from public service.

National security reasons also compel attention to this problem. The National Journal has noted that ''[p]eriods of political transition are, by their very nature, chaotic'' and that ''terrorists strike when they believe governments will be caught off guard.''

Both the 1993 bombing of the World Trade Center and the attacks on September 11th, 2001, occurred within eight months of a change in presidential administrations. And in March 2004, just three days before Spain's national elections, al Qaeda-linked terrorists bombed Madrid commuter trains.

The 9/11 Commission found that ''[a]t the sub-cabinet level, there were significant delays in the confirmation of key officials, particularly at the Department of Defense,'' in 2001. It was not until six months after President Bush took office that he had his national security team in place.

Countless studies have been written and many experts have opined on how to improve the nomination and confirmation process—from the Brownlow Commission in 1937 to the 9/11 Commission in 2004.

This is also an issue that the Committee on Homeland Security and Governmental Affairs has been working to address for a long time. For example, in 2001, when Senator Fred Thompson chaired the Committee, we held two hearings focusing on the state of the Presidential appointment process. As a result of these hearings, the Committee reported out legislation to address concerns that were raised. A few of the provisions of this bill would later be included in the Intelligence Reform and Terrorism Prevention Act of 2004.

But more work remains to be done. On March 2nd of this year, the Committee held another hearing to review the nomination process. The witnesses echoed the concerns that have been raised over the years by the many commissions and that still remain unaddressed.

Based upon our review, there are a few areas in particular where improvements should be made. The first is to reduce the sheer number of positions subject to Senate confirmation.

In this regard, the National Commission on the Public Service, commonly known as the Volcker Commission, gathered some very illuminating statistics. When President Kennedy came to office, he had 286 positions to fill with the titles of Secretary, Deputy Secretary, Under Secretary, Assistant Secretary, and Administrator. By the end of the Clinton Administration, there were 914 positions with these titles.

Today, according to the Congressional Research Service, CRS, there are more than 1,200 positions appointed by the President that require the advice and consent of the Senate.

The large number of positions requiring confirmation leads to long delays in selecting, vetting, and nominating these appointees. Consequently, administrations can go for months without key officials in many agencies. And when political appointees are finally in place, their median tenure is only about two and a half years.

A second area ripe for reform is to develop a consistent, common form for the nominees to complete in order to streamline the process, save time, and increase accuracy. This also would reduce the cost and burden on nominees.

The White House, Office of Government Ethics, and the Senate need to work together to reconcile the various questions that are asked of nominees. Currently, nominees will often find themselves repeating variations of, or even the exact same, response over and over.

In this regard, I believe Clay Johnson, the former head of Presidential Personnel from 2001 to 2003, made an excellent point. He noted that there is a thick file in the White House ''with every possible piece of relevant information on that person and yet none of that is made available to the Senate.''

A consistent, common form, which a nominee can respond to online, would help to facilitate the flow of information so the Senate can begin its review of the nomination earlier.

Finally, the executive branch also needs to review its own role and responsibilities in the process.

Specifically, the White House should review its background investigation requirements. The extent of the investigation should be tailored to the position. A person nominated to a non-national security-related position should not have to undergo the same detailed FBI background investigation as a nominee to a national security-related position, such as the Secretary of Homeland Security. In addition, the process should make some allowance for people who already have undergone the FBI full-field investigation for a different Senate-confirmed position. Reform of this process would help speed up the review of nominees and aid in the task of recruiting talented people for public service.

It also is the White House's responsibility to ensure that the Office of Presidential Personnel has the appropriate staffing level to meet the demands of a new administration.

As Mr. Johnson noted at our March 2nd hearing, ''[a] new administration has never had the capacity in the first six months to nominate persons for more than 250 cabinet and subcabinet positions, let alone 400 positions, which government reform individuals and groups suggest a new administration should be able to do.''

If these areas can be reformed, substantial time will be saved, and key leadership posts at our federal agencies will not be vacant for nearly as long.

