not about the politics of pro-life and pro-choice. It is legislation that addresses a far more fundamental issue—our intolerance, as a civilized community, to allow this unparalleled cruelty to continue.

I thank Senator SANTORUM for his heartfelt dedication and determination to making this issue a priority for the Senate this session. His sincere, passionate speeches delivered during floor debate spoke directly to the hearts of his colleagues and to the American people.

This is the second time the Senate has voted on an override of a Clinton veto of a prohibition on partial-birth abortion. The will of both Houses of Congress, and of the American people is clear. I am dedicated to passing the partial-birth abortion ban, as I know are most of my colleagues in the Senate. We will continue this fight until we have succeeded, and I urge the Senate leadership to make the ban on partial-birth abortions the first piece of legislation we take up in the 106th Congress.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on September 18, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 128. Joint resolution making continuing appropriations for the fiscal year 1999, and for other purposes.

Under the authority of the order of the Senate of January 7, 1997, the enrolled joint resolution was signed by the President pro tempore (Mr. THURMOND) on September 21, 1998.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2675: A bill to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, and for other purposes (Rept. No. 105–337).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands (Rept. No. 105–338).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 730: A bill to make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll (Rept. No. 105–339).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 1021: A bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes (Rept. No. 105–340).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment:

S. 2273: A bill to increase, effective as of December 1, 1998, the rates of disability compensation for veterans with service-connected disabilities, and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes (Rept. No. 105–341).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2502. A bill to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2503. A bill to establish a Presidential Commission to determine the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 involving the descendants of persons who were Mexican citizens at the time of the Treaty; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for Mrs. BOXER):

S. 2504. A bill to authorize the construction of temperature control devices at Folsom Dam, California; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2505. A bill to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself, Mr. KYL, and Mr. HATCH):

S.J. Res. 56. A joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use; read the first time.

By Mr. KYL (for Mr. GRASSLEY (for himself, Mr. KYL, and Mr. HATCH)):

S.J. Res. 57. A joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use; to the Committee on Labor and Human Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2502. A bill to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

THE VESSEL HULL DESIGN PROTECTION ACT OF 1998

● Mr. BREAUX. Mr. President, today I introduce a bill cosponsored by Senators MACK and FAIRCLOTH entitled the Vessel Hull Design Protection Act of 1998. This bill will attempt to stop a very troubling problem facing America's marine manufacturers—the unauthorized copying of boat hull designs. Such piracy threatens the integrity of the United States marine manufacturing industry and the safety of American boaters.

A boat manufacturer invests significant resources in creating a safe, structurally sound, high performance boat hull design from which a line of vessels can be manufactured. Standard practice calls for manufacturing engineers to create a hull model, or ''plug'', from which they cast a ''mold''. This mold is then used for mass production of boat hulls. Unfortunately, those intent on pirating such a design can simply use a finished boat hull to develop their own mold. This copied mold can then be used to manufacture boat hulls identical in appearance to the original line, and at a cost well below that incurred by the original designer.

This so-called ''hull splashing'' is a significant problem for consumers, manufacturers, and boat design firms. American consumers are defrauded in the sense that they do not benefit from the many aspects of the original hull design that contribute to its structural integrity and safety, and they are not aware that the boat they have purchased has been copied from an existing design. Moreover, if original manufacturers are undersold by these copies, they may no longer be willing to invest in new, innovative boat designs—boat designs that could provide safer, less expensive, quality watercraft for consumers.

In the past, a number of States have enacted anti-boat-hull-copying, or ''plug mold'', statutes to address the problem of hull splashing. These States include my State of Louisiana, as well as Alabama, California, Florida, Indiana, Kansas, Maryland, Mississippi, Missouri, Tennessee, and Wisconsin. However, a decision by the U.S. Supreme Court in *Bonito Boats* v. *Thundercraft Boats, Inc.,* 489 U.S. 141 (1989), invalidated these State statutes on the basis that they infringed on the federal government's exclusive jurisdiction over the protection of intellectual property. In essence, the Supreme Court held that vessel hull design protection may be a legitimate goal, but it is Congress' job to provide it, not the States. The legislation we are introducing today is designed to do that job.

Such initiatives as this one are not new to Congress. In 1984, Congress acted to protect the unique nature of design work when it passed the Semiconductor Chip Protection Act. This act was designed to protect the mask works of semiconductor chips, which are essentially the molds from which

the chips are made, against unauthorized duplication. I believe that the approach Congress took in that legislation should also be applied to protect boat hull designs. The Boat Protection Act of 1998 would work in concert with current federal law to protect American marine manufacturers from harmful and unfair competition.

Mr. President, I want my colleagues to take note of the fact that an identical bill, H.R. 2696, has already been passed in the House of Representatives by unanimous consent. I want to urge my colleagues to support the Vessel Hull Design Protection Act of 1998 and to join in this effort to protect the American public and the marine manufacturing community from the dangers and impropriety of hull splashing.

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

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

S. 2502

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the ''Vessel Hull Design Protection Act''.

SEC. 2. PROTECTION OF CERTAIN ORIGINAL DESIGNS.

Title 17, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 12—PROTECTION OF ORIGINAL DESIGNS

''Sec.
''1201. Designs protected.
''1202. Designs not subject to protection.
''1203. Revisions, adaptations, and rearrangements.
''1204. Commencement of protection.
''1205. Term of protection.
''1206. Design notice.
''1207. Effect of omission of notice.
''1208. Exclusive rights.
''1209. Infringement.
''1210. Application for registration.
''1211. Benefit of earlier filing date in foreign country.
''1212. Oaths and acknowledgments.
''1213. Examination of application and issue or refusal of registration.
''1214. Certification of registration.
''1215. Publication of announcements and indexes.
''1216. Fees.
''1217. Regulations.
''1218. Copies of records.
''1219. Correction of errors in certificates.
''1220. Ownership and transfer.
''1221. Remedy for infringement.
''1222. Injunctions.
''1223. Recovery for infringement.
''1224. Power of court over registration.
''1225. Liability for action on registration fraudulently obtained.
''1226. Penalty for false marking.
''1227. Penalty for false representation.
''1228. Enforcement by Treasury and Postal Service .
''1229. Relation to design patent law.
''1230. Common law and other rights unaffected.
''1231. Administrator; Office of the Administrator.
''1232. No retroactive effect.

''§ 1201. Designs protected

''(a) DESIGNS PROTECTED.—

''(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public may secure the protection provided by this chapter upon complying with and subject to this chapter.

''(2) VESSEL HULLS.—The design of a vessel hull, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1202(4).

''(b) DEFINITIONS.—For the purpose of this chapter, the following terms have the following meanings:

''(1) A design is 'original' if it is the result of the designer's creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source.

''(2) A 'useful article' is a vessel hull, including a plug or mold, which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is part of a useful article shall be deemed to be a useful article.

''(3) A 'vessel' is a craft, especially one larger than a rowboat, designed to navigate on water, but does not include any such craft that exceeds 200 feet in length.

''(4) A 'hull' is the frame or body of a vessel, including the deck of a vessel, exclusive of masts, sails, yards, and rigging.

''(5) A 'plug' means a device or model used to make a mold for the purpose of exact duplication, regardless of whether the device or model has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

''(6) A 'mold' means a matrix or form in which a substance for material is used, regardless of whether the matrix or form has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

''§ 1202. Designs not subject to protection

''Protection under this chapter shall not be available for a design that is—

''(1) not original;

''(2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;

''(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

''(4) dictated solely by a utilitarian function of the article that embodies it; or

''(5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 1 year before the date of the application for registration under this chapter.

''§ 1203. Revisions, adaptations, and rearrangements

''Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1202 if the design is a substantial revision, adaptation, or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection under this chapter or as extending any subsisting protection under this chapter.

''§ 1204. Commencement of protection

''The protection provided for a design under this chapter shall commence upon the earlier of the date of publication of the registration under section 1213(a) or the date the design is first made public as defined by section 1210(b).

''§ 1205. Term of protection

''(a) IN GENERAL.—Subject to subsection (b), the protection provided under this chapter for a design shall continue for a term of 10 years beginning on the date of the commencement of protection under section 1204.

''(b) EXPIRATION.—All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

''(c) TERMINATION OF RIGHTS.—Upon expiration or termination of protection in a particular design under this chapter, all rights under this chapter in the design shall terminate, regardless of the number of different articles in which the design may have been used during the term of its protection.

