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## ABSTRACT

Of the 54 million acres of Indian-owned lands held in trust by the United States, approximately 75 percent is used for agricultural production. Nevertheless, in 1993 over 1.1 million acres of Indian agricultural lands lay idle. The American Indian Agricultural Resource Management Act seeks to establish a viable system for management and administration of Indian owned agricultural lands, enhance the production capabilities of Indian ranchers and farmers, affirm the authority of tribal governments in the management of Indian agricultural lands, and enhance educational opportunities for Indian students in the management of Indian natural resources. These two reports recommend passage of the act, and describe demographic and historical background for Indian agricultural programs; Bureau of Indian Affairs (BIA) agriculture programs and their staffing; educational and employment opportunities for Native students; and committee and tribal concerns about bureaucratic delays, civil trespass on Indian lands, leasing of Indian agricultural lands, and the rights of Indian landowners. Title II of the act creates: (1) 20 federally funded internship positions for American Indian and Alaska Native students enrolled full-time in an agricultural resources study program; (2) a cooperative education program with tribal colleges to recruit Native agricultural students for employment in federal agencies; (3) scholarships for Indians enrolled in accredited agriculture-related programs; (4) an agricultural resource education outreach program for Indian youth; and (5) federal employment for Indian graduates of tribal or BIA agriculture programs, possibly in exchange for assumption of student loans. Includes section-by-section analysis of the act and a cost estimate by the Congressional Budget Office. (SV)

RC

Calendar No. 298

103D CONGRESS }  
1st Session }

SENATE

{ REPORT  
103-186 }

ED 370 740

AMERICAN INDIAN AGRICULTURAL RESOURCE  
MANAGEMENT ACT

NOVEMBER 18 (legislative day, NOVEMBER 2), 1993.—Ordered to be printed

Mr. INOUYE, from the Committee on Indian Affairs,  
submitted the following

REPORT

[To accompany H.R. 1425]

The Committee on Indian Affairs, to which was referred the bill (H.R. 1425), the American Indian Agricultural Resource Management Act, having considered the same, reports favorably thereon without amendment and recommends that the bill as amended do pass.

PURPOSE

The purpose of H.R. 1425 is to provide for the establishment of a viable system for the management and administration of Indian owned agricultural lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to affirm the authority of the Indian tribal governments in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in the management of Indian natural resources. The purpose of this legislation is not to establish new program responsibilities for the Secretary of the Interior. Rather, it is to streamline and make more efficient the administration of the programs currently administered by the Secretary and to assist the Indian tribal governments to assume a greater role in the management of these programs.

The trust responsibility of the United States for Indian lands and resources and for the protection of property is unquestioned. However, the Bureau of Indian Affairs' Inventory and Production Report for 1992 showed that over 1.1 million acres of Indian trust land lay idle nationwide, and in Oklahoma alone nearly 60,000 acres were released.

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Over the past 20 years, the Indian agriculture program operated by the Bureau of Indian Affairs has fallen into serious decline. Funding levels for the Program have remained static and through inflation have been reduced to half or less of their former levels. In 1975, the Bureau's budget for its Agricultural Resources program was \$22 million. In 1990, the funding for this same program was \$24 million.

Further, the number of Bureau of Indian Affairs personnel engaged in agricultural or natural resource management activities has decreased dramatically. In 1975, the BIA employed 91 range conservationists; in 1990, there were 77. In 1975, there were 210 soil conservationists; in 1990, there were only 62 to protect and manage some 54.5 million acres of trust or restricted land. In 1975, 1,205 persons were employed by the BIA in the Agricultural Resources program. Today the Bureau's budget shows 654 personnel slots for these programs, many of which are either unfilled or detailed to other positions.

The need for enhanced educational opportunities for Indian students in the area of natural resources is fully acknowledged and was in fact supported by the Department of the Interior in its testimony before this Committee during the 102d Congress on S. 2977, the predecessor legislation to H.R. 1425 and its Senate companion bill, S. 410, in this Congress. Indeed, the need for increased educational efforts was emphasized in the President's White House Conference on Indian Education in its report filed in May 1992. However, it is only in the past three or four years that any educational programs have been instituted to provide training and educational assistance in the natural resources area.

#### DEMOGRAPHIC BACKGROUND

Of the 54 million acres of Indian-owned lands held in trust by the United States for Indians or Indian tribes, approximately 75 percent is used for agricultural production and another 13 percent are commercial timber lands. Additional Indian or Native owned agricultural lands held in a restricted status are situated in the State of Alaska. The farming and ranching sector provides the main source of entrepreneurial opportunity to the Indian people within Indian reservations and communities. Over 33,000 individual Indian families are engaged in agricultural pursuits. Income from leases of land is the primary source of non-Federal funds for the support of the tribal governments and provides supplemental income to many thousands of Indian allottees.

The vitality of agricultural endeavors within Indian reservations affects all sectors of the economy, both Indian and non-Indian, on and off the reservations, including farm supply stores, farm implement dealers, and transportation and distribution centers. Full utilization of Indian lands and trust resources is not just an Indian issue. It is an issue of importance to all persons, whether Indian or non-Indian, who reside in rural communities on or near Indian reservations.

#### HISTORICAL BACKGROUND

Until the early 1970's, most programs and activities involving the Indian agriculture economy were delivered either directly or in-

directly by or through the Bureau of Indian Affairs. Programs offered by the Department of Agriculture either played a secondary role, or they were contracted by the Bureau of Indian Affairs through funds appropriated to the Department of the Interior for such purposes. A primary example of these programs was the Extension Service programs delivered by the Department of Agriculture pursuant to funds appropriated to the Bureau of Indian Affairs.

In the early 1970's, a new concept of "economic development" began to permeate the BIA's thinking, focusing on light industry, tourism, and other business concepts. Credit for such business activities was made available in part through enactment of the Indian Finance Act of 1974. Agricultural land values were on the rise, and Indian farmers and ranchers, with encouragement from the BIA, began to turn to the Department of Agriculture for farm credit and other services. Trust allotted lands were mortgaged, and new lands were purchased by Indians through Farmers Home Administration loan programs. A special loan program for tribal land acquisition was established within the Farmers Home Administration in the Department of Agriculture.

By the mid-1970's, the BIA agricultural programs were diminishing. In the late 1970's and early 1980's, the agricultural economy of the United States began a serious decline. It appeared that the entire structure began to crumble when the Office of Management and Budget established a new formula for determining farm credit, driving many long time farmers and ranchers, including Indian farmers and ranchers, into severe economic decline or bankruptcy.

Throughout the early 1980's, the Committee was regularly approached by Indian farmers and ranchers urging some form of intervention to save the Indian agricultural economy. The relief sought was sometimes cast as debt forgiveness from FmHA, or more generally, utilizing the Indian Finance Act authorities of the BIA to buy-out the FmHA loans. The resources of the Indian Finance Act were already strained, and the amount of agricultural debt far exceeded the total capacity of any authority under the Indian Finance Act.

With the entire agriculture economy in crisis, it was not possible for the Congress to single out the Indian sector for special treatment. The breakthrough finally came in 1987 when Congress enacted the Farm Credit Act Amendments of 1987. There were a number of Indian provisions in this Act, but the most important in terms of gaining visibility for Indian concerns, were amendments dealing with the handling of Indian trust lands foreclosed by the FmHA. After a difficult fight on the Senate floor and a battle in conference, the Congress enacted amendments to this Act that required the Secretary of Agriculture to transfer to the Interior Department lands that were held in trust at the time of their foreclosure, if the original Indian owner was not able to buy or lease the lands back.

One of the most important results from this legislative effort was the realization that there were unique and difficult problems for Indians who were utilizing Indian trust or restricted lands that did not fit within all of the general legislation and programs of the Department of Agriculture. It was clear that review and moderniza-

tion of the agriculture and natural resources programs administered by the Department of the Interior through the Bureau of Indian Affairs was required.

#### ORIGINS OF THE INTERTRIBAL AGRICULTURE COUNCIL

In 1986, the Department of the Interior, Bureau of Indian Affairs, became actively engaged with Indian tribal governments in reviewing Indian agricultural policies throughout the Nation. This review, necessarily included a review of the policies of the Department of Agriculture.

The review was originally stimulated by an amendment to an Interior Appropriation Act (P.L. 99-190) in December of 1985 to provide \$6 million for an emergency purchase of hay for Indian cattle. Montana, North Dakota, and South Dakota had been struck by drought which made this purchase necessary. As a part of the amendment, the Department of the Interior was instructed to submit a report to the Congress on the effectiveness of the Federal and Tribal government efforts to assist agriculture and ranching throughout the United States.

The BIA opened a dialogue with the agricultural tribes throughout the Nation to review the existing policies of the Bureau and identify specific problems in the Indian agricultural system. This was accomplished by establishing an Indian Agriculture Working Group composed of representatives of tribal governments and by holding hearings throughout the 12 areas served by the BIA. Farm credit was quickly identified as a major difficulty in Indian agriculture, but many other issues were also identified. A report on these hearings was prepared by the Bureau of Indian Affairs and the Indian Agriculture Working Group. This report was filed with the Congress in September of 1986. (Report to Congress: BIA Agriculture-Range Programs.)

The report contained over thirty recommendations, some directed toward the Department of Agriculture, some toward the Department of the Interior, and others requiring Congressional action. Among the reforms recommended were revision of the Department of the Interior regulations to allow owners of a majority interest in a trust allotment to negotiate their own leases, greater flexibility in the leasing of lands with a high degree of fractionated ownership, Indian preference in the leasing of farm and range lands, greater flexibility in the surety bond requirements, and enhancement of educational programs for training in natural resource management. The report also recommended extended lease terms of at least ten years to allow Indian farmers and ranchers access to credit and conservation programs administered by the Department of Agriculture.

In November of 1986, participants in the Indian Agriculture Working Group who had worked with the Bureau in the development of its report to the Congress formed the Intertribal Agriculture Council (IAC) to carry forward the development of new agricultural policies.

Since its formation, the Intertribal Agriculture Council has played an important role in working with the Congress and the Departments of Agriculture and Interior. There is a continuous dialogue, on a monthly basis, between the two Departments on issues

that have been brought to their attention by the IAC. The IAC has provided testimony in numerous hearings held by the Senate Committee on Indian Affairs. While these hearings generally related to the need for appropriations, other issues were often discussed, including the need for developing education and training programs, reform of the regulations governing leasing of trust lands, and the problem of fractionated land ownership.

A major initiative for the Senate Committee on Indian Affairs has been an effort to educate members of the Congress and the Administration on Indian agricultural issues. In the first session of the 101st Congress, the Committee held the first oversight hearing in nearly 40 years on Indian agriculture.

At the opening of the second session of the 101st Congress, the Committee on Indian Affairs held a joint oversight hearing with the Senate Agriculture, Nutrition, and Forestry Committee on programs administered by the Department of Agriculture and the Department of the Interior that affect Native American farmers and ranchers. This was the first joint hearing ever held by these two Committees, and it allowed the Committee on Indian Affairs to bring to the attention of the Agriculture Committee and the concerns of Indian farmers and ranchers. Senators Daschle and Cochran serve on both Committees and were instrumental in coordinating the work of the Committees. The Intertribal Agriculture Council also played an important role in developing these hearings, and providing testimony at each of the hearings.

#### PROGRAMS IN THE DEPARTMENT OF AGRICULTURE

As a result of the oversight hearings noted above, and of work with the IAC, the Committee on Indian Affairs developed a number of provisions, or was otherwise able to support positions urged independently by the IAC, for inclusion in the 1990 farm bill, the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624).

Specific Indian provisions in P.L. 101-624 include:

- A requirement that trust land foreclosed by FmHA prior to enactment of the 1987 Farm Credit Act but still in the Agriculture inventory remain in trust.

- Reestablishment of the authorization for reservation extension agents who provide extension services on reservations through the Cooperative Extension Service.

- An increase in the Farmers Home Administration (FmHA) Indian Land Acquisition program from \$2 million to \$8 million and a reduction in the interest rate on loans from 11 percent to the 5 percent socially disadvantaged rate.

- Definition of each reservation as a single county for purposes of distributing funds under the socially disadvantaged loan program.

- Consolidation of USDA offices, such as the Agriculture Stabilization Conservation Service (ASCS), Soil Conservation Service (SCS), and Farmers Home Administration (FmHA), on reservations to serve the reservation community.

- A 10 percent increase in the commodity food packages and improvement in variety to better address the nutritional needs of Indians receiving food stamps or commodities.



## BUREAU OF INDIAN AFFAIRS AGRICULTURE PROGRAMS

The natural resource components of the BIA programs involve Agriculture (agronomic and range resources; animal husbandry); Forestry; Water resources; Wildlife and Parks (which includes Fish and Game management); and Minerals and Mining. Each of these resource components provide important sources of revenue for individual Indian entrepreneurs, income to tribal governments, and ultimately important revenues expended in local economies whether on or off the reservations. Such expenditures include the purchase of supplies and equipment for operating commercial activities associated with the particular resource, as well as expenditures of individual incomes.

A breakdown of land use patterns and an estimate of income generated from various commercial activities was reported by the BIA in its September 1986 report to the Congress as follows: The Bureau administers 54.5 million acres of Indian owned land held in trust by the Federal Government. This land, comprised of both allotted and tribally owned land, is primarily used for agricultural production. Sixty-nine percent of all Indian lands are rangelands and 10 percent are non-commercial forest lands used for the grazing of livestock, 13 percent are commercial and forest lands, 4 percent are used for dryland farming, 2 percent are irrigated farm lands, and less than 2 percent are used for all other purposes. Based on 1984 figures, agricultural products grown on Indian lands were valued at \$548.6 million annually; oil, gas, and mineral income totals \$230.7 million; and forest products (stumpage) are valued at \$61.5 million.

In addition to the actual production income, Indian land owners and tribal governments receive \$50.5 million in agricultural lease income and range unit permit fees, compared with \$17.6 million in business lease income, and \$2.9 million in all other lease categories. The farming and ranching sector also provides the main source of entrepreneurial opportunity to Indian people, with 33,572 individual Indian families and tribes engaged in agricultural pursuits. (Report to Congress: BIA Agriculture-Range Programs. September, 1986, page 17.)

For many years tribes have identified a need for training of Indians in the management of their own natural resources. In 1977, the American Indian Policy Review Commission specifically included recommendations with respect to training in farming and range management (Rec. 84) and mineral resources (Rec. 104) and the discussion of Human Resources and Manpower Training in Chapter Seven on the Economics of Indian Country. (Final Report, American Indian Policy Review Commission—1977, pp. 347-351.)

In oversight hearings before the Committee in the 100th Congress, the need for training of qualified Indian foresters was stressed by Tribal witnesses. Directors of fish and wildlife programs have likewise stressed the need for greater training of Indians in fish and wildlife programs. The Intertribal Agriculture Council has identified training and education in farming and range management as an important objective.