Now, during this mid-term period, two years away from a Presidential election, we have the opportunity to streamline the executive branch nominations process. This can help ensure that the next presidential transition will be as smooth as possible, thwarting the terrorists' belief that they will be able to ''catch us off guard.''

The Schumer-Alexander bill and Senate Resolution go a long way to addressing the concerns that I have highlighted.

The bill will make more than 200 positions direct Presidential Appointments that would no longer require Senate confirmation. Many of these positions have little or no policy role, such as the Assistant Secretary for Legislative Affairs at the Department of Commerce, or are internal management or administrative positions, such as chief financial officers or assistant secretaries for public affairs.

By not requiring Senate confirmation, it will allow these positions be filled at a much faster pace and free up Senate resources to focus on more significant nominees.

The Senate resolution proposes that more than 240 positions on part-time boards or commissions go through a new ''expedited'' confirmation process. These positions will still require the nominee to respond to all committee questionnaires and still provide for the opportunity for closer scrutiny of the nominee, if warranted.

This retains the authority of the Senate over these positions, but streamlines the process, lessening the burden on the Senate for routine, noncontroversial nominations and providing for a faster road to confirmation as well.

While we must deliver on our duty to provide advice and consent, reforms are needed to improve the effective operation of government. We all want the most qualified people to serve the President and the Nation. We should, therefore, ensure that the process is not unnecessarily burdensome and that key leadership posts do not go unfilled for long stretches of time. Most of all, we need to reform the process so that good people, whose talents and energy we need, do not become so discouraged that they give up their goal of serving the public.

I am pleased to join Senators SCHUMER and ALEXANDER as a cosponsor of this legislation and the Senate resolution, both of which will help us attract well-qualified people to public service.

By Ms. COLLINS (for herself, Ms. MIKULSKI, Mrs. BOXER, Mrs. HUTCHISON, Mrs. MURRAY, Ms. SNOWE, Ms. LANDRIEU, Ms. STABENOW, Ms. CANTWELL, Ms. MURKOWSKI, Mrs. SHAHEEN, Mrs. GILLIBRAND, Mr. LIEBERMAN, Mr. AKAKA, Mr. PRYOR, Mr. MERKLEY, Mr. BEGICH, Mrs. FEINSTEIN, and Ms. AYOTTE).

S. 680. A bill to authorize the Administrator of General Services to convey a parcel of real property in the District of Columbia to provide for the establishment of a National Women's History Museum; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise to introduce the National Women's History Museum Act of 2011, a bill that would clear the way to locate a long-overdue historical and educational resource in our nation's capital city. I appreciate the co-sponsorship today from 16 of my colleagues: Senators MIKULSKI, BOXER, HUTCHISON, MURRAY, SNOWE, LANDRIEU, STABENOW, CANTWELL, MURKOWSKI, SHAHEEN, GILLIBRAND, LIEBERMAN, AKAKA, PRYOR, MERKLEY, and BEGICH.

American women have made invaluable contributions to our country in such diverse fields as government, business, medicine, law, literature, sports, entertainment, the arts, and the military. A museum recognizing the contributions of American women is long overdue.

A Presidential commission on commemorating women in American history concluded that, ''Efforts to implement an appropriate celebration of women's history in the next millennium should include the designation of a focal point for women's history in our Nation's capital.''

That report was issued in 1999. Over a decade later, although Congress has made commendable provisions for the National Museum for African American History and Culture, the National Law Enforcement Museum, and the National Museum of the American Indian, there is still no institution in the capital region dedicated to women's roles in our country's history.

It is important to note that taxpayers will not shoulder the funding of this project. The proposed legislation calls for no new federal program and no new claims on the budget. The bill would simply direct the General Services Administration to negotiate and enter into an occupancy agreement with the National Women's History Museum, Inc. to establish a museum on a tract of land near the Smithsonian Museums located at 12th Street, SW., and Independence Avenue, SW.