''§ 1206. Design notice

''(a) CONTENTS OF DESIGN NOTICE.—Whenever any design for which protection is sought under this chapter is made public under section 1210(b), the owner of the design shall, subject to the provisions of section 1207, make it or have it marked legibly with a design notice consisting of—

''(A) the words 'Protected Design', the abbreviation 'Prot'd Des.', or the letter 'D' with a circle, or the symbol *D*;

''(B) the year of the date on which protection for the design commenced; and

''(C) the name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner.

Any distinctive identification of the owner may be used for purposes of subparagraph (C) if it has been recorded by the Administrator before the design marked with such identification is registered.

''(2) After registration, the registration number may be used instead of the elements specified in subparagraphs (B) and (C) of paragraph (1).

''(b) LOCATION OF NOTICE.—The design notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce.

''(c) SUBSEQUENT REMOVAL OF NOTICE.—When the owner of a design has complied with the provisions of this section, protection under this chapter shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

''§ 1207. Effect of omission of notice

''(a) ACTION WITH NOTICE.—Except as provided in subsection (b), the omission of the notice prescribed in section 1206 shall not cause loss of the protection under this chapter or prevent recovery for infringement under this chapter against any person who, after receiving written notice of the design protection, begins an undertaking leading to infringement under this chapter.

''(b) ACTIONS WITHOUT NOTICE.—The omission of the notice prescribed in section 1206 shall prevent any recovery under section 1224 against a person who began an undertaking leading to infringement under this chapter before receiving written notice of the design protection. No injunction shall be issued under this chapter with respect to such undertaking unless the owner of the design reimburses that person for any reasonable expenditure or contractual obligation in connection with such undertaking that was incurred before receiving written notice of the design protection, as the court in its discretion directs. The burden of providing written notice of design protection shall be on the owner of the design.

''§ 1208. Exclusive rights

''The owner of a design protected under this chapter has the exclusive right to—

''(1) make, have made, or import, for sale or for use in trade, any useful article embodying that design; and

''2 sell or distribute for sale or for use in trade any useful article embodying that design.

''§ 1209. Infringement

''(a) ACTS OF INFRINGEMENT.—Except as provided in subsection (b), it shall be infringement of the exclusive rights in a design protected under this chapter for any person, without the consent of the owner of the design, within the United States and during the term of such protection, to—

''(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (e); or

''(2) sell or distribute for sale or for use in trade any such infringing article.

''(b) ACTS OF SELLERS AND DISTRIBUTORS.—A seller or distributor of an infringing article who did not make or import the article shall be deemed to have infringed on a design protected under his chapter only if that person—

''(1) induced or acted in collusion with a manufacturer to make, or an importer to import such article, except that merely purchasing or giving an order to purchase such article in the ordinary course of business shall not of itself constitute such inducement or collusion; or

''(2) refused or failed, upon the request of the owner of the design, to make a prompt and full disclosure of that person's source of such article, and that person orders or reorders such article after receiving notice by registered or certified mail of the protection subsisting in the design.

''(c) ACTS WITHOUT KNOWLEDGE.—It shall not be infringement under this section to make, have made, import, sell, or distribute, any article embodying a design which was created without knowledge that a design was protected under this chapter and was copied from such protected design.

''(d) ACTS IN ORDINARY COURSE OF BUSINESS.—A person who incorporates into that person's product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design embodied in an infringing article, makes or processes the infringing article for the account of another person in the ordinary course of business, shall not be deemed to have infringed the rights in that design under this chapter except under a condition contained in paragraph (1) or (2) of subsection (b). Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of subsection (b)(2).

''(e) INFRINGING ARTICLE DEFINED.—As used in this section, an 'infringing article' is any article the design of which has been copied from a design protected under this chapter, without the consent of the owner of the protected design. An infringing article is not an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium. A design shall not be deemed to have been copied from a protected design if it is original and not substantially similar in appearance to a protected design.

''(f) ESTABLISHING ORIGINALITY.—The party to any action or proceeding under this chapter who alleges rights under this chapter in a design shall have the burden of establishing the design's originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make prima facie showing that such design was copied from such work.

''(g) REPRODUCTION FOR TEACHING OR ANALYSIS.—It is not an infringement of the exclusive rights of a design owner for a person to reproduce the design in a useful article or in any other form solely for the purpose of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design, or the function of the useful article embodying the design.

''§ 1210. Application for registration

''(a) TIME LIMIT FOR APPLICATION FOR REGISTRATION.—Protection under this chapter shall be lost if application for registration of the design is not made within two years after the date on which the design is first made public.

''(b) WHEN DESIGN IS MADE PUBLIC.—A design is made public when an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public by the owner of the design or with the owner's consent.

''(c) APPLICATION BY OWNER OF DESIGN.—Application for registration may be made by the owner of the design.

''(d) CONTENTS OF APPLICATION.—The application for registration shall be made to the Administrator and shall state—

''(1) the name and address of the designer or designers of the design;

''(2) the name and address of the owner if different from the designer;

''(3) the specific name of the useful article embodying the design;

''(4) the date, if any, that the design was first made public, if such date was earlier than the date of the application;

''(5) affirmation that the design has been fixed in a useful article; and

''(6) such other information as may be required by the Administrator.

The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this chapter.

''(e) SWORN STATEMENT.—The application for registration shall be accompanied by a statement under oath by the applicant or the applicant's duly authorized agent or representative, setting forth, to the best of the applicant's knowledge and belief—

''(1) that the design is original and was created by the designer or designers named in the application;

''(2) that the design has not previously been registered on behalf of the applicant or the applicant's predecessor in title; and

''(3) that the applicant is the person entitled to protection and to registration under this chapter.

If the design has been made public with the design notice prescribed in section 1206, the statement shall also describe the exact form and position of the design notice.

''(f) EFFECT OF ERRORS.—(1) Error in any statement or assertion as to the utility of the useful article named in the application under this section, the design of which is sought to be registered, shall not affect the protection secured under this chapter.

''(2) Errors in omitting a joint designer or in naming an alleged joint designer shall not affect the validity of the registration, or the actual ownership or the protection of the design, unless it is shown that the error occurred with deceptive intent.

''(g) DESIGN MADE IN SCOPE OF EMPLOYMENT.—In a case in which the design was made within the regular scope of the designer's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual designer.

''(h) PICTORIAL REPRESENTATION OF DESIGN.—The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article embodying the design, having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

''(i) DESIGN IN MORE THAN ONE USEFUL ARTICLE.—If the distinguishing elements of a design are in substantially the same form in different useful articles, the design shall be protected as to all such useful articles when protected as to one of them, but not more than one registration shall be required for the design.

''(j) APPLICATION FOR MORE THAN ONE DESIGN.—More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

''§ 1211. Benefit of earlier filing date in foreign country

''An application for registration of a design filed in the United States by any person who has, or whose legal representative or predecessor or successor in title has, previously filed an application for registration of the same design in a foreign country which extends to designs of owners who are citizens of the United States, or to applications filed under this chapter, similar protection to that provided under this chapter shall have that same effect as if filed in the United States on the date on which the application was first filed in such foreign country, if the application in the United States is filed within 6 months after the earliest date on which any such foreign application was filed.

''§ 1212. Oaths and acknowledgments

''(a) IN GENERAL.—Oaths and acknowledgments required by this chapter—

''(1) may be made—

''(A) before any person in the United States authorized by law to administer oaths; or

''(B) when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States; and

''(2) shall be valid if they comply with the laws of the State or country where made.

''(b) WRITTEN DECLARATION IN LIEU OF OATH.—(1) The Administrator may by rule prescribe that any document which is to be filed under this chapter in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration in such form as the Administrator may prescribe, and such declaration shall be in lieu of the oath otherwise required.

''(2) Whenever a written declaration under paragraph (1) is used, the document containing the declaration shall state that willful false statements are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application or document or a registration resulting therefrom.

''§ 1213. Examination of application and issue or refusal of registration

''(a) DETERMINATION OF REGISTRABILITY OF DESIGN; REGISTRATION.—Upon the filing of an application for registration in proper form under section 1210, and upon payment of the fee prescribed under section 1216, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and, if so, the Register shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

''(b) REFUSAL TO REGISTER; RECONSIDERATION.—If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send to the applicant a notice of refusal to register and the grounds for the refusal. Within 3 months after the date on which the notice of refusal is sent, the applicant may, by written request, seek reconsideration of the application. After consideration of such a request, the Administrator shall either register the design or send to the applicant a notice of final refusal to register.