The 1986 BIA report to the Congress contains a lengthy discussion of staffing and training needs for BIA personnel employed in

farm and range management. The Bureau identified 750 positions in the Agriculture/Range Programs, with a breakdown by Area Office in the categories on Managerial (17 positions, 2.2%); Professional (260 positions, 34.7%); Technical/Aid (248 positions, 33%); clerical (119 positions, 15.8%); and blue collar (106 positions, 14.1%).

The Managerial and Professional staff are nearly all permanent employees; the majority of the Technical/Aid and clerical staff are permanent; and the vast majority of the blue collar positions are temporary or seasonal. Managerial positions obviously command the highest grade levels; grade levels for Professional staff range from GS 9-12; Technical/Aid from GS 1-7; and clerical from GS 2-5. Grade levels for blue collar positions are not given.

A breakdown of staffing patterns for Indians and non-Indians in these positions is as follows: Managerial—75 percent non-Indian; Professional—73 percent non-Indian; Technical/Aid—96 percent Indian and 4 percent non-Indian. No breakdown is provided for clerical or blue collar positions. It is understood that in the position of Range Manager, only one Indian is employed by the Bureau. In explanation of this the 1986 report notes:

Managerial and professional positions in Agriculture/Range Programs established through the Federal Position Classification System have specific formal education requirements, usually tied to the specific area of expertise. Non-Indians frequently occupy these positions because Indian college students have not traditionally studied these subjects. (Report, pg. 10.)

It has been estimated that within the next ten years, about 80 percent of these positions will open as a result of retirements. This clearly is the time to provide the necessary educational opportunities to enable Indians to assume these Bureau positions, as well as positions with other federal agencies and in the private sector.

It should be noted that since the 1986 report was issued, the Bureau of Indian Affairs has instituted a cooperative education program at Haskell Indian Junior College and the Southwestern Indian Polytechnic Institute (SIPI) to attract and motivate Native American students in natural resources and attract college students to the Federal service. In addition, many Tribally Controlled Community Colleges now offer course work in natural resource management. This legislation will continue and expand upon these initial efforts to provide improved educational opportunities for Indian students in relevant fields of study.

#### SPECIAL CONSIDERATIONS

In the development and consideration of this legislation, the Committee on Indian Affairs has worked closely with the Subcommittee on Native American Affairs of the House Committee on Natural Resources. The staff of both Committees have had numerous meetings with officials from the Department of Agriculture, Justice and Interior, as well as with tribal government leaders and the Intertribal Agriculture Council.



### *Forest Lands and Internships*

The IAC and the Intertribal Timber Council both expressed concern that the legislation should not be interpreted to conflict with or overlap the Indian Forest Resources Management Act, P.L. 101-630, which was enacted in the 101st Congress to address the management of forest resources on Indian-owned lands. Thus, the definitions make clear that Indian-owned forest lands covered under P.L. 101-630 are not included in the definition of agricultural land in this Act. In addition, Title II makes clear that the internships provided in this Act are in addition to any internships provided for under P.L. 101-630.

### *Agricultural and Integrated Resource Management Plans*

In response to concerns raised by tribal witnesses, Section 101 of H.R. 1425 was amended to include new provisions with regard to agricultural management plans and integrated resource management plans. An Indian tribal government may contract with the Secretary under the Indian Self-Determination and Education Assistance Act to develop its own agricultural management plan or it may require the Secretary to develop the plan after consultation with the tribal government.

These plans are required to be based on information and comments provided in public meetings with all affected parties. It is intended that an opportunity will be provided for full consultation and participation of tribal officials, tribal members, Indian landowners, Indian allottees, lessees, operators and any other affected individuals. The Committee is aware that the Secretary has developed substantial resource inventory information for many tribes over the past several years. It is the Committee's intention that the Secretary utilize such information and also make it directly available to Indian tribal governments for use in the development and implementation of agricultural and integrated resource management plans.

Approved agricultural management plans should be developed in a manner which will ensure compliance with applicable federal laws such as the National Environmental Policy Act and the Archaeological Resources Protection Act. The plans should also be consistent with any other tribal resource management plans and integrated resource management plans.

Agricultural resource management plans are intended to be the basis for the management and administration of Indian agricultural lands by the Secretary and Indian tribal governments. The Committee expects the Secretary to adhere to tribal priorities and objectives as set forth in approved agricultural resource management plans. At the same time, the Committee recognizes that tribal priorities and goals may change over time and the Committee expects the Secretary to be flexible in working with Indian tribal governments to accommodate changes to agricultural management plans.

Several tribal witnesses expressed concern that the BIA has not acted in a timely fashion to assist Indian tribal governments with the development of integrated resource management plans. The BIA has advised the Committee that it has completed such plans for 9 tribes. The Committee is aware that the mapping, surveys

and data collection necessary for the development of integrated resource management plans has been completed for many reservations. The Committee expects the BIA to make every effort to make this information available to Indian tribal governments and to provide any assistance necessary for the development of integrated resource management plans.

### *Recognition of Tribal Laws*

The Committee has been advised by tribal leaders that the Department of the Interior fails to coordinate its agricultural resource management activities in a manner which is consistent with tribal laws and priorities. Section 102 of H.R. 1425 directs the Secretary to conduct all land management activities on Indian agricultural lands in accordance with approved agricultural management plans and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to federal law or the trust responsibility of the United States. The directive to comply with tribal laws and ordinances includes laws or ordinances regulating the environment and historic or cultural preservation, and laws or ordinances which regulate land use or other activities within the authority of Indian tribal governments.

The Secretary is directed to assist Indian tribal governments in the enforcement of their laws to persons or entities undertaking activities on Indian agricultural lands and by requiring appropriate Federal officials to appear in tribal forums.

In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of an approved agricultural resource management plan or with a tribal law, the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility under Federal law.

Finally, it is provided that nothing in Section 102 shall constitute a waiver of the sovereign immunity of the United States, nor tribal justice systems authorized to review the actions of the Secretary.

In staff discussions with Department of the Interior personnel in the 102d Congress, a question was raised with respect to the power of an Indian tribal government to adopt laws or ordinances which would limit the discretion of the Secretary in his management of Indian trust lands, particularly lands held in restricted fee patent status or trust allotments. The purpose of Section 102 is to make clear that the laws or ordinances pertaining to the use or management of Indian agricultural lands adopted by tribal governments shall be binding on the Secretary.

The directive to the Secretary regarding waiver of regulations or an administrative policy that conflicts with the objectives of an agricultural resource management plan or with tribal law is intended to assure the efficacy of the laws or ordinances enacted by tribal governments relating to Indian agricultural lands, so long as such laws do not conflict with an applicable Federal statute or judicial decision or with the Secretary's trust responsibility under Federal law.

### *Indian Agricultural Lands Trespass*

H.R. 1425 also contains provisions in Section 103 intended to address concerns expressed by tribal leaders with regard to trespass on Indian agricultural lands. The trespass problems experienced by Indian tribal governments and allottees are nearly identical to those identified by the Congress in the course of the development of the National Indian Forest Resources Management Act, P.L. 101-630. Accordingly, the provisions of H.R. 1425 parallel the trespass provisions of the forestry Act and are intended to provide the Secretary and Indian tribal governments with the authority necessary to address the problem of trespass on Indian agricultural lands so that further theft, waste or loss can be minimized.

### *Assessment of Indian Agricultural Management Programs*

The Committee has been hampered in its efforts to fashion legislation to assist Indian tribal governments and the Secretary to provide for the proper management of Indian agricultural lands due to the lack of current and reliable data. Accordingly, Section 104 of H.R. 1425 requires the Secretary to contract with a non-Federal entity knowledgeable in agricultural management to conduct an assessment of Indian agricultural land management and practices. Among other things, the assessment is intended to provide the tribal governments, the Congress and the Administration with reliable data on the funding and development need for Indian agricultural lands; identify barriers to Indian access to federal or private programs relating to agricultural and rural development; and to provide a comparison between Indian agricultural lands and comparable federal lands owned or managed by the federal government. The assessment is to be completed and made available to the Congress eighteen months after the enactment of this legislation.

### *Leasing of Indian Agricultural Lands*

Both federal and tribal witnesses identified problems with leases of agricultural lands as significant barriers to the full utilization of those lands. H.R. 1425 contains provisions intended to lead the most beneficial and economic use of Indian agricultural lands, consistent with the Secretary's trust responsibility and the rights of individual allottees. Section 105 identifies the responsibilities and authorities of the Secretary, Indian tribal governments, and individual Indian land owners in the leasing of Indian agricultural lands. This section recognizes the continued responsibility of the Secretary.

Subsection (a) of this section authorizes the Secretary to approve any agricultural lease or permit with a tenure or up to 10 years, or a tenure longer than 10 years but not to exceed 25 years unless authorized by other Federal law. A tenure longer than 10 years is authorized only when such longer tenure is determined by the Secretary to be in the best interest of the Indian landowners and when such lease or permit requires substantial investment in the development of the lands or crops by the lessee. Leases of more than 10 years should help to attract new capital for the development of Indian agricultural lands.

The purpose of Section 105 is to implement a recommendation of the Indian Agriculture Working Group in the 1986 report to the

Congress. Short term leases, or leases of less than a 10 year tenure, were identified as one of the obstacles to gaining access to credit and other programs administered by the Department of Agriculture. The short term nature of these leases also serves as a disincentive to lessors to improve or develop lands or resources. The regulations governing the leasing of Indian agricultural lands restrict many leases to a tenure of five years. (25 CFR Parts 162.8 and 166.14.) In some cases the shorter term tenure is fixed by statute. The provisions of this section are intended to supersede the provisions of those statutes or regulations limiting the tenure of leases of Indian lands for agricultural purposes to less than 10 years.

Paragraph (2) of this Subsection (a) authorizes the Secretary to lease or permit agricultural lands to the highest responsible bidder at rates less than the Federal appraisal after satisfactorily advertising such lands for lease, when in the opinion of the Secretary, such action would be in the best interest of the Indian landowner. In hearings before this Committee testimony was presented by tribal leaders which indicated that in many cases the appraised value for leases of agricultural land exceeded the highest bids. The result was that leases were lost and lands lay fallow. On the other hand, the highest bid received might not be received from a "responsible" bidder. The intent of this section is to authorize the Secretary to lease or permit agricultural lands at less than the Federal appraisal to the highest responsible bidder when such action would be in the best interest of the Indian landowner.

Subsection (b) of Section 105 requires the Secretary to recognize the inherent authority of Indian tribal governments to enact laws to govern the leasing of Indian agricultural lands on their reservations. Such laws may provide for a preference to Indian operators in the issuance and renewal of agricultural leases and permits so long as the lessor receives fair market value for his or her property; may provide for a waiver or modification of surety or performance bond requirements; and may provide for posting of other collateral or security in lieu of surety or other bonds.

With regard to trust lands within their own reservations, this Section requires the Secretary to recognize the authority of Indian tribal governments to enact laws that define "highly fractionated undivided heirship lands" and establish an alternative plan for providing lease notices to owners of such fractional undivided interests in allotted or restricted fee lands. The Secretary is authorized to negotiate and lease or permit such lands in conformity with tribal law.

It should be noted that any law enacted by an Indian tribal government under this Section must establish a "general policy" for leasing of Indian agricultural land. It must establish a policy that is general in nature and applies to all properties similarly situated. It may not be targeted at individual parcels of land.

The preference provisions are intended to enhance Indian use of Indian lands. To alleviate concerns that such laws might depress the leasehold value of lands, this provision requires that the owners of interests in such lands must receive fair market value for their property.

The Secretary currently has authority to waive or modify surety and performance bond requirements. Nevertheless, the Committee received testimony indicating that in some cases the Secretary has failed to exercise his authority even when the Indian tribal government has deemed such a waiver to be in the best interest of the tribe, the landowner, and the lessor. The provisions of Section 105 are intended to make it clear that the Secretary is required to follow tribal law in these instances.

Finally, Section 105 also requires the Secretary to recognize the authority of Indian tribal governments to enact laws which establish alternative plans for providing for notice of lease expirations or requests for approval of lease terms to owners of highly fractionated interests in parcels of trust lands. Each tribe has the inherent authority to establish its own definition of what constitutes "highly fractionated undivided heirship lands". The provisions of this section recognize that in the case of such lands, the current system of providing notice is ineffective.

An example of the problems related to fractionated titles of trust allotted land is reflected in a recent GAO report entitled "Indian Programs: Profile of Land Ownership at 12 Reservations" (GAO/RCED-92-96BR) submitted to the Committee in February of 1992:

To further illustrate the relationship between the percentage of ownership interests in a tract and the distribution of income earned from that tract, we reviewed BIA's records showing the distribution of fiscal year 1991 income for the tract on the Standing Rock reservation with the largest number of owners. From a permit income of \$694.23, the following income distributions were made on the basis of the ownership records for the tract as of September 5, 1990, which included 712 ownership interests:

- the 2 largest interests earned \$53.41 each, and
- 518 interests, or about 73 percent, earned less than \$.25 with 92 of these earning no income because the ownership share was less than one cent.

The distribution of \$288.00 in lease income for this tract was based on ownership records as of January 19, 1991, which included 744 ownership interests. The results of the lease income distribution showed that 610 ownership interests, or about 82 percent of the interests, earned less than \$.25 in annual income.

The provisions of Section 105 are not intended to address the underlying problems of fractionated title to heirship lands. They are, however, intended to permit tribes to develop alternative systems for providing notice to owners of such minimal interests in matters regarding leasing of such lands.

Subsection (c) of Section 105 provides clear authorities for the rights of individual owners of trust or allotted lands in the lease of trust allotted or restricted fee patent lands. Paragraph (1) makes clear that nothing in this Section shall be construed to limit or alter the right of an individual allottee to the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.



Paragraph (2) authorizes the owners of a majority interest in any trust or restricted land to enter into an agricultural lease of the surface interest of such land, and such lease shall be binding upon the owners of the minority interests, provided the minority interests receive not less than fair market value for the land.

Paragraph (3) provides that the provisions of Subsection (b) regarding tribal authorities shall not apply to a parcel of trust or restricted land if the owners of at least 50 percent of the legal or beneficial interest in such parcel file with the Secretary a written objection to the application of all or any part of such tribal laws.

#### *Education and Training*

Title II provides for the establishment of a comprehensive program for the education and training of Indian and Alaska Native students in agricultural and associated resources and related management activities. Among other educational activities, the Secretary of the Interior is authorized and directed to continue the established educational programs in agriculture and natural resources at Haskell Indian Junior College and the Southwestern Indian Polytechnic Institute (SIPI). The Secretary is also directed to develop and maintain a cooperative program with the Tribally Controlled Community Colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through program work at participating Tribally Controlled Community Colleges and be credited towards degrees at the institution of each student's choice.