In fact, the Museum would be putting dollars in the federal government's pocket in order to occupy this space because the transaction would be at a fair-market value for the land. This bill would be a win-win for the taxpayers and the Museum.

The National Women's History Museum is a non-profit, non-partisan, educational institution based in the District of Columbia. Its mission is to research and present the historic contributions that women have made to all aspects of human endeavor, and to present the contributions that women have made to the nation in their various roles in family, the economy, and society.

This museum would help ensure that future generations understand what we owe to the many generations of American women who have helped build, sustain, and advance our society. They deserve a building to present the stories of pioneering women like abolitionist Harriet Tubman, founder of the Girl Scouts Juliette Gordon Low, Supreme Court Justice Sandra Day O'Connor, and astronaut Sally Ride.

That women's roll of honor would also include a legendary predecessor in the Senate seat I now hold: the late Senator Margaret Chase Smith, the first woman nominated for President of the United States by a major political party, and the first woman elected to both houses of Congress. Senator Smith began representing Maine in the U.S. House of Representatives in 1940, won election to the Senate in 1948, and enjoyed bipartisan respect over her long career for her independence, integrity, wisdom, and courage. She remains my role model and, through the example of her public service, an exemplar of the virtues that would be honored in the National Women's History Museum.

Again, I thank my colleagues for their past support of this effort, and urge them to renew that support for this bill.

By Ms. SNOWE:

S. 681. A bill to provide greater accountability in the Small Business Lending Fund; to the Committee on Small Business and Entrepreneurship.

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

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

S. 681

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 ''Greater Accountability in the Lending Fund Act of 2011''.

SEC. 2. REPAYMENT DEADLINE UNDER THE SMALL BUSINESS LENDING FUND PROGRAM.

(a) IN GENERAL.—Section 4103(d)(5)(H) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking ''; or'' and inserting a period;

(B) by striking subclause (II); and

(C) by striking ''will—'' and all that follows through ''be repaid'' and inserting ''will be repaid'';

(2) by striking clause (ii); and

(3) by striking ''that—'' and all that follows through ''includes,'' and inserting ''that includes,''.

(b) EFFECTIVE DATE; APPLICABILITY; SAVINGS CLAUSE.—

(1) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any investment made by the Secretary of the Treasury under the Small Business Lending Fund Program established under section 4103(a)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) (in this subsection referred to as the ''Program'') on or after the date of enactment of this Act.

(2) SAVINGS CLAUSE.—Notwithstanding the amendments made by this section, an investment made by the Secretary of the Treasury under the Program before the date of enactment of this Act shall remain in full force and effect under the terms and conditions under the investment.

SEC. 3. SMALL BUSINESS LENDING FUND SUNSET.

Section 4109 of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in subsection (b), by inserting ''and shall be limited by the termination date in subsection (c)'' before the period at the end; and

(2) by adding at the end the following:

''(c) TERMINATION OF PROGRAM.—

''(1) INVESTMENTS.—On and after the date that is 15 years after the date of enactment of this Act, the Federal Government may not own any preferred stock or other financial instrument purchased under this subtitle or otherwise maintain any capital investment in an eligible institution made under this subtitle.

''(2) AUTHORITIES.—Except as provided in subsection (a), all the authorities provided under this subtitle shall terminate 15 years after the date of enactment of this Act.''.

SEC. 4. SMALL BUSINESS LENDING FUND TRIGGER.

Section 4109 of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note), as amended by section 3, is amended by adding at the end the following:

''(d) FDIC RECEIVERSHIP.—The Secretary may not make any purchases, including commitments to purchase, under this subtitle if the Federal Deposit Insurance Corporation is appointed receiver of 5 percent or more of the number of eligible institutions that receive a capital investment under the Program.''.

SEC. 5. SMALL BUSINESS LENDING FUND LIMITATION.