''(c) APPLICATION TO CANCEL REGISTRATION.—Any person who believes he or she is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under this chapter, stating the reasons for the request. Upon receipt of an application for cancellation, the Administrator shall send to the owner of the design, as shown in the records of the Office of the Administrator, a notice of the application, and the owner shall have a period of 3 months after the date on which such notice is mailed in which to present arguments to the Administrator for support of the validity of the registration. The Administrator shall also have the authority to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under this chapter, the Administrator shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the owner of record.

''§ 1214. Certification of registration

''Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of the Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and the date the design was made public, if earlier than the date of filing of the application, and shall contain a reproduction of the drawing or other pictorial representation of the design. If a description of the salient features of the design appears in the application, the description shall also appear in the certificate. A certificate of registration shall be admitted in any court as prima facie evidence of the facts stated in the certificate.

''§ 1215. Publication of announcements and indexes

''(a) PUBLICATIONS OF THE ADMINISTRATOR.—The Administrator shall publish lists and indexes of registered designs and cancellations of designs and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

''(b) FILE OF REPRESENTATIVES OF REGISTERED DESIGNS.—The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs. The file shall be available for use by the public under such conditions as the Administrator may prescribe.

''§ 1216. Fees

''The Administrator shall by regulation set reasonable fees for the filing of applications to register designs under this chapter and for other services relating to the administration of this chapter, taking into consideration the cost of providing these services and the benefit of a public record.

''§ 1217. Regulations

''The Administrator may establish regulations for the administration of this chapter.

''§ 1218. Copies of records

''Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator that relates to this chapter. That copy shall be admissible in evidence with the same effect as the original.

''§ 1219. Correction of errors in certificates

''The Administrator may, by a certificate of correction under seal, correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature occurring in good faith but not through the fault of the Office. Such registration, together with the certificate, shall thereafter have the same effect as if it has been originally issued in such corrected form.

''§ 1220. Ownership and transfer

''(a) PROPERTY RIGHT IN DESIGN.—The property right in a design subject to protection under this chapter shall vest in the designer, the legal representatives of a deceased designer or of one under legal incapacity, the employer for whom the designer created the design in the case of a design made within the regular scope of the designer's employment, or a person to whom the rights of the designer or of such employer have been transferred. The person in whom the property right is vested shall be considered the owner of the design.

''(b) TRANSFER OF PROPERTY RIGHT.—The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the owner, or may be bequeathed by will.

''(c) OATH OR ACKNOWLEDGEMENT OF TRANSFER.—An oath or acknowledgment under section 1212 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage under subsection (b).

''(d) RECORDATION OF TRANSFER.—An assignment, grant, conveyance, or mortgage under subsection (b) shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, unless it is recorded in the Office of the Administration within 3 months after its date of execution or before the date of such subsequent purchase or mortgage.

''§ 1221. Remedy for infringement

''(a) IN GENERAL.—The owner of a design is entitled, after issuance of a certificate of registration of the design under this chapter, to institute an action for any infringement of the design.

''(b) REVIEW OF REFUSAL TO REGISTER.—(1) Subject to paragraph (2), the owner of a design may seek judicial review of a final refusal of the Administrator to register the design under this chapter by bringing a civil action, and may in the same action, if the court adjudges the design subject to protection under this chapter, enforce the rights in that design under this chapter.

''(2) The owner of a design may seek judicial review under this section if—

''(A) the owner has previously duly filed and prosecuted to final refusal an application in proper form for registration of the design;

''(B) the owner causes a copy of the compliant in the action to be delivered to the Administrator within 10 days after the commencement of the action; and

''(C) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.

''(c) ADMINISTRATOR AS PARTY TO ACTION.—The Administrator may, at the Administrator's option, become a party to the action with respect to the issue of registrability of the design claim by entering an appearance within 60 days after being served with the complaint, but the failure of the Administrator to become a party shall not deprive the court of jurisdiction to determine that issue.

''(d) USE OF ARBITRATION TO RESOLVE DISPUTE.—The parties to an infringement dispute under this chapter, within such time as may be specified by the Administrator by regulation, may determine the dispute, or any aspect of the dispute, by arbitration. Arbitration shall be governed by title 9. The parties shall give notice of any arbitration award to the Administrator, and such award shall, as between the parties to the arbitration, be dispostive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Administrator from determining whether a design is subject to registration in a cancellation proceeding under section 1213(c).

§ 1222. Injunctions

''(a) IN GENERAL.—A court having jurisdiction over actions under this chapter may grant injunctions in accordance with the principles of equity to prevent infringement of a design under this chapter, including, in its discretion, prompt relief by temporary restraining orders and preliminary injunctions.

''(b) DAMAGES FOR INJUNCTIVE RELIEF WRONGFULLY OBTAINED.—A seller or distributor who suffers damage by reason of injunctive relief wrongfully obtained under this section has a cause of action against the applicant for such injunctive relief and may recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the injunctive relief was sought in bad faith, and, unless the court finds extenuating circumstances, reasonable attorney's fees.

''§ 1223. Recovery for infringement

''(a) DAMAGES.—Upon a finding for the claimant in an action for infringement under this chapter, the court shall award the claimant damages adequate to compensate for the infringement. In addition, the court may increase the damages to such amount, not exceeding $50,000 or $1 per copy, whichever is greater, as the court determines to be just. The damages awarded shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

''(b) INFRINGER'S PROFITS.—As an alternative to the remedies provided in subsection (a), the court may award the claimant the infringer's profits resulting from the sale of the copies if the court finds that the infringer's sales are reasonably related to the use of the claimant's design. In such a case, the claimant shall be required to prove only the amount of the infringer's sales and the infringer shall be required to prove its expenses against such sales.

''(c) STATUTE OF LIMITATIONS.—No recovery under subsection (a) or (b) shall be had for any infringement committed more than 3 years before the date on which the complaint is filed.

''(d) ATTORNEY'S FEES.—In an action for infringement under this chapter, the court may award reasonable attorney's fees to the prevailing party.

''(e) DISPOSITION OF INFRINGING AND OTHER ARTICLES.—The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the articles, be delivered up for destruction or other disposition as the court may direct.

''§ 1224. Power of court over registration

''In any action involving the protection of a design under this chapter, the court, when appropriate, may order registration of a design under this chapter or the cancellation of such a registration. Any such order shall be certified by the court to the Administrator, who shall make an appropriate entry upon the record.

''§ 1225. Liability for action on registration fraudulently obtained

''Any person who brings an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this chapter, shall be liable in the sum of $ 10,000, or such part of that amount as the court may determine. That amount shall be to compensate the defendant and shall be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

''§ 1226. Penalty for false marking

''(a) IN GENERAL.—Whoever, for the purpose of deceiving the public, marks upon, applies to, or uses in advertising in connection with an article made, used, distributed, or sold, a design which is not protected under this chapter, a design notice specified in section 1206, or any other words or symbols importing that the design is protected under this chapter, knowing that the design is not so protected, shall pay a civil fine of not more than $500 for each such offense.

''(b) SUIT BY PRIVATE PERSONS.—Any person may sue for the penalty established by subsection (a), in which event one-half of the penalty shall be awarded to the person suing and the remainder shall be awarded to the United States.

''§ 1227. Penalty for false representation

''Whoever knowingly makes a false representation materially affecting the rights obtainable under this chapter for the purpose of obtaining registration of a design under this chapter shall pay a penalty of not less than $500 and not more than $1,000, and any rights or privileges that individual may have in the design under this chapter shall be forfeited.

''§ 1228. Enforcement by Treasury and Postal Service

''(a) REGULATIONS.—The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 1208 with respect to importation. Such regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

''(1) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

''(2) Furnish proof that the design involved is protected under this chapter and that the importation of the articles would infringe the rights in the design under this chapter.

''(3) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

''(b) SEIZURE AND FORFEITURE.—Articles imported in violation of the rights set forth in section 1208 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

''§ 1229. Relation to design patent law

''The issuance of a design patent under title 35 for an original design for an article of manufacture shall terminate any protection of the original design under this chapter.

''§ 1230. Common law and other rights unaffected

''Nothing in this chapter shall annul or limit—

''(1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter; or

''(2) any right under the trademark laws or any right protected against unfair competition.

''§ 1231. Administrator; Office of the Administrator

''In this chapter, the 'Administrator' is the Register of Copyrights, and the 'Office of the Administrator' and the 'Office' refer to the Copyright Office of the Library of Congress.

''§ 1232. No retroactive effect

''Protection under this chapter shall not be available for any design that has been made public under section 1210(b) before the effective date of this chapter.''.

SEC. 3. CONFORMING AMENDMENTS.