The Committee notes that there are currently twenty-four Tribally Controlled Community Colleges throughout the United States. Eighteen of these colleges offer two year course work, and the Standing Rock, Oglala, Salish-Kootenai, and Sinte Gleska Colleges offer four year programs leading to degrees. Sinte Gleska offers post-graduate work leading to a Master's degree in Elementary Education. Fifteen of these Tribally Controlled Community Colleges (including all of the colleges offering four year course work) are fully accredited and the remaining seven are candidates for and in various stages of achieving accreditation. It is intended that the cooperative education program in agriculture and natural resources developed by the Secretary under this Act will assist students in all of these educational institutions—Haskell, SIPI and the Tribally Controlled Community Colleges—to achieve college credits in these programs which may be transferred to the schools of their choice. It is also intended that this program will be structured in a manner which assists the Tribally Controlled Community Colleges to achieve and maintain accreditation in agriculture and natural resources curricula.

#### *Federal, State and Local Authority*

The Navajo Nation expressed concern that nothing in this Act should be construed to diminish the responsibility of the Department of Agriculture in the administration of its programs, or transfer authority or responsibility from that Agency to the Department of the Interior. The Department of Agriculture expressed a similar concern. To address this concern Section 304 was added to H.R.



1425 to make it clear that nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian land owners. Further, the Secretary shall insure that duplication of services is avoided.

The Committee is aware of the programs administered by the Department of Agriculture and has worked closely with that Department, the House and Senate Agriculture Committees, the Department of the Interior, the Intertribal Agriculture Council and the Indian tribes to ensure access by the Indian tribal governments and Indian farmers and ranchers to the Department of Agriculture programs. In 1988, the Secretary of Agriculture and the Secretary of the Interior signed a Memorandum of Understanding delineating their mutual program responsibilities as follows:

AGREEMENT IN PRINCIPLE BETWEEN U.S. DEPARTMENT OF  
THE INTERIOR AND U.S. DEPARTMENT OF AGRICULTURE

The U.S. Government is the trustee of most American Indian Lands and maintains a government-to-government relationship with Indian tribes. The U.S. Department of the Interior (USDI) and the U.S. Department of Agriculture (USDA) have a common objective of helping to promote the highest and best use of trust lands.

The USDI is the lead agency of the Federal Government for the administration and protection of Indian trust land and resources and the enforcement of treaties, laws, and regulations pertaining to the welfare of American Indians. The agency is also responsible for implementing self-determination policies for these groups.

The USDA is the lead agency of the Federal Government for providing effective and efficient coordination of Federal agriculture and rural development programs. In providing its services, USDA recognizes its responsibilities with regard to American Indians. USDA recognizes that these entities possess the right to govern themselves and manage their resources.

USDI and USDA, in recognition of their respective responsibilities, enter into this agreement as a foundation for their endeavors in promoting the objectives of meeting the needs of American Indians. Through this agreement, USDI and USDA will work in partnership to improve the delivery and programs and services to better meet the needs of American Indians.

DONALD PAUL HODEL,  
*Secretary of the Interior.*  
RICHARD E. LYG,   
*Secretary of Agriculture.*

The Committee fully supports this Memorandum and applauds this effort. Certainly nothing in this Act is intended to alter or affect the division of responsibilities as outlined in this Memorandum, or any programs administered by the Department of Agriculture.

### *Irrigation Projects*

The Committee notes that neither H.R. 1425 nor S. 410 address the many issues or concerns now associated with Indian irrigation projects or Indian owned irrigated lands. These are issues deserving of close scrutiny and separate legislation. It is the intention of the Committee to begin addressing these issues in the upcoming session of the Congress. However, it should also be noted that the inclusion of irrigated lands and pastures in the definition of "farmland" provides an opportunity for the Secretary and Indian tribal governments to address irrigation issues in agricultural management plans.

### *Concerns of the Administration*

In testimony before this Committee in the 102d Congress, Mr. Patrick Haye, Director, Trust and Economic Development, Bureau of Indian Affairs, Department of the Interior, expressed numerous concerns with respect to S. 2977 which was then pending before the Committee, but failed to submit any recommendations from the Department for amendments to the bill. The concerns of the Department as expressed in the testimony fell into three major categories: (1) that provisions in the bill could constitute a Fifth Amendment "taking"; (2) that the bill would, for the first time, impose responsibilities on the Secretary for "management" of Indian trust lands; and (3) that the authority of Indian tribes to adopt land use planning or zoning ordinances or laws is not clear.

Committee staff met with appropriate personnel from the Bureau, the Office of the Solicitor and the Department of Justice in order to review and resolve the concerns of the Administration. As a result of these meetings a number of amendments were incorporated into the bill. An extensive Committee response to the concerns expressed by the Department of the Interior in the 102d Congress is set forth in the Executive Communications section of Senate Report No. 102-422 which accompanied H.R. 1425 in this Congress.

After S. 2977 had been reported by the Committee, but before it had been acted upon by the Senate, the Department of Justice sent a letter to the Chairman and Vice-Chairman of the Committee expressing new concerns. The Chairman and Vice-Chairman strongly disagreed with the views of the Department of Justice and expressed that disagreement in a letter to the Department. This exchange of correspondence was printed in full in the Congressional Record on October 8, 1992. (138 Cong. Rec. S. 18204-18211.)

In the 103d Congress, staff of the Senate Committee on Indian Affairs and the Subcommittee on Native American Affairs of the House Committee on Natural Resources again met with appropriate personnel of the Departments of Interior and Justice to review their concerns. Additional amendments were then made to S. 410 and H.R. 1425 in an effort to resolve any remaining concerns of the Administration. These amendments are discussed in House Report No. 103-367.

## LEGISLATIVE HISTORY

S. 410 was introduced by Senator Daschle, for himself and Senators Inouye, McCain, Cochran, Simon, and DeConcini, on February 18, 1993, and the bill was referred to the Committee on Indian Affairs for consideration.

H.R. 1425 was introduced in the House of Representatives by Representatives Richardson, Williams and Johnson on March 18, 1993. The Subcommittee on Native American Affairs of the House Natural Resources Committee held a hearing on June 18, 1993. The bill was favorably reported by the Subcommittee on July 30, 1993, and the full Committee ordered the bill reported to the House on September 22, 1993, with the recommendation that it be passed. On November 16, 1993, the House passed H.R. 1425 under suspension of the rules. It was received in the Senate on November 17 and was referred to the Committee on Indian Affairs.

During the 102d Congress, on September 22, 1992, the Committee on Indian Affairs and the House Committee on Interior and Insular Affairs held a joint hearing on S. 2977 and H.R. 5744, the predecessor bills to S. 410 and H.R. 1425.

## COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On November 18, 1993, the Committee on Indian Affairs, in an open business session, considered H.R. 1425 and the bill was ordered reported with a recommendation that the bill, as amended, do pass.

## SECTION-BY-SECTION ANALYSIS OF H.R. 1425

*Section 1. Short title*

Section 1 cites the short title of the Act as the "Indian Agricultural Resource Management Act".

*Section 2. Findings*

Section 2 contains congressional findings on the government-to-government relationship between the United States and Indian tribes; the trust responsibility of the United States with respect to Indian agricultural lands; the importance of such lands to the welfare of Indian tribes and their members; and the need to manage Indian agricultural lands to improve the social and economic well-being of Indian communities.

*Section 3. Purposes*

Section 3 sets forth the purposes of the Act that include promotion of self-determination of Indian tribes by managing lands consistent with tribally established goals; authorization for the Secretary and Indian tribal governments to manage Indian agricultural lands consistent with the United States' trust responsibility; and an increase in education and training opportunities for Indian people in natural resources management.

*Section 4. Definitions*

Section 4 defines terms used in the Act, including "Indian agricultural lands", "agricultural product", "agricultural resource", "agricultural resource management plan", "Bureau", "farmland", "In-

dian forest land", "Indian", "Indian land", "Indian tribe", "Integrated Resource Management Plan", "land management activity", "landowner", "rangeland", and "Secretary".

TITLE I—RANGELAND AND FARMLAND ENHANCEMENT

*Section 101. Management of Indian rangelands and farmlands*

Subsection (a) of this Section requires the Secretary, consistent with the provisions of the Indian Self-Determination and Education Assistance Act (P.L. 93-638), to manage Indian agricultural lands to achieve the following objectives: (1) to protect, conserve and maintain the highest productive potential of Indian agricultural lands; (2) to increase production and expand the diversity and availability of Indian agricultural products; (3) to manage agricultural resources consistent with integrated resource management plans to protect the associated values such as wildlife, fisheries, cultural resources, recreation and regulate water run-off and minimize soil erosion; (4) to maximize economic benefits to Indian farmers and ranchers by providing technical assistance, training and education in conservation practices, economics of agribusiness, sources of credit, and marketing of agricultural products; (5) to develop associated value-added industries; and (6) to assist owners of trust and restricted lands in the leasing of their lands for a reasonable annual return consistent with prudent management and conservation practices.

Subsection (b) sets forth the management objectives of this section. An Indian tribe may develop and/or implement a 10-year Indian agriculture resource management and monitoring plan or, if the tribe chooses not to develop and/or implement the plan, the Secretary will develop and/or implement such plan in consultation with the tribe. The plan will be developed through public meetings, and shall determine, establish, and identify agricultural resources and goals, as well as actions needed to implement those goals. Approved management plans will govern the administration of Indian agricultural resources and lands.

*Section 102. Indian participation in land management activities*

Subsection (a) of Section 102 provides that the Secretary shall conduct all land management activities in accordance with tribal goals and objectives as set forth within their respective land management plans.

Subsection (b) requires the Secretary to comply with tribal laws pertaining to Indian agricultural lands, and to assist in the enforcement of such laws, unless otherwise prohibited by Federal law.

Subsection (c) authorizes the Secretary to waive regulations that conflict with the objectives of management plans or with tribal law, unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's general trust responsibilities.

Subsection (d) provides that this section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

*Section 103. Indian agricultural lands trespass*

Subsection (a) of Section 103 requires the Secretary, no later than one year from date of enactment, to issue regulations that: (1) establish civil penalties for the commission of trespassing on Indian agricultural lands; (2) designate responsibilities within the Interior Department for the detection and investigation of trespass; and (3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

Subsection (b) provides that the proceeds from civil penalties collected for trespass violations shall be treated as proceeds from the sale of agricultural products from the Indian lands upon which such trespass occurred.

Subsection (c) provides that an Indian tribal government shall have concurrent jurisdiction with the United States to enforce the provisions and regulations of this section. Tribal court judgments regarding agricultural trespass shall be entitled to full faith and credit in Federal and State courts. Nothing in this Act shall be construed to diminish the sovereign authority of Indian tribal governments with respect to trespass.

*Section 104. Assessment of Indian agricultural management programs*

Subsection (a) of Section 104 requires the Secretary, within six months after the enactment of this Act, to enter into a contract with a non-Federal entity knowledgeable in agricultural management to conduct an independent assessment of Indian agricultural land management practices

Subsection (b) describes the purposes of the assessment to include a comprehensive assessment of the development needs for all Indian agricultural lands; a comparison of management and funding provided to comparable lands owned or managed by the Federal government through agencies other than the BIA; and identification of obstacles to Indian access to Federal or private programs relating to agriculture.

Subsection (c) requires that a status report be submitted to the Congress on the assessment, within 1 year from date of the enactment of the Act, and a final report be filed with the Congress within 18 months from the date of enactment of the Act.

*Section 105. Leasing of Indian agricultural lands*

This section enumerates the authority of the Secretary and the tribes for leasing Indian agricultural lands, as well as the rights of individual land owners.

Subsection (a) provides authority to the Secretary to approve any agricultural lease or permit with a tenure of up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law; and authority to lease or permit agricultural lands, for the highest responsible bid, at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and when land has been satisfactorily advertised for lease.

Subsection (b) authorizes the Secretary, subject to an appropriate Indian tribal government resolution, to provide preference to Indian operators in the issuance and renewal of agricultural leases

and permits, provided the lessor receives fair market value for his property; to waive or modify performance bond requirements; to allow the posting of other collateral or security in lieu of surety bonds; and to waive or modify any federal general notice provision and to negotiate and lease or permit highly fractionated undivided interest heirship lands.

Subsection (c) protects the existing use rights of individual allottees and authorizes owners to negotiate their own individual leases of the surface interest of the allotment. It also authorizes the owners of a majority interest in a trust allotment to enter into binding lease agreements provided that the owners of the minority interest receive at least fair market value for such land. A majority interest in trust land is defined as an interest greater than 50 percent of the legal or beneficial title. The owners of 50 percent of the legal or beneficial interest in a trust or restricted allotment may exempt their property from the preference provisions and other authorities set forth in subsection (b).

#### TITLE II—EDUCATION IN AGRICULTURE MANAGEMENT

##### *Section 201. Indian and Alaska Native agriculture management education assistance programs*

Section 201 provides for the establishment of Indian and Alaska Native Agriculture Management Education Assistance Programs.

Subsection (a) requires the Secretary to establish and maintain in the Bureau, or other appropriate office within the Department of the Interior, at least 20 intern positions for Indian and Alaska Native students who are enrolled full-time in an agricultural resources study program. These positions shall be in addition to the forestry intern positions authorized in Section 314(a) of P.L. 101-630. The Secretary is directed to pay all costs for tuition, books, fees and living expenses incurred by an agricultural resource intern while attending a post-secondary or graduate school full-time. Interns are required to enter into an obligated service agreement to serve in a professional agricultural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal agricultural resource related enterprise for one year for each year of education for which the Secretary has paid such intern's educational costs.

Subsection (b) requires the Secretary, through the Bureau of Indian Affairs, to maintain a cooperative education program for the purpose of recruiting Indian and Alaska Native students for employment in professional agricultural or related positions with the Bureau or other Federal agencies providing Indian agricultural or related services. The cooperative education program shall continue the programs currently in operation at Haskell Indian Junior College and the Southwest Indian Polytechnic Institute (SIPI), and the Secretary shall assist Tribally Controlled Community Colleges to develop and maintain accredited agriculture and natural resources curricula. Participating students are required to enter into an obligated service agreement for one year for each year for which the Secretary has paid the student's educational costs.

Subsection (c) authorizes the Secretary to grant scholarships to Indians enrolled in accredited agriculture related programs for



post-secondary and graduate programs of study as full-time students.

Subsection (d) requires the Secretary, through the Bureau, to establish an agricultural resource education outreach program for Indian youth to explain aspects of Indian agriculture.

Subsection (e) requires the Secretary to administer this program until an adequate number of qualified, professional Indian agricultural resource managers are available to manage the Bureau agricultural resource programs.

*Section 202. Post-graduation recruitment, education and training programs*

Subsection (a) of Section 202 authorizes the Secretary to employ Indian professionals who are graduates of post-secondary or graduate education in either tribal or Bureau agriculture programs. Employment can be in exchange for the Secretary's assumption of the employee's outstanding student loan.

Subsection (b) authorizes the Secretary to establish a program for a cooperative internship to train, and assist in the skill development and orientation of Indian and Federal agricultural management personnel with other agencies of the Department of the Interior.

Subsection (c) provides that the Secretary will continue education and development training for Bureau and Indian agricultural resource personnel.