(a) IN GENERAL.—Section 4103(d) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) by striking '', less the amount of any CDCI investment and any CPP investment'' each place it appears;

(2) by striking paragraph (7);

(3) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively; and

(4) by adding at the end the following:

''(10) PROHIBITION ON TARP PARTICIPANTS PARTICIPATING IN THE PROGRAM.—An institution in which the Secretary made a investment under the CPP, the CDCI, or any other program established by the Secretary under the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.) shall not be eligible to participate in the Program.''.

(b) EFFECTIVE DATE; APPLICABILITY; SAVINGS CLAUSE.—

(1) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any investment made by the Secretary of the Treasury under the Small Business Lending Fund Program established under section 4103(a)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) (in this subsection referred to as the ''Program'') on or after the date of enactment of this Act.

(2) SAVINGS CLAUSE.—Notwithstanding the amendments made by this section, an investment made by the Secretary of the Treasury under the Program before the date of enactment of this Act shall remain in full force and effect under the terms and conditions under the investment.

SEC. 6. PRIVATE INVESTMENTS UNDER THE SMALL BUSINESS LENDING FUND PROGRAM.

Section 4103(d)(3) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in the paragraph heading, by striking ''MATCHED''; and

(2) in subparagraph (B)(i), by striking ''both under the Program and''.

SEC. 7. APPROVAL OF REGULATORS.

(a) IN GENERAL.—Section 4103(d)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in the paragraph heading, by striking ''CONSULTATION WITH'' and inserting ''APPROVAL OF'';

(2) in the matter preceding subparagraph (A), by striking ''the Secretary shall'' and inserting ''the Secretary may not make a purchase under this subtitle unless'';

(3) in subparagraph (A)—

(A) by striking ''consult with''; and

(B) by striking ''to determine whether the eligible institution may receive'' and inserting ''determines that, based on the financial condition of the eligible institution, the eligible institution should receive'';

(4) in subparagraph (B)—

(A) by striking ''consider any views received from''; and

(B) by striking ''regarding the financial condition of the eligible institution'' and inserting ''determines that, based on the financial condition of the eligible institution, the eligible institution should receive such capital investment''; and

(5) in subparagraph (C)—

(A) by striking ''consult with''; and

(B) by inserting ''determines that, based on the financial condition of the eligible institution, the eligible institution should receive such capital investment'' before the period at the end.

(b) CONFORMING AMENDMENTS.—Section 4103(d)(3)(A) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) by striking ''to be consulted under paragraph (2) would not otherwise recommend'' and inserting ''required to make a determination under paragraph (2) does not approve'';

(2) by striking ''to be so consulted''; and

(3) by striking ''to be consulted would recommend'' and insert ''would approve''.

SEC. 8. BENCHMARK FOR SMALL BUSINESS LENDING.

Section 4103(d)(5)(A)(ii) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended by striking ''for the 4 full quarters immediately preceding the date of enactment of this Act'' and inserting ''during calendar year 2007''.

By Mr. NELSON of Florida:

S. 692. A bill to improve hurricane preparedness by establishing the National Hurricane Research Initiative, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation on a subject that is never far from the minds of citizens in my home State of Florida, folks along the Gulf Coast, or on the Atlantic seaboard: the threat of hurricanes, and the devastation that these storms leave in their wake. This threat is ever nearer as we approach the 2011 hurricane season.

Hurricane damage is certainly not new to Florida. On September 1926, the Great Miami Hurricane was a harbinger of things to come. Two years later, a category four hurricane caused Lake Okeechobee to flood its banks killing 2500 out of South Florida's 50,000 residents. In August 1992, Hurricane Andrew struck South Florida causing an estimated $26 billion in damage to the United States. And we all when in August of 2005, Hurricane Katrina ripped through New Orleans and the Gulf Coast region, causing more than $91 billion in economic losses, forcing more than 770,000 people from their homes, and killing an estimated 1833 people.

According to the Insurance Information Institute, insurance companies had estimated losses of $40.6 billion on 1.7 million claims in 6 States from Hurricane Katrina, the largest loss in the history of insurance. Insured losses are predicted to double every decade as development along the Gulf and Atlantic Coasts increases.

