

EC-4492. A communication from the Acting Assistant Secretary for Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Amendments to Gas Valuation Regulations for Indian Leases" (RIN1010-AB57), received July 26, 1999; to the Committee on Indian Affairs.

EC-4493. A communication from the Acting Associate Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of the Forest Service for fiscal year 1998; to the Committee on Agriculture, Nutrition, and Forestry.

### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-280. A concurrent resolution adopted by the Legislature of the State of Utah relative to state-negotiated compliance actions related to the environment; to the Committee on Environment and Public Works.

#### HOUSE CONCURRENT RESOLUTION 3

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

Whereas, protection of public health and the environment are among the highest priorities of state governments;

Whereas, Congress has provided by statute for the delegation of certain federal program responsibilities to the states;

Whereas, to obtain delegation of federal environmental programs, a state must demonstrate that it has adopted laws, regulations, and policies as stringent as federal laws, regulations, and policies.

Whereas, over the past 25 years, the states have developed and demonstrated expertise in operation of federal environmental program enabling states to obtain and maintain the delegations;

Whereas, the state of Utah, Colorado, Montana, Wyoming, North Dakota, and South Dakota constitute an area designated by the Environmental Protection Agency (EPA) as Region VIII;

Whereas, the states in Region VIII make compliance with environmental laws, rules, and permits the highest priority;

Whereas, the state of Utah has full delegation in all federal environmental programs;

Whereas, the EPA and the states have bilaterally developed over the past 25 years policy agreements which reflect roles and which recognize that the primary responsibility for enforcement and compliance resides with the states, with the EPA taking enforcement action principally when the state requests assistance or is unwilling or unable to take timely and appropriate enforcement action;

Whereas, inconsistent with these policy agreements, the EPA has conducted direct federal inspections within programs delegated to states, has taken direct enforcement actions, has levied fines and penalties against regulated entities in cases where the state previously took appropriate action consistent with the agreements to bring the entities into compliance, and has failed to notify the states in advance of their action;

Whereas, the EPA had begun to use its enforcement authority in cases where the state had worked with the regulated entity to achieve compliance, and the overfiling by the EPA accomplished no further protection of the public health or environment but only imposed an additional penalty on the regulated entity;

Whereas, the EPA's current enforcement practices and policies and the resultant de-

tailed oversight and overfiling of state actions substantially weaken the state's ability to take compliance actions and resolve environmental issues;

Whereas, the EPA's enforcement practices and policies have had an adverse impact on working relationships between the EPA and states;

Whereas, the EPA's reliance on the threat of enforcement action to force compliance may not result in environmental protection, but rather may result in delay and litigation, cripple incentives for technological innovation and provoke animosity between government, industry, and the public; and

Whereas, the Western Governor's Association has adopted "Principles of Environmental Protection in the West," which encourages collaboration not polarization, advocates the replacement of command and control with economic incentives and rewarding results and encourages the weighing of costs against benefits in environmental decisions;

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, requests the EPA to refrain from overfiling or threatening to overfile on state-negotiated compliance actions if the actions achieve compliance with applicable state and federal law and are protective of health and the environment.

Be it further *Resolved*, That the Legislature and the Government request that the EPA, in taking enforcement and compliance actions, recognize and defer to individual state and local priorities that are important for the protection of the environment.

Be it further *Resolved*, That the EPA should work with and assist states in evaluating the overall effectiveness of state compliance programs and not focus on the detail of individual actions.

Be it further *Resolved*, That the Legislature and the Governor request the Congress of the United States to investigate EPA enforcement activities and require the EPA to defer to state enforcement and compliance actions in delegated states where the actions achieve compliance and are protective of health and the environment.

Be it further *Resolved*, That copies of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Utah congressional delegation, the Administrator of the U.S. Environmental Protection Agency, the Assistant Administrator of the U.S. EPA Office of Enforcement and Compliance, the Regional Administrator of the U.S. EPA Region VIII, the National Governor's Association, the National Council of State Legislators, the Council of State Governments, the Western Governor's Association, and the Environmental Council of the States.

POM-281. A joint resolution adopted by the Legislature of the State of Utah relative to Taiwan's participation in the World Health Organization; to the Committee on Foreign Relations.

