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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 2, 1999, at 12:30 p.m.

Senate

THURSDAY, JANUARY 28, 1999

The Senate met at 1:04 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Chaplain will offer a prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, thank You for the gift of vibrant confidence based on vital convictions. We are confident in Your unlimited power. Therefore, at no time are we helpless or hapless. Our confidence is rooted in Your Commandments. Therefore, we are strengthened by Your absolutes that give us enduring values. Our courage is based on the assurance of Your ever-present, guiding Spirit. Therefore, we will not fear. Our hope is rooted in trust in Your reliability. Therefore, we will not be anxious. Your interventions in trying times in the past have made us hopeful thinkers for the future. Therefore, we trust You.

You have called us to glorify You in the work here in this Senate. Therefore, we give You our best for this day's responsibilities. You have guided our beloved Nation through difficult periods of discord and division in the past. Therefore, we ask for Your help in the present deliberations of the impeachment trial. Thank You for the courage that flows from our unshakable confidence in You. Through our Lord and Savior. Amen.

The CHIEF JUSTICE. Senators will be seated. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, James W. Ziglar, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

THE JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial are approved to date.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. For the information of all of our colleagues—obviously, they have already received the word by the fact that they are not all present—but we are still attempting to reach an agreement with respect to the remaining procedures for the trial, particularly with regard to how and when the depositions will be taken.

We have been making progress, but it is something we need to be careful about. Hopefully, we will be able to reach an agreement yet today. If agreement is reached, I expect it very likely that a rollcall vote would be requested on that agreement and, therefore, all Members should be aware of that. We will notify them via the hotline system as the voting schedule becomes clear. Certainly we will keep the Chief Justice informed of our deliberations and when we anticipate the need to reconvene.

RECESS

Mr. LOTT. But in view of the continuing negotiations and conferences that are meeting at this time, I ask unanimous consent the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, at 1:07 p.m., the Senate recessed until 2:02 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, again, Mr. Chief Justice.

ORDER OF PROCEDURE

Mr. LOTT. Mr. Chief Justice, in an effort to get an agreement on how to proceed, it is very important that all parties are aware of the procedures that we are outlining and that those include Senators on both sides of the aisle, the House managers, the White House, the attorneys for the witnesses. So it does take time.

Just as we were prepared to come in at 2 and move to a resolution, questions were raised about a couple specific points. We feel like those questions need to be clarified for certainty. Rather than continue to recess hour to hour, which I know is not fair to the Chief Justice, I think it would be better at this point to make sure Senators are aware that we are working to get an agreement on this procedure, and we need to get that done today so the depositions can get underway with the attorneys consulting with their clients Friday and Saturday, and hopefully, the depositions will begin on Sunday and Monday, and hopefully, completed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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by Tuesday. But we are working on the details of that.

This still could very well require a vote or two today or even tomorrow. But we will make that announcement once it is clear that it is going to take a recorded vote of one or more and exactly how that would work.

So, we will keep the Chief Justice notified of the expected timeframe, and as information becomes available as to exactly when we will come back into session, and whether or not or how many votes will be required. We will get that information to Senators.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LOTT. In view of all that, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 2:03 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 5:31 p.m., when called to order by the Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. Chief Justice.

I thought we were ready to proceed. I see Senator DASCHLE is not on the floor. He should be back momentarily. Maybe I can explain a few details. He is returning now. We may still need a little more time.

We thank you for your patience, and our colleagues on both sides for their patience, as we have tried to work through the details of these resolutions and how to proceed with the depositions. There are a lot of details to it and everybody needs to be relatively comfortable they understand how that will work. That is why it has taken this additional time.

I think we are to the point where we are ready to proceed. I believe the way it will proceed is that we will have a resolution that I will send to the desk, followed by a substitute from Senator DASCHLE. Then Senator DASCHLE has indicated that they may want to have a motion to go straight to the articles of impeachment. That would require three votes. Then we also, at that point, would make it clear the depositions would begin on Monday, the 1st. It is our intent to then go to those three votes. I also understand that both sides are willing to waive—the parties—willing to waive the debate time on these issues.

With that explanation, I begin that process.

RELATING TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT. I send a resolution to the desk and ask that it be read in its entirety by the clerk, and time for the two parties be waived.