The sheer magnitude of this loss is staggering and underscores the need for increased funding for hurricane research and improved forecasting. But hurricanes do not just affect those living along the coasts. These extreme events have national consequences with increased fuel prices and severe inland flooding.

U.S. Census data indicates that more than 35 million people live in areas that are most vulnerable to hurricanes. Emergency managers need to know exactly where a hurricane will strike and how hard it will strike before they can issue an evacuation warning.

Improvements in track and intensity forecasts will translate into better preparedness for coastal and inland communities, saving lives and reducing devastating impacts.

The impacts felt in the wake of Hurricane Katrina—despite a good meteorological forecast of the hurricane—emphasize the need for additional research and development in these areas.

I am committed to the protection of life and property. Hurricanes pose a serious threat to the Nation, and losses are growing. So today I am introducing the National Hurricane Research Initiative. This bill calls for prudent investments that will protect lives and prevent economic devastation, reducing our vulnerability to hurricanes.

The National Hurricane Research Initiative will dramatically expand the scope of fundamental research on hurricanes, including enhanced data collection and analysis in critical research areas, and the translation of research results into improved forecasts and planning. Specifically, the National Hurricane Research Initiative will improve our understanding and prediction of hurricanes and other tropical cyclones, including, storm tracking and prediction, storm surge modeling, and inland flood modeling. This research will expand our understanding of the impacts of hurricanes on and response of society and help us to develop infrastructure that is resilient to the forces associated with hurricanes.

We never know when the next big storm will hit. This type of research is urgently needed, and that research needs to be well coordinated. I look forward to working with Chairman ROCKEFELLER and the members of the Senate Committee on Commerce, Science, and Transportation on this important legislation.

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

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

S. 692

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Hurricane Research Initiative Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITIES.—The term ''eligible entities'' means Federal, State, regional, and local government agencies and departments, tribal governments, universities, research institutes, for-profit entities, and nongovernmental organizations.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

(3) INITIATIVE.—The term ''Initiative'' means the National Hurricane Research Initiative established under section 3(a)(1).

(4) STATE.—The term ''State'' means any State of the United States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

(5) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing body of an Indian tribe.

(6) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Oceans and Atmosphere.

SEC. 3. NATIONAL HURRICANE RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Under Secretary shall establish an initiative to be known as the ''National Hurricane Research Initiative'' for the purposes described in paragraph (2). The Initiative shall consist of—

(A) the activities carried out under this section; and

(B) the research carried out under section 4.

(2) PURPOSES.—The purposes described in this paragraph are as follows:

(A) To conduct research, incorporating to the maximum extent practicable the needs of eligible entities, to enable the following:

(i) Improvement of the understanding and prediction of hurricanes and other tropical storms, including—

(I) storm tracking and prediction;

(II) forecasting of storm formation, intensity, and wind and rain patterns, both within the tropics and as the storms move poleward;

(III) storm surge modeling, inland flood modeling, and coastal erosion;

(IV) the interaction with and impacts of storms with the natural and built environment; and

(V) the impacts to and response of society to destructive storms, including the socioeconomic impacts requiring emergency management, response, and recovery.

(ii) Development of infrastructure that is resilient to the forces associated with hurricanes and other tropical storms.

(iii) Mitigation of the impacts of hurricanes on coastal populations, the coastal built environment, and natural resources, including—

(I) coral reefs;

(II) mangroves;

(III) wetlands; and

(IV) other natural systems that can reduce hurricane wind and flood forces.

(iv) Improvement of communication with the public about hurricane forecasts and risks associated with hurricanes to reduce the harmful impacts of hurricanes and improve the response of society to destructive storms.

(B) To provide training for the next generation of hurricane researchers and forecasters.