#### HOUSE JOINT RESOLUTION 12

*Be it resolved by the Legislature of the state of Utah:*

Whereas, good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right;

Whereas, direct and unobstructed participation in international health cooperation forms and programs is therefore crucial, especially with today's greater potential for the cross-border spread of various infectious diseases through increased trade and travel;

Whereas, the World Health Organization set forth in the first chapter of its charter

the objective of attaining the highest possible level of health for all people;

Whereas, in 1977 the World Health Organization established "Health for all by the year 2000" as its overriding priority and reaffirmed that central vision with the initiation of its "Health for All" renewal process in 1995;

Whereas, Taiwan's population of 21 million people is larger than that of ¾ of the member states already in the World Health Organization and shares the noble goals of the organization;

Whereas, Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, the first country in the world to provide children with free hepatitis B vaccinations;

Whereas, prior to 1972 and its loss of membership in the World Health Organization, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region;

Whereas, Taiwan is not allowed to participate in many World Health Organization-organized forums and workshops concerning the latest technologies in the diagnosis, monitoring, and control of diseases;

Whereas, in recent years both the Taiwanese Government and individual Taiwanese experts have expressed a willingness to assist financially or technically in World Health Organization-supported international aid and health activities, but have ultimately been unable to render such assistance;

Whereas, according to the constitutions of the World Health Organization, Taiwan does not fulfill the criteria for membership;

Whereas, the World Health Organization does not allow observers to participate in the activities of the organization; and

Whereas, in light of all of the benefits that such participation could bring to the state of health not only in Taiwan, but also regionally and globally;

Now, therefore, be it *Resolved*, That the Legislature of the state of Utah urge the Clinton Administration to support Taiwan and its 21 million people in obtaining appropriate and meaningful participation in the World Health Organization.

Be it further *Resolved*, That United States policy should include the pursuit of some initiative in the World Health Organization which will give Taiwan meaningful participation in a manner that is consistent with such organization's requirements.

Be it further *Resolved*, That a copy of this resolution be sent to the President of the United States, the United States Secretary of State, the Secretary of Health and Human Services, the Speaker of the United States House of Representatives, the members of Utah's congressional delegation, the Government of Taiwan, and the World Health Organization.

POM-282. A resolution adopted by the House of the Legislature of the State of Michigan relative to imported apple juice concentrate; to the Committee on Finance.

#### HOUSE RESOLUTION 51

Whereas, The production of apple juice concentrate is an important component of Michigan's agricultural bounty. Michigan, which is traditionally the third largest apple-growing state, is the nation's top apple-processing state. This record of consistency has been achieved in the face of many uncertain times in farming, including wild swings in our Midwestern weather; and

Whereas, In recent years, however, our apple growers and processors have come to face even more serious threats from foreign sources of apple juice concentrate selling their products in this country at artificially low costs. From an average imported price of apple juice concentrate of \$10 per gallon in 1995, the price has fallen by fifty percent. This is far below the break-even point for American growers. Coupled with the erosion of export opportunities due to the troubled economies in the Asian markets, Michigan apple growers and those in other states face severe threats to their livelihood; and

Whereas, The opening up of markets that has taken place in the past few years has brought many benefits. However, there can be situations in which the removal of restrictions on trade offers the chance for abuses. When a country, for whatever purpose, encourages certain activities by helping a specific industry gain an unfair advantage through below-cost prices, steps need to be taken to ensure the viability of American economic and social interests. The United States Department of Agriculture has taken steps to assist certain American farmers on a number of occasions. The possibility of apple juice concentrate being "dumped" on the American market is a situation that demands immediate attention and thorough study; now, therefore, be it

*Resolved by the house of representatives,* That we memorialize the Congress of the United States to investigate the issue of apple juice concentrate from other countries being sold in the American market at prices below cost; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-283. A concurrent resolution adopted by the Legislature of the State of New Hampshire relative to tobacco settlement funds; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION 12

Whereas, on November 23, 1998, representatives from 46 states signed a settlement agreement with the 5 largest tobacco manufacturers; and

Whereas, the Attorneys General Master Tobacco Settlement Agreement culminated legal action that began in 1994 when states began filing lawsuits against the tobacco industry; and

Whereas, the respective states are presently in the process of finalizing the terms of the Mast Tobacco Settlement Agreement, and are making initial fiscal determinations relative to the most responsible ways and means to utilize the settlement funds; and

Whereas, under the terms of the agreement, tobacco manufacturers will pay \$206 billion over the next 25 years to the respective states in up-front and annual payments; and

Whereas, New Hampshire is projected to receive \$1,304,689,150 through the year 2025 under the terms of the Master Tobacco Settlement; and

Whereas, because many state lawsuits sought to recover Medicaid funds spent to treat illnesses caused by tobacco use, the Health Care Financing Administration (HCFA) contends that it is authorized and obligated, under the Social Security Act, to collect its share of any tobacco settlement funds attributable to Medicaid; and