(a) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

''12. Protection of Original Designs ..... 1201''.

(b) JURISDICTION OF DISTRICT COURTS OVER DESIGN ACTIONS.—(1) Section 1338(c) of title 28, United States Code, is amended by inserting '', and to exclusive rights in designs under chapter 12 of title 17,'' after ''title 17''.

(2)(A) The section heading for section 1338 of title 28, United States Code, is amended by inserting ''DESIGNS,'' after ''MASK WORKS,''.

(B) The item relating to section 1338 in the table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by inserting ''designs,'' after ''mask works,''.

(c) PLACE FOR BRINGING DESIGN ACTIONS.—Section 1400(a) of title 28, United States Code, is amended by inserting ''or designs'' after ''mask works''.

(d) ACTIONS AGAINST THE UNITED STATES.—Section 1498(e) of title 28, United States Code, is amended by inserting '', and to exclusive rights in designs under chapter 12 of title 17,'' after ''title 17''.

SEC. 4. EFFECTIVE DATE.

The amendments made by sections 2 and 3 shall take effect one year after the date of the enactment of this Act.●

By Mr. DOMENICI:

S. 2503. A bill to establish a Presidential Commission to determine the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 involving the descendants of persons who were Mexican citizens at the time of the Treaty; to the Committee on Energy and Natural Resources.

GUADALUPE-HIDALGO TREATY LAND CLAIMS EQUITY ACT OF 1998

Mr. DOMENICI. Madam President, the bill I am introducing today is the first step in addressing a longstanding unfairness that has blemished the conscience of New Mexico's history. It is an injustice that dates back to the time when Jefferson Davis, Daniel Webster, and Sam Houston walked the Halls of the Capitol as Senators.

In 1848, the United States signed the Treaty of Guadalupe-Hidalgo with Mexico. Under this treaty, the United States acquired the territory that is now California, Nevada, Utah, Arizona, New Mexico, Colorado, and Wyoming. The Treaty of Guadalupe-Hidalgo solved some problems but created others. It failed to adequately protect the civil and property rights of the people living in the newly annexed territory.

This bill is a very important piece of legislation. It is the opportunity to reverse the heritage of ill-will between the Hispanic people and the Federal Government. Hispanic descendants have been waiting for 150 years to get the Federal Government to fairly look into the land grant situation.

We ratified a treaty with property rights guarantees provisions which, in retrospect, have turned out to be inadequate. John R. Van Ness, described the treaty as an enormous real estate deal, but the land grant claimants were led to believe that their property rights would be honored and protected. Some officials with the Federal Government, on the other hand, expected to get clear title to most of the land it was paying for regardless of the existing property rights of the Mexicans.

The land grant applicants have endured hostile government officials. At one point, President Cleveland appointed William Andrew Sparks, as surveyor general for New Mexico. Sparks has been described by historians as ''steeped in prejudice against New Mexico, its people and their property rights.'' We had corrupt lawyers, and a confederation of opportunists who used long legal battles to acquire empires that extended over millions of acres—all at the expense of Hispanics.

In 1891, the Surveyor General was replaced by the Court of Private Land Claims. The situation went from bad to worse because the court's procedures heavily favored the Government and the result was injustice.

The New Mexico Court of Claims required that claimants prove that the Spanish or Mexican granting official had the legal authority to issue the land grant. Consequently, many New Mexico land grants were held to be not legitimate. As a result, the New Mexico court rejected two-thirds of the claims presented before it. Ultimately, by one account written by Richard Griswold del Castillo, only 82 grants received congressional confirmation. This represented only 6 percent of the total area sought by land claimants. The Court of Private Land Claims enlarged the national domain of the Federal Government at the expense of hundreds of Hispanic villages, leaving a bitter legacy.

This bill is based on legislation recently passed by Congressman BILL

REDMOND. This is a major piece of legislation, and I commend Congressman REDMOND. He came to Washington, and he quickly identified one of the most important and longstanding disputes that his constituents have had with the Federal Government and he took decisive action. He passed a major bill to begin the process of seeing what these claims were all about and adjudicating them, if possible.

Members retire from 20- and 30-year careers and never achieve the passage of an important piece of legislation, and yet, Congressman REDMOND got this bill passed in the House in his first term.

Congressman REDMOND's bill creates a Presidential commission to adjudicate the community land grants located in New Mexico. It is designed to benefit descendants of Mexican citizens who settled in Mew Mexico before the Treaty of Guadalupe-Hidalgo. The purpose of the legislation is to determine which community land grants could be reconstituted from land currently held by the Federal Government—and I repeat, from land currently held by the Federal Government. The legislation finally implements the spirit of Treaty of Guadalupe-Hidalgo.

I told Congressman REDMOND that I would sponsor his bill in the Senate, and today I am introducing the companion bill. I am proud to do so.

I have made some changes and only a couple of additions in the version of this bill that I am introducing today.

The changes are based on the lessons I have learned from talking to the heirs of some of the land grants; and from reviewing the history; and from talking to scholars, historians, and land grant lawyers.

I want to thank Roberto Mondragon, Max Cordova, Estevan Arellano, Joyce Guerin, Georgia Roybal, Juan Sanchez, Pedro Gutierrez, Jr., and Roberto Torrez for their invaluable help.

I have also asked the Indian leaders to review the legislation in draft form. While I have not yet received their comments, I want them to know that I view their issues to be important, and I look forward to working with them and for them.

First, it seems to me that the Federal Government needs to take an affirmative role in obtaining the necessary documentation needed to prove the validity of the community land grant claims. Unfortunately, many of the New Mexico documents were destroyed during the Pueblo revolt. But scholars have told me that the Mexican and Spanish governments have ever-improving archives that may indeed contain what these New Mexicans need. This bill requires the Secretary of State to negotiate an agreement with Mexico and Spain for access to the documents. It seems especially appropriate that in 1998, as New Mexico celebrates its 400th anniversary of the first Hispanic settlement, that our Government would begin negotiating the necessary agreements for access to these critical and historically significant documents.

In reading the histories it seemed to me that there was a lot of ambiguity in the treaty and even more ambiguity and discretion in the statutes establishing the Surveyor General and the Court of Private Land Claims.

I believe history supports my view that ambiguity works to the detriment of the land grant claimants. Therefore, I propose that before the commission begin its work on adjudicating specific claims it first develop clear and concise rules so that everyone will be treated fairly. This legislation requires the Presidential commission to be formed and then to develop a Code of Land Claims Procedure that would be reviewed by the Energy Committee to insure that it is fair in the Senate and its counterpart in the House.

Once the documents are available and the rules have been spelled out, the commission would be ready to adjudicate the land claims.

Trying to do justice 150 years after the fact is complicated. This legislation holds harmless private land owners and the Indians of New Mexico with reference to their claims, their lands, and with reference to access to their sacred sites. It makes sure that title companies and lenders will be satisfied that this legislation and any petitions for reconstituting the land grants will not adversely affect private property. It makes sure that our State Engineer is satisfied with the criteria used to deal with land claims without upsetting our system of water rights. I believe we can all agree that we do not want to have the Federal Government interfering in these various areas.

The legislation calls upon the commission in its Code of Land Claims Procedure to have a clear set of rules for what can and cannot be done for our Indian people.

I am hopeful that this bill can address what has for too long been a tale of land loss and denial without creating new problems or injustices.

Madam President, I ask unanimous consent that a copy of the bill and a Spanish translation of my remarks appear in the RECORD.

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

S. 2503

SECTION 1. SHORT TITLE: TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the ''Guadalupe-Hidalgo Treaty Land Claims Equity Act of 1998.''

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title: table of contents.
Sec. 2. Definitions and findings.
Sec. 3. Establishment and membership of Commission.
Sec. 4. International Document Procurement Agreement.
Sec. 5. Development of the Code of Land Grant Claims Procedure.
Sec. 6. Examination of land claims.
Sec. 7. Community Land Grant Study Center.
Sec. 8. Miscellaneous powers of Commission.
Sec. 9. Report.
Sec. 10. Termination.
Sec. 11. Authorization of appropriations.

SEC. 2. DEFINITIONS AND FINDINGS.

(a) DEFINITIONS.—For purpose of this Act:

(1) COMMISSION.—The term ''Commission'' means the Guadalupe-Hidalgo Treaty Land Claims Commission established under section 3.

(2) TREATY OF GUADALUPE-HIDALGO.—The term ''Treaty of Guadalupe-Hidalgo'' means the treaty of Peace, Friendship, Limits, and Settlement (Treaty of Guadalupe Hidalgo), between the United States and the Republic of Mexico, signed February 2, 1848 (TS 207: 9 Bevans 791).