(b) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Under Secretary shall, in coordination with the Director of the National Science Foundation, develop a detailed, 5-year implementation plan for the Initiative that—

(A) incorporates the priorities for Federal science and technology investments set forth in the June 2005 publication, ''Grand Challenges for Disaster Reduction'', and in related 2008 implementation plans for hurricane and coastal inundation hazards of the Subcommittee on Disaster Reduction of the Committee on Environment and Natural Resources of the National Science and Technology Council;

(B) to the extent practicable and as appropriate, establishes strategic goals, benchmarks, milestones, and a set of systematic criteria and performance metrics by which the overall effectiveness of the Initiative

may be evaluated on a periodic basis, including evaluation of mechanisms for the effective transition of research to operations and the application of research results for reducing hurricane losses and related public benefits; and

(C) identifies opportunities to leverage the results of the research carried out under section 4 with other Federal and non-Federal hurricane research, coordination, and loss-reduction initiatives, such as—

(i) the National Windstorm Impact Reduction Program established by section 204(a) of the National Windstorm Impact Reduction Act of 2004 (15 U.S.C. 15703);

(ii) the National Flood Insurance Program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.);

(iii) the initiatives of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(iv) wind hazard mitigation initiatives carried out by a State;

(v) the Science Advisory Board, Social Science Working Group, and Hurricane Forecast Improvement Project of the National Oceanic and Atmospheric Administration; and

(vi) the Working Group for Tropical Cyclone Research of the Office of the Federal Coordinator for Meteorological Services and Supporting Research.

(2) REVIEW.—Not later than 1 year after the date of the enactment of this Act, the Under Secretary shall make the implementation plan required by paragraph (1) available for review by the following:

(A) The Director of the National Science Foundation.

(B) The Secretary of Homeland Security.

(C) The Director of the National Institute for Standards and Technology.

(D) The Commanding General of the U.S. Army Corps of Engineers.

(E) The Commander of the Naval Meteorology and Oceanography Command.

(F) The Associate Administrator for Science Mission Directorate of the National Aeronautics and Space Administration.

(G) The Director of the U.S. Geological Survey.

(H) The Director of the Office of Science and Technology Policy.

(I) The Director of the National Economic Council.

(3) REVISIONS.—The Under Secretary shall revise the implementation plan required by paragraph (1) not less frequently than once every 5 years.

(c) RESEARCH.—

(1) ESTABLISHMENT OF RESEARCH OBJECTIVES.—The Under Secretary shall, in consultation with the Director of the National Science Foundation, establish objectives for research carried out pursuant to section 4 that are—

(A) consistent with the purposes described in subsection (a)(2); and

(B) based on the findings of the expert assessments and strategies published in the following:

(i) The June 2005 publication entitled, ''Grand Challenges for Disaster Reduction'', and the related 2008 implementation plans for hurricane and coastal inundation hazards of the Subcommittee on Disaster Reduction of the Committee on Environment and Natural Resources of the National Science and Technology Council.

(ii) The January 2007 report by the National Science Board entitled, ''Hurricane Warning: The Critical Need for a National Hurricane Initiative''.

(iii) The February 2007 report by the Office of the Federal Coordinator for Meteorological Services and Supporting Research entitled, ''Interagency Strategic Research Plan for Tropical Cyclones: The Way Ahead''.

(iv) Reports from the Hurricane Intensity Working Group of the National Science Advisory Board of the National Oceanic and Atmospheric Administration.

(2) AREAS OF CONCENTRATION.—The objectives required by paragraph (1) shall provide for 3 areas of concentration as follows:

(A) Fundamental hurricane research, which may include research to support continued development and maintenance of community weather research and forecast models, including advanced methods of observing storm structure and assimilating observations into the models, in which the agency or institution hosting the models ensures broad access and use of the model by the civilian research community.

(B) Technology assessment and development.

(C) Research on integration, transition, and application of research results.

(d) NATIONAL WORKSHOPS AND CONFERENCES.—The Under Secretary may, in coordination with the Director of the National Science Foundation, carry out a series of national workshops and conferences that assemble a broad collection of scientific disciplines—

(1) to address hurricane-related research questions; and

(2) to encourage researchers to work collaboratively to carry out the purposes described in subsection (a)(2).