*Section 203. Cooperative agreement between the Department of the Interior and Indian tribes*

Subsection (a) of Section 203 authorizes the Secretary to negotiate and enter into cooperative manpower agreements with tribes to engage in cooperative manpower programs, publish agricultural education and resource planning materials, and perform land and facility improvements. The Secretary may enter into agreements when the interest of Indians will be benefited.

Subsection (b) states that Indian tribes and their employees may perform cooperative work under the supervision of the Interior Department in emergencies or as mutually agreed to.

*Section 204. Obligated service; breach of contract*

Section 204 authorizes the Secretary to develop and promulgate regulations regarding obligated service contracts, and provides for remedies in the event of a breach of contract.

TITLE III—GENERAL PROVISIONS

*Section 301. Regulations*

Section 301 directs the Secretary to promulgate final regulations within 18 months from the date of enactment of this Act.

*Section 302. Trust responsibility*

Section 302 provides that nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States to Indian trust lands or natural resources.

*Section 303. Severability*

Section 303 provides that if any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

*Section 304. Federal, State and local authority*

Subsection (a) of Section 304 provides that nothing in this Act should be construed to limit the authority of other Federal, state or local agencies in the operation of their programs for Indian people within Indian reservations.

Subsection (b) requires the Secretary to work with other federal agencies to avoid duplication of programs and services.

*Section 305. Authorization of appropriations*

Section 305(a) authorizes to be appropriated such sums as are necessary to carry out the provisions of this Act.

Subsection (b) provides that activities required to be performed under Title II may only be funded from appropriations made pursuant to this Act and shall be coordinated with activities funded from other sources to the greatest extent possible.

COST AND BUDGETARY CONSIDERATIONS

The cost and budgetary impact of H.R. 1425, as evaluated by the Congressional Budget Office, is set forth below:

U S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 8, 1993.

Hon. GEORGE MILLER,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1425, the American Indian Agricultural Resource Management Act.

Enactment of H.R. 1425 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 1425.
2. Bill title: The American Indian Agricultural Resource Management Act.
3. Bill status: As ordered reported by the House Committee on Natural Resources on September 22, 1993.
4. Bill purpose: H.R. 1425 would require the Secretary of the Interior to provide for improved management of Indian agricultural lands by working with Indian tribes to carry out a number of programs designed to improve the management of such lands. H.R. 1425 would require the development of a 10-year agricultural resource management and monitoring plan for each tribe's land. The bill would allow tribes to develop the plans themselves under a

self-determination contract or self-governance compact but would require the Secretary to develop the plan if the tribe did not choose to do so.

In addition, the bill would require the Secretary to establish civil penalties for trespass on Indian lands, require an assessment of Indian agriculture land management and practices, and change the allowed terms for leases on Indian lands. Finally, the bill would establish an agricultural management education program within the Department of the Interior. This program would establish intern, cooperative education, scholarship, and postgraduation recruitment activities focusing on agricultural management to encourage Native American and Alaska native students to choose careers in this field.

5. Estimated cost to the Federal Government:

(Fiscal year, in millions of dollars)

	1994	1995	1996	1997	1998
Estimated authorization of appropriations .....	1	3	10	13	16
Estimated outlays .....	1	2	8	12	15

The costs of this bill fall within budget function 450.

*Basis of estimate*

For the purpose of this estimate, CBO assumes that H.R. 1425 would be enacted in early 1994 and that spending of authorized funds would occur at historical rates for similar Bureau of Indian Affairs (BIA) programs. The bill does not specify how much funding should be appropriated for the new agricultural management requirements. Accordingly, CBO has estimated the funding levels necessary to carry out the programs authorized in the bill; our estimates are detailed below on a title-by-title basis.

CBO assumes that it would take the full 18 months provided in the bill to develop regulations to carry out the programs and that only the assessment of current Indian agricultural management programs required in section 104 would proceed before regulations were implemented. All other programs established in the bill would not begin until late in fiscal year 1995.

*Title I—Rangeland and farmland enhancement*

Section 101(a) of the bill would require the Secretary to provide for better management of Indian agricultural lands. Based on information from the BIA, the Bureau of Land Management (BLM), and the Intertribal Agricultural Council, CBO expects that any additional spending from this mandate would occur only after surveys of Indian lands and 10-year agricultural resource management and monitoring plans are completed. CBO estimates that it may take an additional \$20 million to manage Indian agricultural lands if the BIA were to bring its management activity expenditures nearer to the current per-acre expenditures of the BLM. However, because the management changes would not occur until after plans are completed, this funding increase would occur after fiscal year 1998. In fiscal year 1993, the BIA received about \$23 million for agricultural lands management, as well as about \$7 million in non-recurring and special programs related to agriculture management.

Section 101(b) would require the development of 10-year agricultural resource management and monitoring plans for all Indian agricultural lands. Based on information from BIA, CBO expects that the agency would need to complete soil and vegetation surveys of Indian lands before work on plans could be initiated. CBO estimates that the survey completion would cost about \$15 million, and that work would begin in fiscal year 1995 and continue for at least three years.

In addition, CBO estimates that preparing management plans for the 47 million acres of Indian agricultural land would require about \$24 million in additional funds. This estimate is based on an average expected cost of 50 cents per acre, derived from the cost of a recent BIA resource management plan and other information obtained from the BIA and BLM. While the costs for individual agriculture studies may vary, we believe that 50 cents per acre is a reasonable average of the amount the BIA would spend on plans.

CBO assumes that some of the plans needed would be started before surveys of all Indian agriculture lands are completed. Accordingly, CBO estimates that appropriations would begin in fiscal year 1996, and continue through 1998.

Based on the cost of a forestry resource assessment currently being conducted pursuant to the National Indian Forest Resources Management Act passed by the 101st Congress, CBO expects that the assessment required in section 104 would cost about \$1 million over fiscal years 1994 and 1995.

We do not expect that changing the allowable lease term for leases on Indian lands would have a budgetary effect. While permitting longer lease terms may reduce the frequency of processing leases, we do not believe that this would result in a reduction in staff or expenses of the BIA.

#### *Title II—Education in agricultural management*

Based on information from the BIA and other organizations, CBO estimates that the education programs established in H.R. 1425 would cost about \$1 million per year, although costs could vary up to \$10 million annually.

CBO has estimated the cost of a basic intern and scholarship program, and modest funding for a cooperative education program. We estimate that these programs would cost about \$100 thousand in fiscal year 1995 and grow to \$1 million annually in fiscal year 1996 through 1998. This estimate does not include funding for an extensive cooperative education or scholarship program, an educational outreach effort, or the assumption of student loans for post graduates. Because the provisions of title II are so broad and the BIA would have considerable flexibility in determining how many students would participate in the program and how much funding the programs would receive, CBO is unable to estimate the additional authorization with any certainty.

#### *Title III—General provisions*

CBO estimates that title III would result in additional authorizations of \$500,000 to \$1 million for writing regulations. We expect that regulations would be completed within the 18 month deadline

established in H.R. 1425. Thus, we expect that these costs would be incurred in fiscal years 1994 and 1995.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 1425 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

The bill would require the Secretary of the Interior to issue regulations that would establish civil penalties for trespassing on Indian lands and would specify that any penalties collected be treated in the same manner as other proceeds from the sale of agricultural products from Indian lands. Currently, some of these proceeds are deposited into Individual Indian accounts in the U.S. Treasury and can be spent without further appropriation. It is likely that the net direct spending in any one year would be zero as both the collection and the spending may occur within the same fiscal year.

In the event that the collection and spending occur over a longer period of time, CBO does not anticipate that the direct spending would be significant in any one year. Based on information from the BIA, we expect that there would be only a few hundred cases a year and that most penalties would be small (less than \$10,000). Because not every case would result in a civil penalty and because only a portion of these penalties would result in payment to the Treasury, we do not believe that direct spending would be significant.

7. Estimated cost to state and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Patricia Conroy.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 1425 will have minimal regulatory or paperwork impact.

#### EXECUTIVE COMMUNICATIONS

The Committee has not received any Executive Communications regarding H.R. 1425 as passed by the House of Representatives, although the views of the Administration were requested. In view of the extensive negotiations with the Administration on both H.R. 1425 and S. 410, as well as earlier bills in the 102d Congress, it is generally understood that the Administration does not object to H.R. 1425.

## CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of H.R. 1425 will not result in any changes in existing law.

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AMERICAN INDIAN AGRICULTURAL RESOURCE  
MANAGEMENT ACT

NOVEMBER 16, 1993.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. MILLER of California, from the Committee on Natural  
Resources, submitted the following

R E P O R T

[To accompany H.R. 1425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1425) to improve the management, productivity, and use of Indian agricultural lands and resources, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American Indian Agricultural Resource Management Act".

**SEC. 2. FINDINGS.**

The Congress finds and declares that—

- (1) the United States and Indian tribes have a government to government relationship;
- (2) the United States has a trust responsibility to protect, conserve, utilize, and manage Indian agricultural lands consistent with its fiduciary obligation and its unique relationship with Indian tribes;
- (3) Indian agricultural lands are renewable and manageable natural resources which are vital to the economic, social, and cultural welfare of many Indian tribes and their members; and
- (4) development and management of Indian agricultural lands in accordance with integrated resource management plans will ensure proper management of Indian agricultural lands and will produce increased economic returns, enhance

79-006

Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

#### SEC. 3. PURPOSES.

The purposes of this Act are to—

- (1) carry out the trust responsibility of the United States and promote the self-determination of Indian tribes by providing for the management of Indian agricultural lands and related renewable resources in a manner consistent with identified tribal goals and priorities for conservation, multiple use, and sustained yield;
- (2) authorize the Secretary to take part in the management of Indian agricultural lands, with the participation of the beneficial owners of the land, in a manner consistent with the trust responsibility of the Secretary and with the objectives of the beneficial owners;
- (3) provide for the development and management of Indian agricultural lands; and
- (4) increase the educational and training opportunities available to Indian people and communities in the practical, technical, and professional aspects of agriculture and land management to improve the expertise and technical abilities of Indian tribes and their members.

#### SEC. 4. DEFINITIONS.

For the purposes of this Act:

- (1) The term "Indian agricultural lands" means Indian land, including farmland and rangeland, but excluding Indian forest land, that is used for the production of agricultural products, and Indian lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been conducted.
- (2) The term "agricultural product" means—
  - (A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;
  - (B) domestic livestock, including cattle, sheep, goats, horses, buffalo, swine, reindeer, fowl, or other animal specifically raised and utilized for food or fiber or as beast of burden;
  - (C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes; and
  - (D) other marketable or traditionally used materials authorized for removal from Indian agricultural lands.
- (3) The term "agricultural resource" means—
  - (A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, human resources, natural and physical attributes, and man-made developments, which together comprise the agricultural community; and
  - (B) all the benefits derived from Indian agricultural lands and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, aesthetic, and other traditional values of agriculture.
- (4) The term "agricultural resource management plan" means a plan developed under section 101(b).
- (5) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.
- (6) The term "farmland" means Indian land excluding Indian forest land that is used for production of food, feed, fiber, forage and seed oil crops, or other agricultural products, and may be either dryland, irrigated, or irrigated pasture.
- (7) The term "Indian forest land" means forest land as defined in section 304(3) of the National Indian Forest Resources Management Act (25 U.S.C. 3103(3)).
- (8) The term "Indian" means an individual who is a member of an Indian tribe.
- (9) The term "Indian land" means land that is—
  - (A) held in trust by the United States for an Indian tribe; or
  - (B) owned by an Indian or Indian tribe and is subject to restrictions against alienation.
- (10) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible

for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(11) The term "integrated resource management plan" means the plan developed pursuant to the process used by tribal governments to assess available resources and to provide identified holistic management objectives that include quality of life, production goals and landscape descriptions of all designated resources that may include (but not be limited to) water, fish, wildlife, forestry, agriculture, minerals, and recreation, as well as community and municipal resources, and may include any previously adopted tribal codes and plans related to such resources.

(12) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural lands, including (but not limited to)—

(A) preparation of soil and range inventories, farmland and rangeland management plans, and monitoring programs to evaluate management plans;

(B) agricultural lands and on-farm irrigation delivery system development, and the application of state of the art, soil and range conservation management techniques to restore and ensure the productive potential of Indian lands;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, and vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use, carrying capacities, and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study, including direct assistance to tribally-controlled community colleges in developing and implementing curriculum for vocational, technical, and professional course work.

(13) The term "Indian landowner" means the Indian or Indian tribe that—

(A) owns such Indian land, or

(B) is the beneficiary of the trust under which such Indian land is held by the United States.

(14) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs, half-shrubs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed as native vegetation.

(15) The term "Secretary" means the Secretary of the Interior.

## TITLE I—RANGELAND AND FARMLAND ENHANCEMENT

### SEC. 101. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) **MANAGEMENT OBJECTIVES.**—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act, the Secretary shall provide for the management of Indian agricultural lands to achieve the following objectives:

(1) To protect, conserve, utilize, and maintain the highest productive potential on Indian agricultural lands through the application of sound conservation practices and techniques. These practices and techniques shall be applied to planning, development, inventorying, classification, and management of agricultural resources;

(2) To increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources on Indian lands;

(3) To manage agricultural resources consistent with integrated resource management plans in order to protect and maintain other values such as wildlife, fisheries, cultural resources, recreation and to regulate water runoff and minimize soil erosion;

(4) To enable Indian farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training, and education in conservation practices, management and economics of agribusiness, sources and use of credit and marketing of agricultural products, and other applicable subject areas;

(5) To develop Indian agricultural lands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities; and

(6) To assist trust and restricted Indian landowners in leasing their agricultural lands for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(b) **INDIAN AGRICULTURAL RESOURCE MANAGEMENT PLANNING PROGRAM.**—(1) To meet the management objectives of this section, a 10-year Indian agriculture resource management and monitoring plan shall be developed and implemented as follows:

(A) Pursuant to a self-determination contract or self-governance compact, an Indian tribe may develop or implement an Indian agriculture resource plan. Subject to the provisions of subparagraph (C), the tribe shall have broad discretion in designing and carrying out the planning process.

(B) If a tribe chooses not to contract the development or implementation of the plan, the Secretary shall develop or implement, as appropriate, the plan in close consultation with the affected tribe.

(C) Whether developed directly by the tribe or by the Secretary, the plan shall—

- (i) determine available agriculture resources;
- (ii) identify specific tribal agricultural resource goals and objectives;
- (iii) establish management objectives for the resources;
- (iv) define critical values of the Indian tribe and its members and provide identified holistic management objectives;
- (v) identify actions to be taken to reach established objectives;
- (vi) be developed through public meetings;
- (vii) use the public meeting records, existing survey documents, reports, and other research from Federal agencies, tribal community colleges, and lands grant universities; and
- (viii) be completed within three years of the initiation of activity to establish the plan.

(2) Indian agriculture resource management plans developed and approved under this section shall govern the management and administration of Indian agricultural resources and Indian agricultural lands by the Bureau and the Indian tribal government.