(3) ELIGIBLE DESCENDANT.—The term ''eligible descendant'' means a descendent of a person who—

(A) was a Mexican citizen before the Treaty of Guadalupe Hidalgo;

(B) was a member of a community land grant; and

(C) became a United States citizen within ten years after the effective date of the Treaty of Guadalupe-Hidalgo, May 30, 1848, pursuant to the terms of the Treaty.

(4) COMMUNITY LAND GRANT.—The term ''community land grant'' means a village, town, settlement, or pueblo consisting of land held in common (accompanied by lesser private allotments) by three or more families under a grant from the King of Spain (or his representative) before the effective date of the Treaty of Cordova, August 24, 1821, or from the authorities of the Republic of Mexico before May 30, 1848, in what became the State of New Mexico, regardless of the original character of the grant.

(5) RECONSTITUTED.—The term ''reconstituted'', with regard to a valid community land grant, means restoration to full status as a municipality with rights properly belonging to a municipality under State law and the right of local self-government.

(b) FINDINGS.—Congress finds the following:

(1) New Mexico has a unique history regarding the acquisition of ownership of land as a result of the substantial number of Spanish and Mexican land grants that were an integral part of the colonization and growth of New Mexico before the United States acquired the area in the Treaty of Guadalupe-Hidalgo.

(2) Various provisions of the Treaty of Guadalupe-Hidalgo have not yet been fully implemented in the spirit of Article VI, Section 2, of the Constitution of the United States.

(3) Serious questions regarding the prior ownership of lands in the State of New Mexico, particularly certain public lands, still exist.

(4) Congressionally established land claim commissions have been used in the past to successfully examine disputed land possession questions.

SEC. 3. ESTABLISHMENT AND MEMBERSHIP OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Guadalupe-Hidalgo Treaty Land Claims Commission.''

(b) NUMBER AND APPOINTMENT OF MEMBERS.—The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. At least two of the members of the Commission shall be selected from among persons who are eligible descendants. All members shall demonstrate knowledge and expertise about the history and law associated with the New Mexico land grants.

(c) TERMS.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members shall each be entitled to receive the daily equivalent of level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

SEC. 4.—INTERNATIONAL AGREEMENTS FOR COOPERATION IN THE PROCUREMENT OF RELEVANT DOCUMENTS.

(a) FINDINGS.—Congress recognizes that—

(1) the availability of documents concerning community land grants in the State of New Mexico in the United States is limited; and

(2) a fair and equitable evaluation of the community land grants will depend upon obtaining a comprehensive compilation of the relevant documents available.

(b) BILATERAL AGREEMENTS.—The Secretary of State is authorized to negotiate bilateral agreements with the Governments of Mexico and Spain to obtain their full cooperation with the Commission so that the Commission will have access to certified copies of all relevant documents in those countries relating to community land grants in the State of New Mexico.

SEC. 5.—DEVELOPMENT OF CODE OF LAND GRANT CLAIMS PROCEDURES.

(a) DEVELOPMENT OF PROCEDURES.—Not later than one year after the date on which the second bilateral agreement described in section 4 is concluded, the Commission shall develop workable and equitable procedures, in clear and concise form, for land grant evaluations, including but not limited to—

(1) a criteria for the Commission to use during its evaluation of what constituted a legal community land grant under Mexican and Spanish law;

(2) the scope of admissible evidence;

(3) appropriate presumptions, if any, regarding previous adjudications made by the Surveyor General and the Court of Private Land Claims, and other court decisions involving the Treaty;

(4) a set of procedural rules setting forth the burden of proof that the Commission will use in determining the validity of community land grants;

(5) an outline of investigative services the Commission proposes to make available to land grant claimants;

(6) safeguard, acceptable to title insurance companies, to ensure that private property owners will not be affected, either with the threat of losing possession to their property or any impairment to the legal, equitable or clear title to their property by the work of the Commission.

(8) safeguard, acceptable to the New Mexico State Engineer, that clearly protect and do not in any way affect the water rights of any person or entity;

(9) safeguards, acceptable to the various Native American Tribes and Pueblos, that clearly protect the status quo regarding existing Indian Lands;

(10) procedures, acceptable to the various Native American Tribes and Pueblos, that—

(A) provide them with access to sacred sites that may eventually be adjudicated as community land grants, and that may become part of any reconstituted community land grant; and

(B) require that any such sites be identified by the various Native American Tribes and Pueblos during the development of the Code of Land Grant Claims Procedures for the Commission;

(11) an outline of the rights and responsibilities of community land grantees if a community land grant is reconstituted, and

(12) any other items the Commission deems appropriate and necessary.

(b) REVIEW BY CONGRESSIONAL ENERGY COMMITTEES.—Prior to beginning the examination of specific community land claims, the Commission shall submit the Code of Land Claims Procedure to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The Committees shall have ninety days to hold hearings and examine the Code. The Commission may not commence evaluations of specific community land claims earlier than the 90 days after the date of submission of the Code under this subsection.

SEC. 6. EXAMINATION OF LAND CLAIMS LOCATED IN NEW MEXICO.

(a) SUBMISSION OF NEW MEXICO LAND CLAIMS PETITIONS.—Any three (of more) eligible descendants who are also descendants of the same community land grant may file with the Commission a petition on behalf of themselves and all other descendants of that community land grant seeking a determination of the validity of the land claim that is the basis for the petition.

(b) DEADLINE FOR SUBMISSION.—To be considered by the Commission a petition under subsection (a) must be received by the Commission not later than five years after the date on which the Committee on Energy and Natural Resources and the Committee on Resources of the House of Representatives has completed the 90-day review period.

(c) ELEMENTS OF PETITION.—A petition under subsection (a) shall be made under oath and shall contain the following:

(1) The names and addresses of the eligible descendants who are petitioners.

(2) The fact that the land involved in the petition was a community land grant at the time of the effective date of the Guadalupe-Hidalgo Treaty and that such land is now within the borders of the State of New Mexico.

(3) The extent of the community land grant, to the best of the knowledge of the petitioners, accompanies with a survey or, if a survey is not feasible for them, a sketch map thereof.

(4) The fact that the petitioners reside, or intend to settle upon, the community land grant.

(5) All facts known to petitioners concerning the community land grant, together with copies of all papers in regard thereto available to petitioners.

(d) PETITION HEARING.—At one or more designated locations in the State of New Mexico, the Commission shall hold a hearing upon each petition timely submitted under this section, at which hearing all persons having an interest in the land involved in the petition shall have the right, upon notice, to appear as a party.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any petition submitted under subsection (a). The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the State of New Mexico.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) DECISION.—On the basis of the facts contained in a petition submitted under subsection (a), and the hearing held with regard to the petition, the commission shall determine, consistent with the Code of Land Claims Procedure, the validity of the community land grant described in the petition. The decision shall include a recommendation of the Commission regarding whether the community land grant should be reconstituted and its lands restored.

(g) PROTECTION OF NON-FEDERAL PROPERTY.—The decision of the Commission regarding the validity of a petition submitted under subsection (a) shall not affect the ownership, title or rights of owners of any non-federal lands covered by the petition. Any recommendation of the Commission under subsection (f) regarding whether a community land grant should be reconstituted and its lands restored may not address affect or otherwise involve non-Federal lands. In the case of a valid petition covering lands held in non-Federal ownership, the Commission shall modify the recommendation under the subsection (f) to recommend the substitution of comparable Federal lands in the State of New Mexico for the lands held in non-Federal ownership.

SEC. 7. COMMUNITY LAND GRANT STUDY CENTER.

To assist the Commission in the performance of its activities under section 4, the commission shall establish a Community Land Grant Study Center at the Onate Center in Alcalde, New Mexico. The Commission shall be charged with the responsibility of directing the research, study, and investigations necessary for the Commission to perform its duties under this Act.

SEC. 8. MISCELLANEOUS POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate, the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission so long as it is determined that the acceptance of such gifts, bequests or devises do not constitute a conflict of interest.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 9. REPORT.

As soon as practicable after reaching its last decision under section 6, the Commission shall submit to the President and the

Congress a report containing each decision, including the recommendation of the Commission regarding whether certain community land grants should be reconstituted, so that the Congress may act upon the recommendations.

SEC. 10. TERMINATION

The Commission shall terminate on 180 days after submitting its final report under section 9.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated $1,000,000 for each of the fiscal years 1999 through 2007 for the purpose of carrying out the activities of the Commission and to establish and operate the Community Land Grant Study Center under section 7.