(e) PUBLIC INTERNET WEBSITE.—The Under Secretary shall facilitate the establishment of a public Internet website for the Initiative—

(1) to foster collaboration and interactive dialogues among the Under Secretary, the Director of the National Science Foundation, and the public;

(2) to enhance public access to Initiative documents and products, including—

(A) reports and publications of the Initiative;

(B) the most recent 5-year implementation plan developed under subsection (b); and

(C) each annual cross-cut budget and report submitted to Congress under subsection (f); and

(3) that includes a publicly accessible clearinghouse of Federal research and development centers engaged in research and development efforts that are complementary to the Initiative.

(f) ANNUAL CROSS-CUT BUDGET AND REPORT.—

(1) REQUIREMENT FOR ANNUAL CROSS-CUT BUDGET AND REPORT.—Beginning with the first fiscal year beginning after the date the Under Secretary completes the implementation plan required by subsection (b), the Director of the Office of Science and Technology Policy shall, in conjunction with the Under Secretary, the Director of the National Science Foundation, and the Director of the Office of Management and Budget, submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code)—

(A) a coordinated annual report for the Initiative for the last fiscal year ending before the date on which the report is submitted; and

(B) a cross-cut budget for the Initiative for the first fiscal year beginning after the date on which the report is submitted.

(2) CONTENTS.—The report required by paragraph (1)(A) shall—

(A) document the grants and contracts awarded to eligible entities under section 4;

(B) for each eligible entity that receives a grant or contract under section 4, identify what major activities were undertaken with such funds, grants, and contracts; and

(C) for each research activity or group of activities in an area of concentration described in subsection (c)(2), as appropriate, identify any accomplishments, which may include full or partial achievement of any strategic goals, benchmarks, milestones, or systematic criteria and performance metrics established for the implementation plan under subsection (b)(1)(B).

SEC. 4. NATIONAL HURRICANE RESEARCH.

(a) NATIONAL SCIENCE FOUNDATION COMPETITIVE GRANT RESEARCH PROGRAM.—

(1) IN GENERAL.—The Director of the National Science Foundation shall, in coordination with the Under Secretary, establish a program to award grants to eligible entities to carry out research that is consistent with the research objectives established under section 3(c)(1).

(2) SELECTION.—The National Science Foundation shall select grant recipients under this section through its merit review process.

(b) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION RESEARCH PROGRAM.—

(1) IN GENERAL.—The Under Secretary shall, in coordination with the Director of the National Science Foundation, carry out a program of research that is consistent with the research objectives established under section 3(c)(1).

(2) RESEARCH ACTIVITIES.—Research carried out under paragraph (1) may be carried out through—

(A) intramural research;

(B) awarding grants to eligible entities to carry out research;

(C) contracting with eligible entities to carry out research; or

(D) entering into cooperative agreements to carry out research.

(3) DEMONSTRATION PROJECTS AUTHORIZED.—Research carried out under this subsection may include demonstration projects.

(c) COLLABORATION.—To the maximum extent practicable, each entity carrying out research under this section shall collaborate with existing Federal and Federally funded research centers operating in related fields, for-profit organizations, and international, regional, State, local, and tribal governments—

(1) to gather and share experiential information; and

(2) to advance scientific and engineering knowledge, technology transfer, and technology commercialization in the course of conduct of hurricane-related research and its application to mitigating the impacts of hurricanes and other tropical storms on society.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 115—DESIGNATING JULY 8, 2011, AS ''COLLECTOR CAR APPRECIATION DAY'' AND RECOGNIZING THAT THE COLLECTION AND RESTORATION OF HISTORIC AND CLASSIC CARS IS AN IMPORTANT PART OF PRESERVING THE TECHNOLOGICAL ACHIEVEMENTS AND CULTURAL HERITAGE OF THE UNITED STATES

Mr. TESTER (for himself and Mr. BURR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 115

Whereas many people in the United States maintain classic automobiles as a pastime