#### **SEC. 102. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.**

(a) **TRIBAL RECOGNITION.**—The Secretary shall conduct all land management activities on Indian agricultural land in accordance with goals and objectives set forth in the approved agricultural resource management plan, in an integrated resource management plan, and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

(b) **TRIBAL LAWS.**—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws and ordinances pertaining to Indian agricultural lands, including laws regulating the environment and historic or cultural preservation, and laws or ordinances adopted by the tribal government to regulate law or other activities under tribal jurisdiction. The Secretary shall—

- (1) provide assistance in the enforcement of such tribal laws;
- (2) provide notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and
- (3) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

(c) **WAIVER OF REGULATIONS.**—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the agricultural resource management plan provided for in section 101, or with a tribal law, the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with his general trust responsibility under Federal law.

(d) **SOVEREIGN IMMUNITY.**—This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

**SEC. 103. INDIAN AGRICULTURAL LANDS TRESPASS.**

(a) **CIVIL PENALTIES; REGULATIONS.**—Not later than one year after the date of enactment of this Act, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of trespass on Indian agricultural lands, which provide for—

(A) collection of the value of the products illegally used or removed plus a penalty of double their values;

(B) collection of the costs associated with damage to the Indian agricultural lands caused by the act of trespass; and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility within the Department of the Interior for the detection and investigation of Indian agricultural lands trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) **TREATMENT OF PROCEEDS.**—The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of agricultural products from the Indian agricultural lands upon which such trespass occurred.

(c) **CONCURRENT JURISDICTION.**—Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent jurisdiction with the United States to enforce the provisions of this section and the regulations promulgated thereunder. The Bureau and other agencies of the Federal Government shall, at the request of the tribal government, defer to tribal prosecutions of Indian agricultural land trespass cases. Tribal court judgments regarding agricultural trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section. Nothing in this Act shall be construed to diminish the sovereign authority of Indian tribes with respect to trespass.

**SEC. 104. ASSESSMENT OF INDIAN AGRICULTURAL MANAGEMENT PROGRAMS.**

(a) **ASSESSMENT.**—Within six months after the date of enactment of this Act, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in agricultural management on Federal and private lands to conduct an independent assessment of Indian agricultural land management and practices. Such assessment shall be national in scope and shall include a comparative analysis of Federal investment and management efforts for Indian trust and restricted agricultural lands as compared to federally-owned lands managed by other Federal agencies or instrumentalities and as compared to federally-served private lands.

(b) **PURPOSES.**—The purposes of the assessment shall be—

(1) to establish a comprehensive assessment of the improvement, funding, and development needs for all Indian agricultural lands;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau; and

(3) to identify any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs generally available to the public at large.

(c) **IMPLEMENTATION.**—Within one year after the date of enactment of this Act, the Secretary shall provide the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section and shall file a final report with the Congress not later than 18 months after the date of enactment of this Act.

**SEC. 105. LEASING OF INDIAN AGRICULTURAL LANDS.**

(a) **AUTHORITY OF THE SECRETARY.**—The Secretary is authorized to—

(1) approve any agricultural lease or permit with (A) a tenure of up to 10 years, or (B) a tenure longer than 10 years but not to exceed 25 years unless authorized by other Federal law, when such longer tenure is determined by the Secretary to be in the best interest of the Indian landowners and when such lease or permit requires substantial investment in the development of the lands or crops by the lessee; and

(2) lease or permit agricultural lands to the highest responsible bidder at rates less than the Federal appraisal after satisfactorily advertising such lands for lease, when, in the opinion of the Secretary, such action would be in the best interest of the Indian landowner.

(b) **AUTHORITY OF THE TRIBE.**—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agricultural leases and permits so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary;

(3) shall provide for posting of other collateral or security in lieu of surety or other bonds; and

(4) when such tribal resolution sets forth a tribal definition of what constitutes "highly fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, may waive or modify any general notice requirement of Federal law and proceed to negotiate and lease or permit such highly fractionated undivided interest heirship lands in conformity with tribal law in order to prevent waste, reduce idle land acreage, and ensure income.

(c) **RIGHTS OF INDIVIDUAL LANDOWNERS.**—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee in the legal or beneficial use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2)(A) The owners of a majority interest in any trust or restricted land are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land if the terms of the lease provide such minority interests with not less than fair market value for such land.

(B) For the purposes of subparagraph (A), a majority interest in trust or restricted land is an interest greater than 50 percent of the legal or beneficial title.

(3) The provisions of subsection (b) shall not apply to a parcel of trust or restricted land if the owners of at least 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

## TITLE II—EDUCATION IN AGRICULTURE MANAGEMENT

### SEC. 201. INDIAN AND ALASKA NATIVE AGRICULTURE MANAGEMENT EDUCATION ASSISTANCE PROGRAMS.

(a) **AGRICULTURAL RESOURCES INTERN PROGRAM.**—(1) Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau or other appropriate office or bureau within the Department of the Interior at least 20 agricultural resources intern positions for Indian and Alaska Native students enrolled in an agriculture study program. Such positions shall be in addition to the forester intern positions authorized in section 314(a) of the National Indian Forest Resources Management Act (25 U.S.C. 3113(a)),

(2) For purposes of this subsection—

(A) the term "agricultural resources intern" means an Indian who—

(i) is attending an approved postsecondary school in a full-time agriculture or related field, and

(ii) is appointed to one of the agricultural resources intern positions established under paragraph (1);

(B) the term "agricultural resources intern positions" means positions established pursuant to paragraph (1) for agricultural resources interns; and

(C) the term "agriculture study program" includes (but is not limited to) agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, geographic information systems, horticulture, range management, soil science, and veterinary science.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees, and living expenses incurred by an agricultural resources intern while attending an approved postsecondary or graduate school in a full-time agricultural study program.

(4) An agricultural resources intern shall be required to enter into an obligated service agreement with the Secretary to serve as an employee in a professional agriculture or natural resources position with the Department of the Interior or other



Federal agency or an Indian tribe for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3).

(5) An agricultural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional agricultural or related positions with the Bureau or other Federal agency providing Indian agricultural or related services.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and Southwestern Indian Polytechnic Institute programs can be met through local program work at participating tribally controlled community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets, and other subjects of importance in agricultural pursuits.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian agricultural management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, and fees of an Indian student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in an agricultural resource related activity with the Bureau, or other Federal agency providing agricultural or related services to Indians or Indian tribes, or an Indian tribe for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary may grant scholarships to Indians enrolled in accredited agriculture related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipients course of study, with—

(A) the Bureau or other agency of the Federal Government providing agriculture or natural resource related services to Indians or Indian tribes;

(B) an agriculture or related program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act; or

(C) a tribal agriculture or related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been

admitted to and remains in good standing in an accredited post secondary or graduate institution.

(d) **EDUCATIONAL OUTREACH.**—The Secretary shall conduct, through the Bureau, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, an agricultural resource education outreach program for Indian youth to explain and stimulate interest in all aspects of management and careers in Indian agriculture and natural resources.

(e) **ADEQUACY OF PROGRAMS.**—The Secretary shall administer the programs described in this section until a sufficient number of Indians are trained to ensure that there is an adequate number of qualified, professional Indian agricultural resource managers to manage the Bureau agricultural resource programs and programs maintained by or for Indian tribes.

**SEC. 202. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.**

(a) **ASSUMPTION OF LOANS.**—The Secretary shall establish and maintain a program to attract Indian professionals who are graduates of a course of postsecondary or graduate education for employment in either the Bureau agriculture or related programs or, subject to the approval of the tribe, in tribal agriculture or related programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian professionals in exchange for the assumption by the Secretary of the outstanding student loans of the employee. The period of employment shall be determined by the amount of the loan that is assumed.

(b) **POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.**—For the purposes of training, skill development and orientation of Indian and Federal agricultural management personnel, and the enhancement of tribal and Bureau agricultural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal and Indian agricultural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau and Indian agricultural resource employees in the agricultural resource related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of agricultural resource personnel from the other Department of the Interior agencies within the Bureau, and, with the consent of the tribe, within tribal agricultural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau and, with the consent of the tribe, within a tribal agricultural resource program of other agricultural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian agricultural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) **CONTINUING EDUCATION AND TRAINING.**—The Secretary shall maintain a program within the Trust Services Division of the Bureau and Indian agricultural resource personnel which shall provide for—

(1) orientation training for Bureau agricultural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical agricultural resource education for Bureau and Indian agricultural resource personnel; and

(3) development training of Indian agricultural resource personnel in agricultural resource based enterprises and marketing.

**SEC. 203. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.**

(a) **COOPERATIVE AGREEMENTS.**—

(1)(A) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary may negotiate and enter into cooperative agreements with Indian tribes to—

(i) engage in cooperative manpower and job training,

(ii) develop and publish cooperative agricultural education and resource planning materials, and

(iii) perform land and facility improvements and other activities related to land and natural resource management and development.

(B) The Secretary may enter into these agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In cooperative agreements entered into under paragraph (1), the Secretary may advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of sections 2671 through 2680 of title 28, United States Code, and sections 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

#### **SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.**

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

### **TITLE III—GENERAL PROVISIONS**

#### **SEC. 301. REGULATIONS.**

Except as otherwise provided by this Act, the Secretary shall promulgate final regulations for the implementation of this Act within 18 months after the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

#### **SEC. 302. TRUST RESPONSIBILITY.**

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

#### **SEC. 303. SEVERABILITY.**

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

#### **SEC. 304. FEDERAL STATE AND LOCAL AUTHORITY.**

(a) DISCLAIMER.—Nothing in this Act shall be construed to supercede or limit the authority of Federal, State or local agencies otherwise authorized by law to provide services to Indians.

(b) DUPLICATION OF SERVICES.—The Secretary shall work with all appropriate Federal departments and agencies to avoid duplication of programs and services currently available to Indian tribes and landowners from other sources.

#### **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

#### **PURPOSE**

The purpose of H.R. 1425 is to improve the management, productivity, and use of Indian agricultural lands and resources.

## BACKGROUND AND NEED

Farming and ranching is the primary source of economic opportunity for many Indian people. There are over 33,000 individual and tribal agricultural enterprises nationwide. Of the 54.5 million acres of Indian-owned land held in trust by the Federal Government for individual Indians or Indian tribes, approximately 75 percent (47 million acres) is used for agricultural production and another 15 percent (5.8 million) are commercial forest lands. Although farming and ranching have been major contributors to the economic and social welfare of Indian communities, there has been a steady decline in the services to and profitability of agricultural businesses on reservations. According to a 1993 Bureau of Indian Affairs (BIA) report, there are in excess of 1.15 million acres of Indian agricultural lands lying idle. The following chart illustrates the breakdown of idle lands by BIA Areas:

Area office	Acres of idle lands	Total acreage
Aberdeen .....	171,399	6,186,004
Anadarko .....	31,844	355,654
Albuquerque .....	37,093	5,186,570
Billings .....	238,291	6,584,041
Eastern .....	385	781,760
Juneau .....	35	1,271,384
Minneapolis .....	4,697	1,343,623
Muskogee .....	16,564	825,075
Navajo .....	101,909	15,399,658
Phoenix .....	414,588	12,264,855
Portland .....	87,548	5,023,181
Sacramento .....	48,662	566,658

Letter to Chairman Bill Richardson from Acting Assistant Secretary—Indian Affairs Thomas Thompson, May 25, 1993.

The Federal Government has a trust responsibility for the management of all natural resources on Indian lands. Over the past 20 years, the Indian agricultural program in the BIA, which has responsibility for the leasing of farm and range lands, has become increasingly ineffective. Over the same period, funding levels for the management of Indian agricultural resources have significantly declined due to inflation and increased administrative costs. The number of BIA personnel engaged in agricultural or natural resource management activities has dropped off dramatically and is not commensurate with the number of Federal employees providing comparable natural resource services on public lands. In addition, the Bureau of Indian Affairs has not adequately developed educational programs and other opportunities for American Indians and Alaska Natives to pursue educational and training opportunities in the natural resource field.

The decline in the Bureau of Indian Affairs agricultural resource program can be tracked by an examination of program trends since 1975. In 1975, the Bureau of Indian Affairs agricultural resources program was budgeted at \$22 million. In 1990, the actual dollar funding for this program was \$24 million. In 1975, the Bureau of Indian Affairs employed 91 range conservationists, by 1990 the Bureau of Indian Affairs had 77 range conservationists. In 1975, the Bureau of Indian Affairs employed 210 soil conservationists, by 1990 Bureau of Indian Affairs had only 62 soil conservationists. In 1975, there were approximately 1,205 persons in the Bureau of In-

dian Affairs agricultural resources program. Currently, the Bureau of Indian Affairs has 654 funded positions in the agricultural resources program many of which are unfilled or detailed to the other programs. The fiscal year 1994 budget request of the Bureau of Indian Affairs proposes funding levels of \$22.3 million and approximately 340 FTE for the agricultural resources program. In addition, it has been reported that within the next ten years, approximately 80 percent of the positions in the Bureau of Indian Affairs agricultural program will be open because of retirements. These figures indicate that the program trends since 1975 in Indian agriculture will continue. The Committee is very concerned that the failure of the Bureau of Indian Affairs over the last 18 years to ensure that the agriculture program is adequately staffed and funded has resulted in a severe decline in the condition of Indian agriculture.

In addition, the Bureau of Indian Affairs has failed to develop proper agricultural and natural resource base line data to indicate the condition and current productivity on Indian lands. The Federal government has developed similar data for all other Federal lands, but has failed to develop this badly needed information for Indian lands. Currently 12 million acres of Indian agricultural lands do not have the basic soil and range inventories necessary to develop tribal management plans for Indian reservations. The Bureau of Indian Affairs proposes to conduct soil inventories for only 1,000 acres during fiscal year 1994. The BIA has also proposed, as part of its Fiscal Year 1994 Budget, to complete range inventories for 3,000,000 acres. At the current pace, it will be many years before the Bureau of Indian Affairs has completed soil inventories for Indian lands. The Committee expects the Bureau of Indian Affairs to aggressively pursue the completion of soil and range inventories for all Indian lands. The Committee intends this legislation to provide the necessary authority to complete these inventories and to develop base line data on Indian lands comparable to the data developed for all other Federal lands. The Committee directs the Secretary to provide the necessary technical assistance and support for these efforts by the Bureau of Indian Affairs from the other Bureaus within the Department and other appropriate Federal departments.