Mr. DOMENICI. Sr. Presidente, el proyecto de ley que estoy introduciendo hoy es el primer paso de progresión en corregir una injusticia del antiguo que ha manchado la conciencia de la historia de Nuevo Méjico. Es una injusticia que se remonta al tiempo en que Jefferson Davis, Daniel Webster, y Sam Houston andaban en los pasillos del Capitol como senadores.

En 1848, los Estados Unidos firmaron el Tratado de Guadalupe-Hidalgo con Méjico. Con este tratado, los Estados Unidos adquirieron el territorio que ahora es California, Nevada, Arizona, Nuevo Méjico, Colorado, y Wyoming. [El Tratado de Guadalupe-Hidalgo solucionó algunos problemas pero creó otros. No protegió adecuadamente los derechos civiles y de propiedad de la gente que vive en el territorio nuevamente anexado.]

Este proyecto de ley es un pedazo de legislación muy importante. Es la oportunidad de invertir la herencia de la mala voluntad entre la gente hispánica y el gobierno federal. Los descendientes hispánicos han estado esperando 150 años para inducir al gobierno federal para mirar con justticia las concesiones de la tierra.

Ratificamos un tratado con las provisiones de las garantías de los derechos de propiedad que, en retrospección, han resultado ser inadecuadas. John R. Van Ness describió el tratado como reparto enorme de las propiedades inmobiliarias, pero condujeron a los demandantes de la concesión de la tierra a creer que los derechos de propiedad serían honrados y protegidos. Algunos funcionarios con el gobierno federal, por otra parte, esperaban para obtener titulo claro a la mayoría de la pista que lo pagaba, sin importar el derecho de propiedad existente de los mejicanos.

Los demandantes de la concesión de la tierra han aguantado a oficiales hostiles del gobierno. En una punta, el Presidente Cleveland designó Guillermo Andrew Sparks como el agrimensor general para Nuevo Méjico. Sparks han sido descrito por los historiadores según lo ''empapado en prejudicar contra Nuevo Méjico, su gente, y los derechos de propiedad.'' Teníamos abogados corruptos y una confederación de los oportunistas que utilizaron batallas legales largas para adquirir los imperios de tierra que extendieron muchos millones acres—todos a expensas de los hispanos.

En 1891, el Agrimensor General fue substituido de la Corte de las Reclamaciones Privadas. La situación fue de malo a peor porque los procedimientos de la corte favorecieron fuertemente el gobierno. El resultado fue injusticia.

La Corte de Reclamaciones de Nuevo Méjico requirió que los demandantes prueben que el funcionario español o mejicano que concedió tenía la autoridad legal para publicar la concesión de la tierra. Por lo tanto, muchas concesiones de la tierra de Nuevo Méjico fueron llevadas a cabo sin ser legítimas. Consecuentemente, la Corte de Nuevo Méjico rechazó dos tercios de las reclamaciones presentadas. En última instancia, por una cuenta escrita por Richard Griswold del Castillo, solamente las concesiones del ochenta-y-dos recibieron la confirmación del Congreso. Esto representó solamente seis por ciento del área total buscados de los demandantes. La Corte de las Reclamaciones Privadas de la Tierra agrandó el dominio nacional del gobierno federal a expensas de los centenares de aldeas hispánicas, dejando una herencia amarga.

Esta proyecto de ley se basa en la legislación aprobada recientemente por Congressman BILL REDMOND. Éste es un pedazo de legislación importante, y aplaudo Congressman REDMOND. Él vino a Washington, identificó rápidamente uno de los conflictos más importantes y de muchos años que sus componentes han tenido con el gobierno federal, y él tomó una acción decisiva—él aprobó una cuenta importante para comenzar el proceso de juzgar estas reclamaciones.

Algunos miembros se jubilaron de 20- y 30 años y nunca alcanzan el paso de legislación importante, pero, Congressman REDMOND consiguió la aprobación de esta cuenta en la Casa de Representantes en su primer término.

La cuenta de Congressman REDMOND crea a una Comisión Presidencial para juzgar las concesiones de la tierra de la comunidad situadas en Nuevo Méjico. Se diseña para beneficiar a descendientes de los ciudadanos mejicanos que colocaron en Nuevo Méjico antes del Tratado de Gudelupe-Hidalgo. El propósito de la legislación es para determinarse qué concesiones de la tierra de la comunidad se podrían reconstituir de la tierra tenida actualmente por el gobierno federal. La legislación finalmente pone el espíritu del Tratado de Guadalupe-Hidalgo.

Dije a Congressman REDMOND que patrocinaría su proyecto en el Senado, y estoy introduciendo hoy el proyecto del compañero. Estoy orgulloso hacer tan.

He hecho muy pocos cambios y solamente un par de adiciones en la versión de este proyecto que estoy introduciendo hoy.

Los cambios se basan en las lecciones que he aprendido de hablar con los herederos de algunas de las concesiones de la tierra; de repasar la historia; y de hablar con los eruditos, historiadores, y los abogados de la concesión de la tierra.

Deseo agradecer a Roberto Mondragón, Max Córdova, Estevan Arellano, Joyce Guerin, Georgia Roybal, Juan Sanchez, Pedro Gutierrez Jr., y Roberto Torrez por su ayuda inestimable.

También he pedido los caudillos de los Indios para repasar el bosquejo, y mientras que yo todavía no he recibido sus comentarios, quisiera que supieran que creo que sus asuntos son muy importantes, y miro adelante a trabajar con ellos.

Primero, me parecía que el gobierno federal necesita tomar un papel afirmativo en la obtención de la documentación necesaria para probar la validez de las concesiones de la tierra de la comunidad. Desafortunadamente, muchos de los documentos de Nuevo Méjico fueron destruidos. Pero los eruditos me han dicho que los gobiernos mejicanos y españoles tienen archivos siempre mejorando. Esta proyecto requiere a la secretaria del estado negociar un acuerdo con Méjico y España para el acceso a los documentos. Se parece especialmente apropiado que en 1998, cuando Nuevo Méjico celebra su 400o aniversario del primer establecimiento hispánico que nuestro gobierno comenzaría a negociar los acuerdos necesarios para estos documentos criticos e históricamente significativos.

En la leyenda de las historias, me parecía que había mucha ambigüedad en el tratado, y aún más ambigüedad y discreción en los estatutos que establecían el agrimensor general y la corte de las reclamaciones privadas de la tierra.

Creo que la historia sostiene mi opinión que la ambigüedad trabaje al detrimento de los demandantes. Por lo tanto, propongo que antes de que la Comisión comience su trabajo sobre el juicio de reclamaciones específicas, primero se convierte reglas claras y sucintas por lo tanto cada uno sea tratado con justicia. Esta legislación requiere a la Comisión presidencial ser formada y después desarrollar un Código del Procedimiento de las Reclamaciones de la Tierra que sería repasado del Comité de la Energía para asegurarse de que todo es justicia.

Cuando los documentos sean disponibles y se han explicado las reglas, la Comisión serían listas para juzgar las reclamaciones de la tierra.

Tratar de hacer la justicia 150 años después del hecho es complicado. Esta legislación sostiene inofensivos a propietarios privados de tierra. Se cerciora de que las compañías de título y los prestamistas sean satisfechos que esta legislación no afectará al contrario la característica privada. Se cerciora de que nuestro Ingeniero del

Estado esté satisfecho con los criterios usados a encargar de las demandas de la tierra sin trastornar nuestro sistema de los derechos del agua. Creo que podemos todos convenir que no deseamos que el gobierno federal interfiera con nuestro sistema de los derechos del agua!

La legislación requere a la Comisión en su Código del Procedimiento de las Reclamaciones de la Tierra para tener una colección clara de reglas para lo que se pude hacer o no se puede hacer para los indios.

Estoy confiado que este proyecto qué tiene demasiado tiempo sin dar cuenta de la pérdida de la tierra y de la negación se resolverá sin crear nuevos problemas o injusticias.

Gracias, Sr. presidente.

By Mr. GRASSLEY (for himself, Mr. KYL, and Mr. HATCH):

S.J. Res. 56. A joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use; read the first time.

By Mr. KYL (for Mr. GRASSLEY (for himself, Mr. KYL, and Mr. HATCH):

S.J. Res. 57. A joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use; to the Committee on Labor and Human Resources.