The CHIEF JUSTICE. The clerk will read the resolution in its entirety.

Mr. LOTT. I believe there was a request for unanimous consent.

The CHIEF JUSTICE. Without objection, the request is agreed to.

The legislative clerk read as follows:

A resolution (S. Res. 30) relative to the procedures concerning the Articles of Impeachment against William Jefferson Clinton.

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on video tape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however,* That no motion with respect to reopening the record in the case shall be in order, and: *Provided further,* That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on any pending motions and amendments thereto and then on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and S. Res. 16, 106th Congress, 1st Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordan, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition, but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the record during the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: the witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and employees of the Senate whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined after consultation by the Majority Leader with the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and

to use whichever means of dissemination, including printing as Senate documents, printing in the *Congressional Record*, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, 100th Congress, 1st Session, 2 U.S.C. §§191, 192, 194, 288b, 288d, 288f, 18 U.S.C. §§6002, 6005, and 28 U.S.C. §1365. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 5. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The CHIEF JUSTICE. The Chair recognizes the minority leader.

AMENDMENT NO. 1

Mr. DASCHLE. Mr. Chief Justice, I have an amendment that I send to the desk.

The CHIEF JUSTICE. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1.

In the resolution strike all after the word ''that'' in the first line and insert the following:

''the deposition time for all witnesses to be deposed be limited to no later than close of business Wednesday, February 3 and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

''When the Senate reconvenes the trial at 10 a.m. on Saturday, February 6 it shall be in order to resolve any objections that may not be resolved regarding the depositions; after these deposition objections have been disposed of, it shall be in order for the House managers and/or the White House counsel to make a motion, or motions to admit the depositions or portions thereof into evidence, such motions shall be limited to transcribed deposition material only;

''On Monday, February 8 there shall be 4 hours equally divided for closing arguments; with the White House using the first 2 hours and the House Republican managers using the final 2 hours; that

''Upon the completion of the closing arguments the Senate shall begin final deliberation on the articles; a timely filed motion to suspend the rules and open these deliberation shall be in order; upon the completion of these deliberations the Senate shall, without any intervening action, amendment, motion or debate, vote on the articles of impeachment.

''*Provided further,* That the votes on the articles shall occur no later than 12 noon Friday, February 12.''

The CHIEF JUSTICE. The Chair recognizes the Senator from Utah, Mr. HATCH.

Mr. HATCH. Parliamentary inquiry, Mr. Chief Justice: Does the majority leader's resolution, does that also keep open the right of Senators to file——

The CHIEF JUSTICE. The Parliamentarian says it takes a unanimous consent for a parliamentary inquiry.

Mr. HATCH. I ask unanimous consent I be permitted to ask one question.

The CHIEF JUSTICE. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Does the majority leader's resolution allow for the filing and consideration of motions that may not be mentioned in the resolution itself?

The CHIEF JUSTICE. The Parliamentarian tells me it is never the function of the Chair to interpret a resolution.

Mr. LOTT addressed the Chair.

The CHIEF JUSTICE. The majority leader.

Mr. LOTT. I believe the regular order is, now we would go to a vote on the two resolutions. Just for the information of the Senators, after that, Senator DASCHLE may have a motion, again, as I indicated earlier, just to go to a vote on the articles of impeachment.

So there could be three votes now, in order, without intervening debate. After that, Senator DASCHLE and I will formally lock in the beginning time for the depositions.

I yield the floor.

The CHIEF JUSTICE. The first vote will be on the amendment from the minority leader, the Senator from South Dakota.

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote ''aye.''

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 6]

[Subject: Daschle amendment No. 1 to S. Res. 30]

YEAS—44

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NAYS—54

Abraham	Domenici	Jeffords
Ashcroft	Enzi	Kyl
Bennett	Fitzgerald	Lott
Bond	Frist	Lugar
Brownback	Gorton	Mack
Bunning	Gramm	McCain
Burns	Grams	McConnell
Campbell	Grassley	Murkowski
Chafee	Gregg	Nickles
Cochran	Hagel	Roberts
Collins	Hatch	Roth
Coverdell	Helms	Santorum
Craig	Hutchinson	Sessions
Crapo	Hutchison	Shelby
DeWine	Inhofe	Smith (NH)
Smith (OR)	Stevens	Thurmond
Snowe	Thomas	Voinovich
Specter	Thompson	Warner

NOT VOTING—2

Allard	Mikulski

The amendment (No. 1) was rejected.