#### REPORT TO CONGRESS: BUREAU OF INDIAN AFFAIRS AGRICULTURE— RANGE PROGRAMS

In 1986, the Bureau of Indian Affairs and the Department of the Interior were directed to submit to the Congress a report on the effectiveness of Federal and tribal agriculture and range programs nationally. This report was submitted to the Congress in September of 1986. The report was developed through direct consultation with and the active participation of Indian tribes. The Bureau of Indian Affairs formed an "Indian Agriculture Working Group" comprised of tribal representatives with experience in agriculture and ranching. The working group conducted a review of national policies on Indian agriculture and examined the effectiveness of agricultural programs in Indian country. Hearings were held in each of the 12 Bureau of Indian Affairs areas where many of the problems affecting Indian agriculture were identified. The 1986 Report



developed by the BIA and the Indian Agriculture Working Group contained over 33 recommendations to improve the management of Indian agriculture and range lands. These recommendations concerned programs administered by the Bureau of Indian Affairs, the Department of Agriculture, and the Department of the Interior. Some of the recommendations contained in the report include increasing tribal participation in the management of Indian agricultural lands, modification of existing Federal regulations pertaining to leasing and permitting of trust lands, providing an Indian preference in the leasing of Indian agricultural lands, allowing owners of a majority interest in a trust allotment to negotiate their own leases, and providing scholarships and other educational opportunities for Indian students in agriculture and natural resources.

The September 1986 Report to the Congress included the following demographic information and a breakdown of land use patterns and commercial agricultural activities on Indian lands:

The Bureau administers 54.5 million acres of Indian-owned land held in trust by the Federal Government. This land comprised of both allotted and tribally owned land, is primarily used for agricultural production. As indicated in the following figure (see graph, page 17 of report) 69 percent of all Indian lands are rangelands and 10 percent is non-commercial forest lands used for the grazing of livestock, 13 percent are commercial and forest lands, 4 percent are used for dryland farming, 2 percent are irrigated farm lands, and less than 2 percent are used for all other purposes.

Based on 1984 figures, agricultural products grown on Indian lands are valued at \$548.6 million annually; oil, gas, and mineral income totals \$230.7; and forest products (stumpage) are valued at \$61.5 million.

In addition to the actual production income, Indian landowners and tribes receive \$50.5 million in agricultural lease income and range unit permit fees, compared with \$17.6 in business lease income, and \$2.9 in all other lease categories.

The farming and ranching sector also provides the main source of entrepreneurial opportunity to the Indian people, with 33,572 individual Indian families and tribes engaged in agricultural pursuits. (Report to Congress: BIA Agriculture—Range Programs, September, 1986, p. 17.)

This report was the last significant measurement of agricultural activities on Indian lands. Several recommendations which were made in the report were never carried out administratively. Indian tribes participating in farming and ranching turned to the Congress to solve the problems experienced in Indian agriculture programs.

#### THE AMERICAN INDIAN AGRICULTURAL RESOURCE MANAGEMENT ACT

On September 22, 1992, the House Committee on Interior and Insular Affairs held a joint hearing with the Senate Select Committee on Indian Affairs on H.R. 5744, the Indian Agricultural Resources Management Act of 1992. Testimony was heard from sev-



eral tribal witnesses, the Intertribal Agricultural Council and the Bureau of Indian Affairs. At this hearing the Bush Administration raised several concerns regarding the legislation. One of the major issues raised by the Administration was that certain provisions in the bill would result in a Fifth Amendment "taking". The Administration was concerned that the legislation did not require the Secretary to obtain the consent of the heirs who own a given tract of land before it is leased or permitted. The Administration stated that this provision may give rise to potential Fifth Amendment takings claims. The Administration also raised an objection to the bill because it significantly expands the Secretary's trust responsibility to manage Indian agricultural lands. Finally, the Administration expressed concern that H.R. 5744 would impose new responsibilities on the Secretary and would require him to "manage" Indian lands. No further action was taken on H.R. 5744 in the 102d Congress.

On March 18, 1993, Representative Richardson introduced H.R. 1425, the American Indian Agricultural Act of 1993. It was co-sponsored by Representatives Johnson and Williams. The purpose of the Act is to ensure that the United States meets its trust responsibility to Indian tribes and to promote tribal self-determination through the effective management of Indian agricultural lands and natural resources. The bill authorizes the Secretary with participation of Indian tribes to take part in the management of Indian agricultural lands in a manner consistent with the Secretary's trust responsibility. It also provides for the development and management of Indian agricultural lands at a level commensurate with the level of development and management afforded to Federally owned or controlled lands. The bill also increases the educational and training opportunities for Indian people in professions related to agriculture, natural resources and land management. This program is designed to improve the expertise and technical abilities of Indian tribes and their members.

#### ADMINISTRATION COMMENTS

On June 18, 1993 the Subcommittee on Native American Affairs held a hearing on H.R. 1425, the American Indian Agricultural Resource Management Act. The Subcommittee received testimony from several tribal witnesses, the Intertribal Agricultural Council, the Bureau of Indian Affairs and several representatives of individual allottee associations. In testimony before the Subcommittee, Mr. Patrick Hayes, Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, raised several concerns with respect to H.R. 1425 as introduced. The Administration expressed concern regarding the definition of Indian tribe used in the bill. The Administration suggested that the definition used in H.R. 1425 may be interpreted to include non-Federally recognized Indian tribes. The definition used in the bill is the same definition of "Indian tribe" found in P.L. 93-638, the Indian Self-Determination and Education Assistance Act. The definition can also be found in many other Federal statutes. The language used in the definition has not been interpreted as including non-Federally recognized Indian tribes. The Committee does not view this language as including any non-Federally recognized Indian tribes and in-

tends its provisions to apply only to Federally recognized Indian tribes.

The Bureau of Indian Affairs expressed concerns regarding provisions in H.R. 1425 as introduced which provides that the Secretary shall waive the application of any regulation of administrative policy which conflicts with the objectives of a tribal management plan, unless such waiver would constitute a violation of a Federal statute or judicial decision or is contrary to his general trust responsibility. The BIA suggests this provision be clarified to ensure that it applies only to Indian lands. This provision concerns tribally developed management plans, which govern "the management and administration of Indian agricultural resources and Indian agricultural lands." It follows then that waivers required under this section would only impact Indian agricultural lands governed by the tribal management plan. The Bureau of Indian Affairs also suggested that this provision 102(c) be made discretionary. The Bureau of Indian Affairs was concerned that this provision would create a policy priority for Indian agriculture and may conflict with important Secretarial policies. The Committee has reviewed these concerns and does not share this view. This provision requires the waiver of regulations which conflict with the tribal management plan. This plan is subject to both tribal and Secretarial approvals. Presumably, the Secretary can ensure that tribal management plans respect important Secretarial policies through the approval process. In addition, section 102(c) exempts regulatory or policy waivers which would violate a Federal statute or judicial decision, or conflict with his general trust responsibility under Federal law. The Committee views these exemptions as providing the Secretary a sufficient degree of latitude to ensure that tribal management plans respect important Secretarial policies. In addition, 25 CFR 1.2 authorizes the Secretary to waive regulations when the waiver is "in the best interest of the Indians." The Committee feels that no further clarification is required.

The BIA also recommended the addition of disclaimer language to ensure that nothing in this Act shall constitute a waiver of sovereign immunity by the United States nor authorize tribal courts to review the actions of the Secretary. The Department of Justice also recommended similar language be included in the bill. The Committee Amendment includes this language in section 102(d) of the bill. The Committee included the disclaimer language to clarify the scope and application of Section 102(b). The Committee does not intend this provision to operate as a waiver of sovereign immunity of the United States. Further, the Committee does not intend this section to authorize tribal courts to review the actions of the Secretary. Several tribal witnesses testified before the Committee that BIA officials routinely ignore repeated requests to appear in tribal courts. The Committee expects the BIA and other Federal officials to cooperate with tribal authorities to ensure the proper administration of justice on Indian lands. The Committee intends the language in section 102(b) to make clear that tribal laws and ordinances apply to Federal officials. The Committee expects all officials to comply with tribal laws and ordinances pertaining to Indian agricultural lands. The Committee Amendment explicitly recognizes the inherent authority of Indian tribes to enact laws and

ordinances to regulate land use, including laws regulating environment, historic and cultural preservation. The Committee also recognizes the inherent tribal authority to adopt land use planning and zoning ordinances to govern lands within their jurisdiction. The Committee does not intend this language to alter or expand the jurisdiction of Indian tribes as currently recognized under applicable laws and judicial decisions.

The Bureau of Indian Affairs also raised concerns regarding the provisions in H.R. 1425 as introduced which directed the Secretary to establish a task force to develop a comparative analysis of Federal investment and management efforts for Indian lands and other Federally managed lands. The Bureau stated that in 1990 they had conducted a study comparing staffing levels in the BIA with levels of other Federal agencies. This study revealed that "the BIA would have to double its range and soils staffing levels in order to maintain a staff-to-acreage-managed ratio similar to other agencies." (Testimony of Mr. Patrick Hayes, Director, Office of Trust Responsibilities June 18, 1993). These figures are indicative of the lack of attention to Indian agricultural resources and lands and consistent with the steady decline in the Bureau of Indian Affairs agricultural resource program. The Committee carefully considered the comments of the Bureau of Indian Affairs and significantly revised this section to reflect these concerns. The Committee Amendment includes a provision which authorizes the Secretary to contract with a non-Federal entity to conduct an independent assessment of Indian agricultural land management and practices. The Committee expects this assessment to be carried out in the same fashion as the independent assessment authorized under the National Indian Forest Resource Management Act (Title III of Public law 101-630).

The testimony of the Bureau of Indian Affairs expressed several concerns regarding section 104 of H.R. 1425 as introduced. The BIA specifically objected to language which authorized the Secretary to enter into lease agreements which contained renewal provisions for a period of years to be determined by the tribal government. The Bureau of Indian Affairs also objected to the provision which authorized the Secretary to lease only those lands which are surplus to the needs of the Indian community. Finally, the Bureau recommended an amendment to this section which would allow Indian landowners to opt out of the provisions creating an Indian preference in leasing. The Committee carefully considered the BIA's concerns and substantially revised the leasing provisions in the Committee Amendment to address its concerns. The Committee Amendment includes language which allows the Secretary to approve agricultural leases or permits for a tenure of up to 10 years, or longer than 10 years, not to exceed 25 years, when it is in the best interest of the landowner and when the lessee agrees to make a substantial investment in the lands. The Committee intends this provision to authorize the negotiation of longer term agricultural leases which will increase access to agricultural credit programs. The current practice of the BIA limiting the term of agricultural leases to 5 years severely limits the ability of lessees to access credit which in turn prevents them from investing in improvements in the land. Historically, few improvements have been made on Indian agricultural lands because lessees could not pledge more than 5

years of revenue. The failure of the BIA to authorize leases of longer duration left most Indian agricultural lands without improvements. This concern was voiced by many of the tribal witnesses appearing before the Committee. The Committee intends these provisions to provide a greater degree of flexibility to the Secretary in the leasing of Indian agricultural lands. This provision is consistent with the authority of the Secretary as provided for in 25 CFR 162.8(b), which allows him to approve leases of longer duration. The Committee Amendment deletes the provisions in section 104 which authorize the Secretary to lease only those lands which are surplus to the Indian tribes' needs. In addition, the Committee Amendment includes language which allows individual Indian landowners to opt out of the tribal leasing provisions. Individual Indian landowners may opt out of the Indian leasing preferences, the surety or performance bond waiver provisions, the alternative collateral or security provisions, and the tribal alternative plan for providing notice to owners of highly fractionated heirship lands.

The Committee also received comments from the Department of Justice on H.R. 1425 as introduced. In a letter dated July 29, 1993, to Chairman Richardson, the Department of Justice expressed concerns about several provisions in the bill. The Department was concerned that the bill would expand the Federal government's trust responsibility to Indian tribes. This comment conflicts with the testimony of the Bureau of Indian Affairs testified before the Committee in June, "We do not interpret the objectives under Section 101 to define or extend the Secretary's trust responsibilities beyond its current level." (Testimony of Mr. Patrick Hayes, Director, Office of Trust Responsibilities June 18, 1993). The Department is specifically concerned about the use of the phrase "enhance Indian rangelands and farmlands" in section 2(a)(2) of the bill and the objectives set out in section 101 which discuss enhancement of rangelands and farmlands, enhancing other values such as wildlife and fisheries, and increasing production of agricultural products. The provisions of concern to the Department are very similar to the language in the fiscal year 1993 Department of Interior Budget Justification for the Bureau of Indian Affairs:

ACTIVITY: NATURAL RESOURCES DEVELOPMENT SUBACTIVITY:  
AGRICULTURE

*Objective:* The Agriculture program objectives are: (1) to protect, conserve, restore, develop, improve and enhance the agronomic and range resource values of Indian lands; to enhance the lands in accordance with principals of sustained yield management to ensure continuous production under multiple use concepts; (2) to develop the renewable resource to provide Indian self-sufficiency; (3) to regulate water runoff and minimize soil erosion; (4) to preserve and develop other values, such as wildlife and recreation; (5) to provide technical assistance to indian farmers and ranchers; and to assist Indian landowners in leading their farmland and rangeland for maximum economic return consistent with the objectives of sustained yield management and resource conservation." (BIA-95)

Clearly, these program objectives are consistent with and bear a striking resemblance to the management objectives enumerated under section 101 of the Committee Amendment. As the Depart-

ment of Justice correctly points out in their letter, the Congress has the authority and the responsibility to define the Federal trust responsibility to Indian tribes through legislation. Nonetheless, the Committee Amendment deletes any reference to the term "enhancement" in the bill. The Committee does not intend these provisions to expand the Federal governments trust responsibilities to Indian tribes.

The Department of Justice expressed concerns regarding the purpose of the legislation set out in section 3(3) which states that a purpose of the bill is to "provide for the development and management of Indian agricultural lands at a level commensurate with the level of development and management afforded to Federally owned or controlled lands." The Department is also concerned about section 103 of H.R. 1425 as introduced which established a task force to prepare a comparative analysis of Indian and Federally owned agricultural lands. The Department is concerned that these provisions give rise to an increased standard of care for the Secretary with regard to Indian agricultural lands.

The Committee is very concerned with current conditions of Indian agriculture and the decline of the BIA agricultural resources program. By every measure the agricultural program at the BIA has stagnated: relatively flat funding since 1975, steady decline in the number of professionals employed by the Bureau, 12 million acres of Indian lands without basic soil and range inventories, BIA staff-to-acreage-managed ratio less than half that of other Federal agencies, and over 1.15 million acres lying idle. In consideration of the Department's concerns, the Committee Amendment no longer contains the language in section 3(3) of the bill. In addition, the Committee substantially revised the provisions which established a task force in section 103 of the bill. The Committee Amendment contains a provision which authorizes the Secretary to contract with a non-Federal entity to conduct an independent assessment of Indian agricultural land management and practices. The Committee intends this independent assessment to provide information regarding the level of Federal investment in Indian agriculture, the improvement, funding, and development needs for all Indian agricultural lands, and to identify obstacles to Indian access to Federal or private agriculture programs. The Committee expects this needs assessment to provide a blueprint to the Congress and the Administration for the improvement of Indian agriculture. The Committee Amendment does include, as part of the assessment, a provision requiring a comparison of Federal investment and management efforts for Indian agricultural lands as compared to other Federally owned lands. The Committee expects this analysis to determine if there is a significant disparity between what is invested in Indian agricultural lands to the same extent as other Federal agencies have invested in similarly situated lands. The Committee recognizes that the management practices over Indian lands may vary significantly from other Federal lands due to tribal priorities. In fact, a central purpose of this legislation is to provide a mechanism for tribal priorities and objectives to govern the management on Indian agricultural lands.