Whereas, the Master Tobacco Settlement Agreement does not address the Medicaid recoupment issue, and thus the Social Security Act must be amended to resolve the recoupment issue in favor of the respective states; and

Whereas, as we move toward final approval of the Master Tobacco Settlement Agreement, it is imperative that state sovereignty be preserved; now, therefore, be it

*Resolved by the State House of Representatives,* the Senate concurring:

That the New Hampshire legislature urges the United States Congress to enact legislation amending the Social Security Act to prohibit recoupment by the federal government of state tobacco settlement funds; and

That it is the sense of the New Hampshire state legislature that the respective state legislatures should have complete autonomy over the appropriation and expenditure of state tobacco settlements funds; and

That the New Hampshire state legislature most fervently opposes any efforts by the federal government to earmark or impose any other restrictions on the respective states' use of state tobacco settlement funds; and

That copies of this resolution be transmitted by the house clerk to the President of the United States; the President and the Secretary of the United States Senate; the Speaker and the Clerk of the United States House of Representatives; and to each member of New Hampshire's congressional delegation.

POM-284. A concurrent resolution adopted by the Legislature of the State of Michigan relative to imported apple juice concentrate; to the Committee on Agriculture, Nutrition, and Forestry.

#### HOUSE CONCURRENT RESOLUTION 27

Whereas, The production of apple juice concentrate is an important component of Michigan's agricultural bounty. Michigan, which is traditionally the third largest apple-growing state, is the nation's top apple-processing state. This record of consistency has been achieved in the face of many uncertain times in farming, including wild swings in our Midwestern weather; and

Whereas, In recent years, however, our apple growers and processors have come to face even more serious threats from foreign sources of apple juice concentrate selling their products in this country at artificially low costs. From an average imported price of apple juice concentrate of \$10 per gallon in 1995, the price has fallen by fifty percent. This is far below the break-even point for American growers. Coupled with the erosion of export opportunities due to the troubled economies in the Asian markets, Michigan apple growers and those in other states face severe threats to their livelihood; and

Whereas, The opening up of markets that has taken place in the past few years has brought many benefits. However, there can be situations in which the removal of restrictions on trade offers the chance for abuses. When a country, for whatever purpose, encourages certain activities by helping a specific industry gain an unfair advantage through below-cost prices, steps need to be taken to ensure the viability of American economic and social interests. The United States Department of Agriculture has taken steps to assist certain American farmers on a number of occasions. The possibility of apple juice concentrate being "dumped" on the American market is a situation that demands immediate attention and thorough study; now, therefore be it

*Resolved by the house of representatives (the senate concurring),* That we memorialize the Congress of the United States to investigate the issue of apple juice concentrate from other countries being sold in the American market at prices below cost, and to strengthen laws to identify the country of origin for all products using concentrate and to ensure that imported concentrate meets United States standards; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-285. A joint resolution adopted by the Legislature of the State of Utah relative to federal courts levying or increasing taxes; to the Committee on the Judiciary.

#### HOUSE JOINT RESOLUTION 5

*Be it resolved by the Legislature of the state of Utah:*

Whereas, separation of powers between the legislative, executive, and judicial branches of government is a fundamental principle upon which the United States Constitution is based;

Whereas, actions of one branch of government that encroach upon the duty and authority of another branch erode the Constitution's checks and balances against abuse of power by any branch;

Whereas, the United States Supreme Court has asserted that federal judges have the power under the United States Constitution to levy or increase taxes;

Whereas, this determination places the judicial branch of government in direct competition with state legislatures and limits the fiscal resources available to legislators to serve their constituents' needs;

Whereas, it also gives the federal judiciary a virtual veto-proof spending power over political choices and spending priorities of democratically elected state legislatures;

Whereas, federal courts continue to violate the United States Constitution by ordering states to levy or increase taxes to comply with federal mandates;

Whereas, a proposed amendment to the United States Constitution to prohibit the judiciary's encroachment reads: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes"; and

Whereas, encroachments by one branch of government upon the authority of another branch must be prevented, by a constitutional amendment if necessary, to preserve the balance of power the founding fathers constructed:

Now, therefore, be it *Resolved,* That the Legislature of the state of Utah urge the United States Congress to amend the United States Constitution to prohibit federal courts from levying or increasing taxes.

Be it further *Resolved,* That a copy of this resolution be presented to the Speaker of the United States House of Representatives, the President of the United States Senate, and to the members of Utah's congressional delegation.

POM-286. A resolution adopted by the City Council of Canton, Ohio relative to the proposed "Civil Asset Forfeiture Reform Act"; to the Committee on the Judiciary.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.