The CHIEF JUSTICE. The question is on agreeing to S. Res. 30, the resolution offered by Senator LOTT. On this question, the yeas and nays are called for.

Mr. DASCHLE addressed the Chair.

The CHIEF JUSTICE. The Chair recognizes the minority leader.

Mr. DODD. Mr. Chief Justice, the Senate is not in order.

The CHIEF JUSTICE. The Senate will be in order.

AMENDMENT NO. 2

Mr. DASCHLE. Mr. Chief Justice, I send an amendment to the desk.

The CHIEF JUSTICE. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 2.

In the resolution strike all after the word ''that'' in the first line and insert the following:

''the Senate now proceed to closing arguments; that there be 2 hours for the White House counsel followed by 2 hours for the House managers; and that at the conclusion of this time the Senate proceed to vote, on each of the articles, without intervening action, motion or debate, except for deliberations, if so decided by the Senate.''

The CHIEF JUSTICE. The question is on the amendment just read. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote ''aye.''

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 7]

[Subject: Daschle amendment No. 2]

YEAS—43

Akaka	Edwards	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Boxer	Inouye	Reid
Breaux	Johnson	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

NAYS—55

Abraham	Cochran	Fitzgerald
Ashcroft	Collins	Frist
Bennett	Coverdell	Gorton
Bond	Craig	Gramm
Brownback	Crapo	Grams
Bunning	DeWine	Grassley
Burns	Domenici	Gregg
Campbell	Enzi	Hagel
Chafee	Feingold	Hatch

Helms	McConnell	Snowe
Hutchinson	Murkowski	Specter
Hutchison	Nickles	Stevens
Inhofe	Roberts	Thomas
Jeffords	Roth	Thompson
Kyl	Santorum	Thurmond
Lott	Sessions	Voinovich
Lugar	Shelby	Warner
Mack	Smith (NH)	
McCain	Smith (OR)	

NOT VOTING—2

Allard	Mikulski

The amendment (No. 2) was rejected.

The CHIEF JUSTICE. The majority leader.

Mr. LOTT. Mr. Chief Justice, I suggest the absence of a quorum.

The CHIEF JUSTICE. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the order for the quorum call be rescinded.

The CHIEF JUSTICE. Without objection, it is so ordered.

Mr. LEAHY. Mr. Chief Justice, may we have order, please?

The CHIEF JUSTICE. The Senate will be in order.

AMENDMENT NO. 3

Mr. LOTT. Mr. Chief Justice, I send an amendment to the desk modifying the last paragraph of page 3.

The CHIEF JUSTICE. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3.

On page 3, strike the words ''any pending motions and amendments thereto and then on'' and insert the following at the end of page 3 ''strike the period and insert, if all motions are disposed of and final deliberations are completed.''

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The CHIEF JUSTICE. Without objection, it is so ordered.

The amendment (No. 3) was agreed to.

The CHIEF JUSTICE. The question is on the resolution, as amended. The yeas and nays are automatic. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. ALLARD] is necessarily absent.

Mr. REID. I announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote ''aye.''

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 8]

[Subject: S. Res. 30 as amended]

YEAS—54

Abraham	Chafee	Enzi
Ashcroft	Cochran	Fitzgerald
Bennett	Collins	Frist
Bond	Coverdell	Gorton
Brownback	Craig	Gramm
Bunning	Crapo	Grams
Burns	DeWine	Grassley
Campbell	Domenici	Gregg
Hagel	Mack	Smith (NH)
Hatch	McCain	Smith (OR)
Helms	McConnell	Snowe
Hutchinson	Murkowski	Specter
Hutchison	Nickles	Stevens
Inhofe	Roberts	Thomas
Jeffords	Roth	Thompson
Kyl	Santorum	Thurmond
Lott	Sessions	Voinovich
Lugar	Shelby	Warner

NAYS—44

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NOT VOTING—2

Allard	Mikulski

The resolution (S. Res. 30), as amended, was agreed to.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

MODIFICATION TO TITLE II

Mr. LOTT. Mr. Chief Justice, with regard to the beginning of the depositions, I ask unanimous consent that title II of S. Res. 30 be modified with the language I send to the desk.