## COMMITTEE AMENDMENT

The Committee Amendment includes several new provisions which are designed to address the concerns and recommendations made by other witnesses at the June 18th hearing. The Committee Amendment substantially revises the provisions under section 101 of the Act to clarify the intent of the Congress and more clearly reflect the views of tribal witnesses. This section provides that an Indian tribe may contract under the Indian Self-Determination Act to develop or implement an Indian agricultural resource management plan. The Committee intends this section to be interpreted broadly so as to provide the Indian tribe with a significant amount of discretion in the design and development of an agricultural resource management plan. In those instances where an Indian tribe chooses not to contract for this program under the Indian Self-Determination Act, then the Secretary shall develop or implement an Indian agricultural management plan for any interested tribe. The Secretary is directed to closely consult with the Indian tribe in all stages and aspects of the Indian agricultural management plan.

These plans shall be based on information and comments provided in public meetings with all affected parties. The Committee intends this section to be implemented in a manner that provides for full consultation and participation of tribal officials, tribal members, Indian landowners, Indian allottees and operators, and any affected persons. The Committee directs the Secretary to provide to the Indian tribe any pertinent information and documents to assist in the development of Indian agricultural resource management plans. In addition, the Committee expects the Indian tribes to draw in existing data and other research available for Federal agencies, tribal community colleges, and land grant universities in the development of these Indian agricultural resource management plans. The Committee expects the cooperation of the entire Federal government in making available information to the tribes in the development of these plans.

This section also provides that Indian agricultural resource management plans shall be completed within three years of the initiation of activity to establish the plan. The Committee recognizes that many Indian tribes may not be in a position to initiate the management plans contemplated under this Act immediately. The Committee directs the Secretary to work with those interested Indian tribes to develop, either directly or through Self-Determination Act contracts, agricultural resource management plans. The Committee anticipates that the planning process will take up to three years to develop the management plan.

The Committee intends the Indian agricultural resource management plans developed under this section to govern the management and administration of Indian agricultural lands by the Bureau of Indian Affairs and the tribal government. The Committee expects the Bureau to adhere to the tribal priorities and objectives as they are set out in the Indian agricultural resource management plans. The Committee recognizes that the management plans will govern management activities on Indian agricultural lands for a ten year period. The Committee intends these agricultural resource management plans to be dynamic and to reflect tribal priorities and objec-



tives. The Committee further recognizes that these priorities will change over time due to changing conditions or circumstances of the tribe and the development of new agricultural data. The Committee intends this process to allow for modification to Indian agricultural management plans in order to provide for changing circumstances of the tribe. The Committee expects this process to encourage innovative approaches to agricultural resource management on Indian lands.

The Committee has heard numerous concerns from tribal witnesses regarding the delays in the development of integrated resource management plans for Indian reservations. The Bureau of Indian Affairs reports that it has completed integrated resource management for only 9 Indian tribes nationwide. The Committee is very concerned regarding the failure of the Bureau of Indian Affairs to fully implement integrated resource planning for Indian reservations. The Committee Amendment recognizes the need to develop integrated resource management plans which incorporate aspects of Indian agricultural resource management plans as well as other tribally developed resource management plans. The Committee expects the Bureau of Indian Affairs to continue to assist Indian tribes in the development of integrated resource management plans for their reservations.

The Committee Amendment also includes a new section on civil trespass on Indian agricultural lands. This section requires the Secretary to issue regulations that establish civil penalties for trespass on Indian agricultural lands. This section will allow the Secretary to collect fines, penalties, and other costs associated with trespass on Indian agricultural lands. It also provides that proceeds from civil penalties collected under this section shall be treated as the proceeds from the sale of agricultural products. Finally, this section recognizes that Indian tribes who adopt regulations promulgated by the Secretary under this section shall have concurrent jurisdiction to enforce the provisions this section. It also provides that tribal court judgments regarding agricultural land trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section. The Committee has heard testimony from several tribal witnesses expressing concerns about the lax enforcement of lease provisions and performance requirements. In many circumstances, operators leasing Indian agricultural lands have failed to perform in fulfillment of the terms of the lease, which has created costs and expenses for the landowner. For example, one witness testified that on his reservation some agricultural operators who farmed cotton on tribally leased land, harvested the cotton and left, without performing the requisite plow down of cotton stubble on the lease lands. This practice leaves many landowners without appropriate recourse to assure full performance of the terms of the lease. In many cases, the tribe, individual landowners or the Bureau of Indian Affairs must pay for the plow down of the cotton. The Committee is aware of situations where crops are grown or cattle grazed on lands without a valid lease agreement. The Committee intends this section to provide additional protections to Indian landowners. These provisions, in conjunction with the provisions regarding surety and performance bonds, should pro-

vide ample protection to the interests of Indian landowners and prevent fraud and waste on Indian agricultural lands.

The Committee Amendment substantially revises the leasing provisions included in the Act. In section 105 of the Committee Amendment, the Secretary is authorized to approve agricultural leases for terms exceeding 10 years, not to exceed 25 years, where it is in the best interest of the landowner and the lessee agrees to make a substantial investment in the lands. The Secretary is also authorized to lease agricultural lands to the highest responsible bidder at rates less than the Federal appraisal when it would be in the best interest of the Indian landowner. The committee recognizes in certain instances it may be in the best interest of the Indian landowner to enter a lease at less than the Federal appraisal. Specifically, where the market will not support a lease at the appraised level and the land would otherwise lie fallow, it may be in the best interests of the Indian landowner to lease the land at less than the appraised value. This provision is consistent with the provisions of 25 CFR 162.5(a)(3).

The Committee Amendment also recognizes the authority of Indian tribes to establish a general leasing policy for Indian agricultural lands which provides for an Indian preference in leasing or permitting Indian agricultural lands, waivers or modifications of surety or performance bonds, or an alternative method of providing notice to owners of "highly fractionated undivided heirship lands." This provision authorizes the Secretary to provide a preference to Indian operators to lease Indian agricultural lands when an Indian tribe has passed a resolution establishing an Indian preference policy and when the Indian landowner is assured to receive fair market value for his or her property. The Committee intends this provision to encourage Indians to farm their own lands and to increase Indian farming and ranching generally. The Committee Amendment does include language to protect the landowner by ensuring that they receive fair market value for their lands. It should be noted that this is the same standard of care that the Secretary is held to in leasing of Indian agricultural lands under 25 CFR sections 162.5 and 162.6.

The Secretary can waive or modify the requirements for posting of a surety or performance bond on Indian agricultural leases or permits, when it is authorized by a tribal resolution which establishes a tribal leasing policy. The Secretary can provide for posting of other types of collateral or security, in lieu of surety or performance bonds when authorized by tribal resolution. The Committee intends these two provisions to be read in tandem. The Committee intends this section to authorize the Secretary to require surety or performance bonds, or waive or modify this requirement as warranted. In response to several tribal concerns, the Committee has provided authority to allow the Secretary to require other forms of security in lieu of bonds. The Committee believes these provisions will allow the Secretary ample latitude to ensure Indian agricultural lands are adequately protected. The Committee understands that in some circumstances operators may be unable to obtain bonds for Indian lands and in those instances the Secretary can provide for a pledge of collateral or a certificate of deposit or other

type of security in order to adequately protect the Indian landowner's interests.

The Committee Amendment authorizes the Secretary to waive or modify notice requirements for highly fractionated undivided heirships, where an Indian tribe by resolution defines "highly fractionated undivided heirship lands" and adopts an alternative plan for providing notice to said owners. The Secretary is given the discretion to approve a tribally developed plan to provide notice to owners of highly fractionated undivided heirship lands. The Committee intends this provision to be interpreted in a manner that allows the Secretary and the tribes to develop less cumbersome methods of providing notice to landowners. In the figures cited by the Bureau, 1.15 million acres of Indian agricultural lands are idle, many of these lands are idle because of the difficulty of notifying hundreds of owners of a single tract of land. The Committee intends this provision to bring more lands into production and ensure income to owners of otherwise idle lands.

This section of the Committee Amendment also includes provisions respecting the rights of individual Indian landowners. It provides that nothing in this section shall be construed to limit or alter the right of an individual allottee to lease his or her own land. It also recognizes that the owners of a majority interest in trust land may enter into a lease agreement that binds the other owners if they are assured fair market value for their land. The Committee intends this provision to address the issue of highly fractionated undivided heirship lands lying idle due to the number of ownership interests in one parcel of land. The Committee has received testimony from the Comanche Indian tribe of Oklahoma, members of the Fort Still Apache tribe of Oklahoma, and the Indian Soil Conservation Association which indicate that a major problem faced by Indian allottees is the Bureau of Indian Affairs requirement that 100 percent of the owners agree to a negotiated lease agreement. Although the current regulations (25 CFR 162.6(b)) allow owners of a majority interest in the land to bind the other owners, many BIA Area Offices still adhere to a 100 percent consent requirement. This is particularly a problem in Oklahoma where witnesses testified about certain tracts of land with over three hundred owners. The Committee has included this provision to break the gridlock and allow individual Indian landowners to bring their lands into production.

Finally, this section authorizes owners of a majority interest in a parcel of land to opt of any of the provisions of section 105(b). Owners of a majority interest can opt out of the tribal Indian preference policies, the waiver of surety or performance bonds, the provision for alternative forms of collateral or security, and the tribal alternative notice provisions. This section recognizes the rights of Indian landowners to decide whether or not to participate in these tribal initiatives. The Committee believes this section affords ample protections to individual Indian allottees while addressing areas of primary concern to allottees under the existing BIA policies.

Title III of this bill provides for the establishment of a comprehensive program for the education and training of Indian and Alaska Native students in agricultural and associated resources and management activities associated with such resources. Among

other educational activities, the Secretary of the Interior is authorized and directed to continue the established educational programs in agriculture and natural resources at Haskell Indian Junior College and the Southwestern Indian Polytechnic Institute (SIPI), and to develop and maintain a cooperative program with the Tribally controlled Community Colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating Tribally Controlled Community Colleges.

The Committee notes that there are currently twenty-two Tribally Controlled Community Colleges throughout the United States. Eighteen of these colleges offer two year course work, and four (Standing Rock, Oglala, Salish-Kootenai, and Sinte Gleska) offer four year programs leading to a Master's degree in Elementary Education. Fifteen of these Tribally Controlled Community Colleges (including all of the colleges offering four year course work) are fully accredited and the remaining seven are candidates for and in various stages of achieving accreditation. It is intended that the cooperative education program in agriculture and natural resources developed by the Secretary under this Act will assist students in all of these educational institutions—Haskell, SIPI, and the Tribally Controlled Community Colleges—in achieving college credits in these programs which may be transferred to the schools of their choice.

The Committee has received comments from the Intertribal Timber Council expressing concern that the provisions of H.R. 1425, the American Indian Agricultural Resource Management Act may conflict with the provisions enacted in Title III of P.L. 101-630, the National Indian Forest Resources Management Act. The Committee Amendment includes provisions which make clear that the requirements of the American Indian Agriculture Resource Management Act should not conflict with the mandates of the National Indian Forest Resources Management Act. The Committee Amendment specifically excludes "Indian forest lands" from the definitions of "Indian agricultural lands", "farmland", and "rangeland". The Committee intends this amendment to ensure that the American Indian Agriculture Resource Management Act will be interpreted consistently with the National Indian Forest Resource Management Act. In addition, the Committee Amendment contains language to make clear that the internship positions authorized under this Act are in addition to the internship positions authorized under the National Indian Forest Resources Management Act.

The Committee Amendment also includes language recommended by the Department of Agriculture to ensure that nothing in the Act shall be construed to supersede or limit the authority of Federal, State, or local agencies to provide services to Indians. It also provides that the Secretary shall seek to avoid duplication of programs and services to Indian tribes and landowners from other sources. The Committee recognizes the important role played by the Department of Agriculture in providing services to Indian tribes and individual Indian landowners. The Committee recognizes the cooperative efforts between the Departments of Agriculture and the Interior. Their mutual responsibilities are delin-

eated in a 1988 Memorandum of Understanding entered into by the Secretary of Agriculture and the Secretary of the Interior which is set forth below:

AGREEMENT IN PRINCIPLE BETWEEN U.S. DEPARTMENT OF  
THE INTERIOR AND U.S. DEPARTMENT OF AGRICULTURE

The U.S. Government is the trustee of most American Indian lands and maintains a government-to-government relationship with Indian tribes. The U.S. Department of the Interior (USDI) and the U.S. Department of Agriculture (USDA) have a common objective of helping to promote the highest and best use of trust lands.

The USDI is the lead agency of the Federal Government for the administration and protection of Indian trust land and resources and the enforcement of treaties, laws, and regulations pertaining to the welfare of American Indians. The agency is also responsible for implementing self-determination policies for these groups.

The USDA is the lead agency of the Federal Government for providing effective and efficient coordination of Federal agriculture and rural development programs. In providing its services, USDA recognizes its responsibilities with regard to American Indians. USDA recognizes that these entities possess the right to govern themselves and manage their resources.

USDI and USDA, in recognition of their respective responsibilities, enter into this agreement as a foundation for their endeavors in promoting the objectives of meeting the needs of American Indians. Through this agreement, USDI and USDA will work in partnership to improve the delivery of programs and services to better meet the needs of American Indians.

DONALD PAUL HODEL, *Secretary of the Interior.*  
RICHARD E. LYNNG, *Secretary of Agriculture.*

The Committee fully supports this Memorandum of Agreement and the provision of this Act is not intended to interfere or conflict with the division of responsibilities set out in this agreement.

The Committee notes the importance of the promulgation of regulations under this Act and the implementation scheme of the Department. The Committee expects the Department to begin to lay the foundation for the goals of this measure upon enactment and to develop regulations in consultation with Indian tribes within a reasonable period of time. In time, the Committee expects that the goals and priorities of the Act will be implemented in such a way that lands currently lying fallow will be productive and lands managed by the Department for tribes will be managed in a manner that is as productive as other lands under the Secretary's stewardship.



## SECTION-BY-SECTION ANALYSIS

*Section 1.—Short title*

Section 1 cites the short title of the Act as the "American Indian Agricultural Resource Management Act."

*Section 2. Findings*

Section 2 sets out the findings of the Congress.

*Section 3.—Purposes*

Section 3 provides that the purposes of the Act promote Indian self-determination by managing Indian agricultural lands pursuant to tribal priorities or conservation, multiple use and sustained yield, to provide for the development and management of Indian agricultural lands, and to increase educational and training opportunities for American Indians in agriculture.

*Section 4.—Definitions*

Section 4 sets out the definitions used in the Act.