EXPRESSING THE SENSE OF CONGRESS IN SUPPORT OF THE EXISTING FEDERAL LEGAL PROCESS FOR DETERMINING THE SAFETY AND EFFICACY OF DRUGS

Mr. GRASSLEY. Mr. President, I send to the desk a joint resolution. This joint resolution is being introduced with the distinguished Senator from Arizona, Senator KYL, who is now in the chair, to address a very important issue. It is not an easy one to grasp on its face. This is largely because of an effort by some to misrepresent the facts of the case. In offering this resolution and asking my colleagues to join me in supporting and passing it, I would like to make some things very clear.

What this resolution expresses is the sense of the Congress for supporting existing procedures for determining the safety and efficacy of drugs made available to the public.

Specifically, it puts the Congress and the administration on record opposing the legalization of dangerous drugs such as marijuana, heroin, and LSD.

As we consider this language, we are likely to hear from many of the drug legalization lobbies. They are going to try to misrepresent their true goals and the meaning of this resolution. We have already seen some of these tactics in the House earlier this week. They are going to tell you that this resolution opposes sick people. They are going to tell you that they only want to make medicine available to the desperately ill. They imply, of course, that the rest of us are opposed to helping the sick. But the agenda here is not about helping sick people; it's about drug legalization.

Let's look at who's lobbying against our resolution. Since this is supposed to be about medicine, who's lobbying Congress? It is not the American Medical Association. It is not the American Psychiatric Association. It is not the American Cancer Society, the Glaucoma Society, the American Pediatrics Association, or any professional association of treatment specialists and scientists. It is the Drug Policy Foundation which opposes it, and the Marijuana Policy Project, the magazine High Times, and the marijuana legalization lobby, NORML—the National Organization for the Reform of Marijuana Laws. All of these groups are drug legalization lobbies. And have been for years. None of these groups are medical associations or have any scientific expertise. What they rely on is anecdotes, scare tactics, and misinformation. Now, what is the agenda here? Is the goal medicine or legalization?

Their agenda and their goal is not medicine, but it is legalization of drugs.

Let me note who's supporting our resolution. It is the Nation's drug czar. It is Gen. Barry McCaffrey. It is national parent groups, like National Families in Action and Community Anti-Drug Coalitions of America. It is the Parents' Resource Institute for Drug Education, or PRIDE. It is supported by virtually every anti-legalization group across the country in every state in the Union. They know the answer to my question.

But, let's consider another point. How do we normally make a dangerous drug with a high potential for abuse available as a legitimate medicine? Normally we do so with scientific validation. We do so by prescription. We control the quantities, the quality, and the distribution. We do not permit self-diagnosis and treatment. We do not license private citizens to manufacture the drugs in their kitchens or bathrooms. But what is happening with the efforts to make marijuana and other Schedule I drugs legal?

In most states where this effort is afoot, there is no prescription requirement. There is no scientific validation required. There are no controls and no supervision. People are authorized to grow marijuana, for example, at home. They are authorized to self administer it in any dose for any length of time for any ailment they think necessary. This does not mean for the terminally ill or those with desperate conditions. It means for any condition, from migraines to athlete's foot. Is this the way we treat Valium or anti-depressants? Is this the way we treat heart medicine or blood pressure medicine? Is this about medicine or about legalization? The answer is all too clear.

Our resolution addresses the effort by the drug legalization lobby in this country to get marijuana and other dangerous drugs on the streets, in our homes, and in our schools. These groups have been trying to do this for years. Sadly, they have been somewhat successful.

They have failed because the public won't have anything to do with legalization. The public overwhelmingly opposes efforts to legalize. Knowing this, the legalization lobby has hit upon a subterfuge to slip legalization through by calling it a medicine. It is a cynical and deceptive campaign.

What is being done here by these groups is to manipulate the public's concerns for the desperately ill. In efforts across the country, well-funded lobbying groups are promoting initiatives to declare marijuana and other dangerous drugs medicine. They are exploiting compassion to push their drug agenda. This effort is as fully sincere as anything we saw from the tobacco companies in their efforts to sell cigarettes.

What our resolution does is to put the Congress and the administration on record opposing this effort. We are taking this step to protect the present and future generations of young people from illegal drugs. The resolution passed the other body on Tuesday 310 to 93. I ask unanimous consent to have printed in the RECORD a letter from General McCaffrey, the Nation's drug czar, to me. He endorses this resolution. The administration supports it.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY,

Washington, DC, September 9, 1998.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC

DEAR SENATOR GRASSLEY: Thank you for the opportunity to review your proposed Joint Resolution regarding the medicinal use of marijuana. The Office of National Drug Control Policy applauds your continuing contribution to the nation's drug policy. We at ONDCP offer our support for this important resolution and urge the Senate to send a clear signal to those who advocate for legalization of marijuana when the resolution comes to the Floor for a vote.

State ballot initiatives that define marijuana as a ''medicine'' fail to address the negative impact such legislation would have on the health of our youth or the nation's scientific process of approving medications. Designating medicine through ballot initiatives would undermine the long-established process which ensures that substances provided to the American public as medicines have undergone rigorous scientific scrutiny. This procedure protects Americans from unproven, ineffective, or dangerous treatments. Making an exception for marijuana would create a dangerous precedent. Medicine must be based on science rather than ideology.

Proponents of marijuana initiatives present marijuana as a benign substances. However, the latest scientific evidence demonstrates that marijuana is not. Smoked marijuana damages the brain, heart, lungs,

amd immune system. It impairs learning and interferes with memory, preception and judgment. Smoked marijuana contains cancer-causing components and has been implicated in a high percentage of automobile crashes and workplace accidents.

As your resolution points out, marijuana is also associated with behavior leading to more extensive drug use. Legalization of marijuana as medicine sends a confusing message to America's children at a time when drug use by young people has increased at an alarming rate. The increase in youth marijuana use has been fueled by a measurable decrease in the proportion of young people who perceive marijuana as dangerous.

Some Americans are unclear about what the scientific research shows about the effects of marijuana. To clarify this issue, ONDCP has commissioned a comprehensive study by the National Academy of Science's Institute of Medicine. It is crucial that America tell the truth to our children about the dangers of drug use. Toward that end, we congratulate you and the other sponsors of this Joint Resolution.

Respectfully,

BARRY R. MCCAFFREY,
Director.

Mr. GRASSLEY. Mr. President, drug use among kids is growing dramatically. In the last few years, after a decade of decline, drug use is on the rise among 12- to 17-year-olds. The age for first use of illegal drugs has dropped. Today, the first-use of marijuana by 12- to 17-year-olds is the highest since we've been keeping records. The same is true for cocaine, heroin, and hallucinogens. We need to be talking seriously about how to stop this. This is why we ask our colleagues to support our resolution.

I send that resolution to the desk. I send it to the desk and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will report.

A joint resolution (S.J. Res. 56) expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

Mr. GRASSLEY. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Mr. President, I rise today with my colleagues, Senator GRASSLEY and Senator HATCH, to introduce this joint resolution, which passed the House of Representatives last Tuesday by a vote of 310–93.

It has been endorsed by the administration's drug czar, Gen. Barry McCaffrey, and is part of our legislative response to the recent and significant increases in drug use, especially among our young people. It is this subject to which Senator GRASSLEY spoke earlier this afternoon.

Before I explain what this resolution is about, let me explain how it came about. In March of this year, Senator GRASSLEY and I convened an antidrug legalization roundtable. Attendees included Bill Bennett, Senator MACK, and 21 other people representing the Drug Czar's Office, civic groups, family groups and law enforcement officials. At that meeting, we learned about efforts all across the country to legalize drugs, including marijuana and other Schedule I drugs. Schedule I drugs include things not only like marijuana but LSD and heroin.

The groups asked why Congress, which, after all, enacts Federal drug laws, and the administration, which enforces Federal drug laws, have been relatively silent in the face of these ever bolder attempts to legalize drugs around the country. They urged us to step up to the plate and exert some leadership. They were correct in that request.

This joint resolution is but one step in the effort to demonstrate to our youth that the U.S. Congress strongly opposes drug abuse and efforts to legalize drugs. This resolution, I believe, will help send a very clear message that so long as marijuana, heroin, LSD, and others remain Schedule I drugs under the Controlled Substances Act, that Federal law should not be altered through adoption of statewide ballot propositions that would legalize these drugs.

Consider these statistics relating to drug use, especially among children: Marijuana use has more than doubled nationally since 1991. Heroin usage for 8th and 12th graders has more than doubled in the last 5 years. A 1997 survey by the Center on Addiction and Substance Abuse at Columbia University showed that 500,000 8th graders began using marijuana in the 6th and 7th grades. Even more alarming are the statistics in my own State of Arizona, where one out of six youths has used illegal drugs within the past month. This is one-third higher than the national average. Over 13 percent of Arizona children between the ages of 12 and 17 said they have used marijuana in the past month. Almost 17 percent admitted to having used any illicit drug, including cocaine, heroin, or inhalants, according to the National Household Survey on Drug Abuse.