## TITLE I—RANGELAND AND FARMLAND ENHANCEMENT

*Section 101. Management of Indian rangelands and farmlands*

Subsection (a) provides that the Secretary shall provide for the management of Indian agricultural lands to protect, conserve, and maintain the highest productive potential on Indian agricultural lands, to increase production and expand the diversity and availability of Indian agricultural products, to management agricultural resources consistent with integrated resource management plans, and to assist trust and restricted Indian landowners in leasing their agricultural lands for reasonable annual return consistent with prudent management and conservation practices.

Subsection (b) provides that a ten year Indian agriculture resource management and monitoring plan shall be developed to meet the management objectives in subsection (a). It provides that an Indian tribe may develop or implement an Indian agriculture resource plan pursuant to a self-determination contract. If an Indian tribe chooses not to contract the development or implementation of the plan, the Secretary shall be required to develop or implement an agricultural resource management plan in close consultation with the Indian tribe. Plans developed and approved under this section shall govern the management and administration of Indian agricultural lands by the Bureau and the Indian tribe.

*Section 102. Indian participation in land management activities*

Subsection (a) requires the Secretary to conduct all land management activities on tribal lands in accordance with the tribal goals and objectives set forth in the approved agricultural resource management plan, an integrated resource management plan, and in accordance with all tribal laws and ordinances.

Subsection (b) provides that the Secretary shall comply with tribal laws and ordinances pertaining to Indian agriculture. It further provides that the Secretary shall provide assistance in the enforce-



ment of tribal laws and require appropriate Federal officials to appear in tribal forums.

Subsection (c) authorizes the Secretary to waive any regulation or administrative policy which conflicts with the objectives of the tribal management plan or tribal laws.

Subsection (d) provides that this section does not constitute a waiver of sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

#### *Section 103. Indian agricultural lands trespass*

Subsection (a) provides that no later than one year after the date of enactment of this Act, the Secretary shall issue regulations establishing civil penalties for the commission of trespass on Indian agricultural lands.

Subsection (b) provides that the proceeds collected under this section shall be treated as the proceeds from the sale of agricultural products from Indian agricultural lands upon which the trespass occurred.

Subsection (c) provides that Indian tribes that have adopted the regulations promulgated by the Secretary shall have concurrent jurisdiction with the United States to enforce the provisions of this section. It further provides that tribal court judgments regarding agricultural trespass shall be entitled to full, faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

#### *Section 104. Assessment of Indian agricultural management programs*

Subsection (a) provides that within six months after the date of enactment, the Secretary shall enter into a contract with a non-Federal entity to conduct an independent assessment of Indian agricultural land management and practices, which shall include a comparative analysis of Federal investment in Indian agricultural lands as compared to other Federally owned lands managed by other Federal agencies.

Subsection (b) provides that the assessment shall determine the improvement, funding, and development needs for all Indian agricultural lands, compare management and funding provided to Indian lands managed by the Bureau to lands managed by other Federal agencies, and to identify obstacles to Indian access to Federal and private agricultural programs.

Subsection (c) requires the Secretary to, within one year after the date of enactment, provide the Congress with a status report on the development of the comparative analysis required under this section and to file the final report with the Congress not later than 18 months after the date of enactment of this Act.

#### *Section 105. Leasing of Indian agricultural lands*

Subsection (a) provides that the Secretary may approve any agricultural lease or permit for a term of 10 years, or a term longer than 10 years but not to exceed 25 years where in the opinion of the Secretary such lease requires substantial development of and investment in the lands by the lessee and it is in the best interest of the landowner. The Secretary is also authorized to lease or per-

mit agricultural lands to the highest responsible bidder at rates less than the Federal appraisal when it is in the best interest of the landowner.

Subsection (b) provides that when authorized by a tribal resolution, the Secretary shall provide a preference to Indian operators in the issuance and renewal of agricultural leases, waive or modify a requirement that a lessee post a surety or performance bond on agricultural leases, and provide for posting of other collateral or security in lieu of surety or other bonds.

Subsection (c) provides that nothing in this section shall be construed as limiting or altering the right of an individual allottee in the legal or beneficial use of his or her land. It further provides that the owners of a majority interest in any trust land are authorized to enter into an agricultural lease which shall be binding upon the owners of minority interests in such land if they receive fair market value for such land. Further, the provisions of subsection (b) shall not apply to a parcel of land if the owners of at least 50 percent of the legal or beneficial interest file with the Secretary a written objection to the application of all or any part of the provisions to such parcel of land.

#### TITLE II—EDUCATION IN AGRICULTURE MANAGEMENT

##### *Section 201. Indian and Alaska Native agriculture management education assistance programs*

Subsection (a) authorizes the Secretary to establish in the Bureau of Indian Affairs at least 20 Indian agricultural resources intern positions. It provides that the Secretary shall pay costs of tuition, books, fees, and living expenses of an intern. It further provides that an Indian agricultural resources intern shall be required to enter into an obligated service agreement to serve as an employee within the Department of the Interior for one year for each year that their educational costs are paid.

Subsection (b) requires the Secretary to maintain a cooperative education program in the Bureau of Indian Affairs to recruit Indian students for employment in professional agricultural positions within the Bureau of Indian Affairs and other Federal agencies.

Subsection (c) authorizes the Secretary to grant scholarships to Indians for postsecondary or graduate programs in the area of agriculture. Scholarship recipients shall be required to enter into an obligated service agreement to serve as an employee with a Bureau of tribal agriculture or natural resource program.

Subsection (d) authorizes the Secretary to conduct an agricultural education outreach program for Indian youth.

Subsection (e) requires the Secretary to administer the programs until there is an adequate supply of professional Indian natural resource managers for Bureau of Indian Affairs and tribal natural resource programs.

##### *Section 202. Postgraduation recruitment education and training*

Subsection (a) provides that the Secretary shall establish and maintain a recruitment program for Indian professionals for employment in a Bureau of tribal agriculture or natural resource program.

Subsection (b) provides that the Secretary shall establish a cooperative internship program for Federal and Indian natural resource personnel in other agencies of the Department of the Interior or with Bureau or tribal natural resource programs.

Subsection (c) provides that the Secretary shall maintain a continuing education and training program for Bureau and tribal natural resource personnel.

*Section 203. Cooperative agreement between the Department of the Interior and Indian tribes*

Subsection (a) authorizes the Secretary to enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training, perform land and facility improvements, and other activities related to land and natural resource development.

Subsection (b) provides that Indian tribes and their employees performing work under a cooperative agreement shall not be deemed to be Federal employees except for purposes of sections 2671-2680 of title 28 and sections 8101-8193 of title 5 of the United States Code.

Subsection (c) provides that nothing in the Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

*Section 204. Obligated service; breach of contract*

Subsection (a) provides that the Secretary shall adopt regulations to provide for an offer of employment to an individual who receives financial assistance in exchange for a service obligation under the Act. It further provides that where an offer of employment is not reasonably made, the regulations shall provide that such service is no longer required.

Subsection (b) provides that where an individual fails to accept a reasonable offer of employment, unreasonably terminates, or fails to perform their duties, the Secretary shall require repayment of the prorated amount with interest calculated at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

TITLE III—GENERAL PROVISIONS

*Section 301. Regulations*

Section 301 directs the Secretary to promulgate final regulations within 18 months from the date of enactment of this Act.

*Section 302. Trust responsibility*

Section 302 provides that nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States to Indian trust lands or natural resources.

*Section 303. Severability*

Section 303 provides that if any provision of this Act is held invalid the remainder of this Act shall not be affected thereby.

*Section 304. Federal, State and local authority*

Section 304 provides that nothing in this Act shall be construed to superseded or limit Federal, state or local authority to provide services to Indians. It also directs the Secretary to work with all appropriate Federal departments to avoid duplication of programs and services currently available to Indian tribes and landowners.

*Section 305. Authorization of appropriations*

Section 305 authorizes to be appropriated such sums as are necessary to carry out the provisions of this Act.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

On March 18, 1993, Representative Richardson introduced H.R. 1425, the American Indian Agricultural Act of 1993. The Subcommittee on Native American Affairs held a hearing on H.R. 1425 on June 18, 1993. On July 30, 1993, the Subcommittee considered and unanimously passed a substitute amendment to H.R. 1425, which was reported to the Committee On Natural Resources. On September 22, 1993, the Committee on Natural Resources. On September 22, 1993, the Committee on Natural Resources considered H.R. 1425, ordered it to be reported to the House with an amendment by a voice vote, and recommends its enactment by the House.

CHANGES IN EXISTING LAW

If enacted, H.R. 1425, would make no changes in existing law.

OVERSIGHT STATEMENT

The Committee on Natural Resources will have continuing responsibility for oversight of the implementation of H.R. 1425 after enactment. No reports or recommendations were received pursuant to rule X, clause 2, of the Rules of the House of Representatives.

INFLATIONARY IMPACT, COST AND BUDGET ACT COMPLIANCE

In the opinion of the Committee, enactment of H.R. 1425, will have no inflationary impact on the national economy and will not result in significant cost. The estimated of the Congressional Budget Committee is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 8, 1993.

Hon. GEORGE MILLER,  
Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1425, the American Indian Agricultural Resource Management Act.

Enactment of H.R. 1425 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1425.
2. Bill title: The American Indian Agricultural Resource Management Act.
3. Bill status: As ordered reported by the House Committee on Natural Resources on September 22, 1993.
4. Bill purpose: H.R. 1425 would require the Secretary of the Interior to provide for improved management of Indian agricultural lands by working with Indian tribes to carry out a number of programs designed to improve the management of such lands. H.R. 1425 would require the development of a 10-year agricultural resource management and monitoring plan for each tribe's land. The bill would allow tribes to develop the plans themselves under a self-determination contract or self-governance compact but would require the Secretary to develop the plan if the tribe did not choose to do so.

In addition, the bill would require the Secretary to establish civil penalties for trespass on Indian lands, require an assessment of Indian agriculture land management and practices, and change the allowed terms for leases on Indian lands. Finally, the bill would establish an agricultural management education program within the Department of Interior. This program would establish intern, cooperative education, scholarship, and postgraduation recruitment activities focusing on agricultural management to encourage Native American and Alaska native students to choose careers in this field.

## 5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1994	1995	1996	1997	1998
Estimated authorization of appropriations .....	1	3	19	13	15
Estimated outlays .....	1	2	8	12	15

The costs of this bill fall within budget function 450.

Basis of estimate: For the purpose of this estimate, CBO assumes that H.R. 1425 would be enacted in early 1994 and that spending of authorized funds would occur at historical rates for similar Bureau of Indian Affairs (BIA) programs. The bill does not specify how much funding should be appropriated for the new agricultural management requirements. Accordingly, CBO has estimated the funding levels necessary to carry out the programs authorized in the bill; our estimates are detailed below on a title-by-title basis.

CBO assumes that it would take the full 18 months provided in the bill to develop regulations to carry out the programs and that only the assessment of current Indian agricultural management programs require in section 104 would proceed before regulations were implemented. All other programs established in the bill would not begin until late in fiscal year 1995.

*Title I—Rangeland and farmland enhancement*

Section 101(a) of the bill would require the Secretary to provide for better management of Indian agricultural lands. Based on information from the BIA, the Bureau of Lands Management (BLM), and the Intertribal Agricultural Council, CBO expects that any ad-

ditional spending from this mandate would occur only after surveys of Indian lands and 10-year agricultural resource management and monitoring lands are completed. CBO estimates that it may take an additional \$20 million to manage Indian agricultural lands if the BIA were to bring its management activity expenditures nearer to the current pre-acre expenditures of the BLM. However, because the management changes would not occur until after plans are completed, this funding increase would occur after fiscal year 1998. In fiscal year 1993, the BIA received about \$23 million for agricultural lands management, as well as about \$7 million in non-recurring and special programs related to agriculture management.

Section 101(b) would require the development of 10-year agricultural resource management and monitoring plans for all Indians agricultural lands. Based on information from BIA, CBO expects that the agency would need to complete soil and vegetation surveys of Indian lands before work on plans could be initiated. CBO estimates that the survey completion would cost about \$15 million, and that work would begin in fiscal year 1995 and continue for at least three years.

In addition, CBO estimates that preparing management plans for the 47 million acres of Indian agricultural land would require about \$24 million in additional funds. This estimate is based on an average expected cost of 50 cents per acre, derived from the cost of a recent BIA resource management plan and other information obtained from the BIA and BLM. While the costs for individual agriculture studies may vary, we believe that 50 cents per acre is a reasonable average of the amount the BIA would spend on plans.

CBO assumes that some of the plans needed would be started before surveys of all Indian agriculture lands are completed. Accordingly, CBO estimates that appropriations would begin in fiscal year 1996, and continue through 1998.

Based on the cost of a forestry resource assessment currently being conducted pursuant to the National Indian Forest Resources Management Act passed by the 101st Congress, CBO expects that the assessment required in section 104 would cost about \$1 million over fiscal years 1994 and 1995.

We do not expect that changing the allowable lease term for leases on Indian lands would have a budgetary effect. While permitting longer lease terms may reduce the frequency of processing leases, we do not believe that this would result in a reduction in staff or expenses for the BIA.

#### *Title II—Education in agricultural management*

Based on information from the BIA and other organizations, CBO estimates that the education programs established in H.R. 1425 would cost about \$1 million per year, although costs could vary up to \$10 million annually.

CBO has estimated the cost of a basic intern and scholarship program, and modest funding for a cooperative education program. We estimate that these programs would cost about \$100 thousand in fiscal year 1995 and grow to \$1 million annually in fiscal years 1996 through 1998. This estimate does not include funding for an extensive cooperative education or scholarship program, an educational outreach effort, or the assumption of student loans for post



graduates. Because the provisions of title II are so broad and the BIA would have considerable flexibility in determining how many students would participate in the program and how much funding the programs would receive, CBO is unable to estimate the additional authorization with any certainty.

*Title III—General provisions*

CBO estimates that title III would result in additions of \$500,000 to \$1 million for writing regulations. We expect that regulations would be completed within the 18 month deadline established in H.R. 1425. Thus, we expect that these costs would be incurred in fiscal years 1994 and 1995.

6. Pay-as-you-go-considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 1425 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

The bill would require the Secretary of the Interior to issue regulations that would establish civil penalties for trespassing on Indian lands and would specify that any penalties collected be treated in the same manner as other proceeds from the sale of agricultural products from Indian lands. Currently, some of these proceeds are deposited into Individual Indian Money accounts in the U.S. Treasury and can be spent without further appropriation. It is likely that the net direct spending in any one year would be zero as both the collection and the spending may occur within the same fiscal year.

In the event that the collection and spending occur over a long period of time, CBO does not anticipate that the direct spending would be significant in any one year. Based on information from the BIA, we expect that there would be only a few hundred cases a year and that most penalties would be small (less than \$10,000). Because not every case would result in a civil penalty and because only a portion of these penalties would result in payment to the Treasury, we do not believe that direct spending would be significant.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Patricia Conroy.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

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