Attempts to legalize drugs by way of State ballot initiatives inhibits us from getting drugs out of our schools, out of our workplaces, and out of our communities.

How can we expect our children to resist the lure of drugs if harmful drugs like marijuana are legalized under the guise of medicinal use, even though the FDA has not approved those drugs for medicinal use? How can we expect to have safe, drug-free workplaces if employees can smoke marijuana on the job, claiming it is medicine? How can we expect to have successful drug treatment programs if someone can light up a joint during a joint discussion, claiming marijuana is, after all, medicine?

In my own State of Arizona, the voters passed a ballot initiative, Proposition 200, in 1996 which legalized all Schedule I drugs for medicinal purposes. These would include marijuana, heroin, LSD, and all of the other Schedule I drugs. This year, there is another proposition which, if passed, will require the FDA to approve the efficacy of Schedule I drugs before they could be prescribed. That, of course, would be consistent with Federal law. I have been in strong support of that proposition.

Over $1.5 million was spent in Arizona by the prolegalization forces in the last election, the most prominent of whom were not from Arizona. Arizona is not the only State that is now a target of drug legalization. Other States that currently have pending legalization initiatives or legislation are Alaska, Arkansas, California, Colorado, the District of Columbia, Massachusetts, Nevada, Oregon, Rhode Island, New York, and Washington.

This joint resolution that we have introduced puts Congress and the administration firmly behind the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and all other Schedule I drugs for medicinal use.

Under current law, marijuana, heroin, LSD, and more than a hundred other drugs are classified as Schedule I because they have a high potential for abuse and lack any current accepted medical use.

Federal law [Controlled Substances Act] prohibits Schedule I drugs from being manufactured, distributed, or dispensed. This resolution re-affirms the law. It says that before any drug can be approved as a medication, it must meet extensive scientific and medical standards established by the FDA to ensure it is safe and effective. Marijuana and other Schedule I drugs have not been approved by the FDA to treat any disease or condition, though studies are being conducted to determine if there is any potentially appropriate treatment using marijuana. Attempts to legalize drugs fly in the face of established procedures for approving the safety and efficacy of drugs. Most important, legalization sends the wrong message to youth about the health and safety risks of using drugs.

I have joined with Senator GRASSLEY, Senator HATCH, and my colleagues in the House, Representative MCCOLLUM and Representative COX in introducing this resolution because I believe we must reassert leadership in this area.

I am particularly pleased that the administration supports this resolution, and I would just like to take a moment to single out General McCaffrey for the good work that he has done in improving the nation's drug-control policy.

I would urge my colleagues to pass this important piece of legislation and send it to the President for his prompt signature.

Mr. GRASSLEY. Mr. President, I request that the Senator from Arizona and I might enter into a colloquy on the question of our resolution.

Do I understand correctly that the effort in Arizona would not only legalize marijuana it would also make

available as a so-called medicine heroin, LSD, and over 100 other dangerous drugs?

Mr. KYL. That is correct.

Mr. GRASSLEY. It is the Senator's understanding that there is no recognized medical use for heroin or LSD?

Mr. KYL. To my knowledge, neither of these drugs, which would be made legal in Arizona for medical use, have any recognized medical utility. In addition, both of these substances are illegal to prescribe as medicine under federal law and no doctor is authorized to prescribe them as a treatment.

Mr. GRASSLEY. Am I correct in believing that it is also illegal to prescribe marijuana, as a Schedule I drug, under Federal Law?

Mr. KYL. That is correct. Under the Controlled Substances Act, which governs how we deal with all drugs in this country, no Schedule I drug may be prescribed as a medicine. Schedule I drugs are placed in this category because they have no recognized medical use and have a high potential for abuse. These drugs are illegal because they are dangerous, they are not dangerous because they are illegal.

Mr. GRASSLEY. It is my understanding that we have the Federal Food, Drug, and Cosmetic Act, the Controlled Substances Act, and other laws governing the manufacture and sale of drugs in order to ensure they are safe and effective for public use.

Mr. KYL. That is correct. Many of these laws are on the books because at one time anybody could market any product to the public and call it a drug. Those were the days of snake oil salesmen who made the wildest claims for their products. They, of course, called their products ''medicine'' and sold them as cure-alls for every possible ailment. In many cases, in the early years of this century, those products contained large quantities of alcohol, opiates or cocaine. As a result, this country experienced a major drug epidemic centered largely on women and children who mostly used these products. None of the products were subject to regulation, they did not treat any diseases, there were no cures, but they did create a lot of addicts. Later, in response to this situation, Congress passed laws regulating these products to ensure that the public was not the victim of bad medicine, false claims, and snake oil.

Mr. GRASSLEY. The purpose of those laws was to ensure that we didn't declare anything a medicine until it had been scientifically evaluated, clinically tested, and proven effective, is that right?

Mr. KYL. Yes. Sometimes the time it takes to do this is frustrating, but the purpose is to ensure that we provide safe and effective medicine to the public.

Mr. GRASSLEY. As part of that process, when a medicine is found to work but is also found to be dangerous or subject to abuse, how is that normally dealt with?

Mr. KYL. Apart from over-the-counter medicines, we regulate access to drugs. This is what prescriptions are for. For dangerous drugs with a potential for abuse, we license their use and only permit people to use them based on a physician's prescription and under the continuing care of a doctor.

Mr. GRASSLEY. In many of the efforts we currently see to declare marijuana a medicine, I believe there is no requirement for a doctor's prescription?

Mr. KYL. The Senator is correct. In most of these efforts, what is called for is a doctor's recommendation. Frankly, that could mean anything.

Mr. GRASSLEY. That's certainly an unusual practice but if I understand many of these efforts, not only is no prescription required but users are authorized to grow marijuana at home for their own use.

Mr. KYL. The language differs in the various states, but that's essentially correct.

Mr. GRASSLEY. I believe that it is the case in some states or here in the nation's capital, a so-called care giver or up to three or four different care givers are authorized to grow marijuana at home and give it out. Let me see if I understand just what that means. If, for example, I was taking insulin to control diabetes, the parallel would be for me to be authorized to make it at home or to have three or four of my friends make it and give it to me when I wanted it.

Mr. KYL. That's about it.

Mr. GRASSLEY. So, there would be none of the normal controls or quality checks or physician-supervised treatments that we expect when we talk about medicine, especially medicine for the very ill?

Mr. KYL. That's right. But there is another big difference. These efforts do more than authorize that practice you describe. They place no limits on who would be eligible to receive these ''treatments'' and they do not limit the ''illnesses'' for which you may take the drug.

Mr. GRASSLEY. So, this drug can be used for anything anyone feels the need, they do not have to have a terminal illness or any serious disease?

Mr. KYL. That's just one more thing about these efforts that demonstrate what is really behind them. The real motive here is to legalize these drugs, not to make medicine available.

Mr. GRASSLEY. I agree with the Senator. If this effort succeeds, it looks to me like it could have a major effect in sending signals to young people about drug use.

Mr. KYL. The Senator is correct. We are already seeing the highest rates of first-time use of marijuana among teens and pre-teens in over 30 years. We are on the verge of a major, new drug epidemic. I do not think this is the time to be sending the kind of mixed message we see in these efforts to legalize marijuana or other Schedule I drugs.

Mr. GRASSLEY. I am working in my state to develop a statewide anti-drug coalition. In doing this, I have seen personally what is happening all across my state because of growing illegal drug use. This doesn't just affect kids, although they are the most vulnerable for use. Drug use affects whole families and communities. I agree that we must speak out against efforts to make our drug problem worse than it already is. We need to blow the whistle on these efforts to legalize by indirect means. I want to thank my distinguished colleague for taking the time to help me think through these issues.

Mr. KYL. I would like to thank the Senator for his efforts and I look forward to working with our colleagues to pass this resolution.

Mr. GRASSLEY. I would also like to thank the Senator for all his efforts on this.

ADDITIONAL COSPONSORS

S. 361

At the request of Mr. JEFFORDS, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 361, a bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Montana (Mr. BAUCUS), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2190

At the request of Mr. KENNEDY, the names of the Senator from South Dakota (Mr. JOHNSON), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2190, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 2339

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2339, a bill to provide for pension reform, and for other purposes.