The CHIEF JUSTICE. Without objection, it is so ordered.

The modification follows:

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

The resolution (S. Res. 30), as amended, as modified, reads as follows:

S. RES. 30

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on videotape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however,* That no motion with respect to reopening the record in the case shall be in order, and: *Provided further,* That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999, if all motions are disposed of and final deliberations are completed.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. chief Justice, I ask unanimous consent that the unanimous consent agreement I send to the desk be agreed to. This all deals with the taking of depositions.

The CHIEF JUSTICE. Without objection, it is so ordered.

The text of the unanimous consent agreement reads as follows:

I ask unanimous consent that the time and place to take depositions in the trial of the articles of impeachment against William Jefferson Clinton be decided jointly by the majority leader, and the Democratic leader, and shall be set forth in each subpoena.

I further ask unanimous consent that the opportunity for taking depositions of Monica Lewinsky, Vernon Jordan and Sidney Blumenthal expires when the Senate convenes on Thursday, Feb. 4, 1999.

Finally I ask unanimous consent that each deposition may last no more than 8 hours, unless the majority leader, and the Democratic leader determine on a deposition-by-deposition basis, to extend the time of the deposition, and all the time allotted for examination shall be divided equally between the parties, and time consumed by objections shall not be charged to either objecting party.

Mr. LOTT. Now, I understand, Mr. Chief Justice, that the Democratic leader is prepared to agree that the depositions will begin on Monday, February 1, and with this having been decided, and the vote we just took, we have discussed the schedule for the remainder of the week. In view of the fact that at this point the parties will begin to prepare for depositions and the depositions will begin on Monday, Members will not be expected to be here for any business before Wednesday, but we could be required to have a session Wednesday afternoon.

I want to emphasize that as the deposition material becomes available, we will have the Sergeant at Arms have it in a room for Members to begin to review. So beginning Tuesday, Senators who would like to begin reviewing the depositions, the material in the depositions, it will be available in installments as it becomes available on Tuesday. So you would have that opportunity Tuesday and Wednesday. Not

later than Thursday, then, we would go to the next phase of our agreement that we have voted on.

At this time, we are notifying the Members that there will be no further recorded votes and no further business while we await returning of the depositions through Friday, Saturday, Sunday, Monday, and Tuesday, but Members should expect to be here on Wednesday and they would need to be here on Wednesday, in order to begin to make sure they have had time to review the documents, the deposition material, so that we can proceed, then, on Thursday.

Mr. HARKIN. Will the Senator yield?

Mr. LOTT. I yield.

Mr. HARKIN. Are Senators allowed to attend these depositions or not?

Mr. LOTT. Under the agreement we just passed, Mr. Chief Justice, if I may proceed and respond to that question.

The CHIEF JUSTICE. Without objection.

Mr. LOTT. There will be a Senator from each side at the depositions who will preside over the depositions. Senator DASCHLE and I also will have certain staff there, but a Senator other than the two presiding Senators would not be in order to what we agreed to. There will be one from each side who will be presiding and will actually make determinations when objections are made.

ADJOURNMENT

Mr. LOTT. I now ask unanimous consent that the Court of Impeachment stand in adjournment until the hour of 1 p.m. on Thursday, February 4.

The motion was agreed to; and at 6:34 p.m. the Senate, sitting as a Court of Impeachment, adjourned until Thursday, February 4, 1999, at 1 p.m.

LEGISLATIVE SESSION

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Alaska (Mr. MURKOWSKI) as Chairman of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the First Session of the 106th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Georgia (Mr. COVERDELL) as the Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Union during the 106th Congress.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 105–277, appoints the following individuals to the Trade Deficit Review Commission: Dimitri B. Papadimitriou of New York, C. Richard D'Amato of Maryland, and Lester C. Thurow of Massachusetts.

The Chair, on behalf of the President pro tempore, upon the recommendation of the Democratic leader, pursuant to Public Law 105–292, appoints the Most Reverend Theodore E. McCarrick, Archbishop of Newark, New Jersey, to the Commission on International Religious Freedom.

The Chair, on behalf of the President pro tempore, and upon the recommendations of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Alaska (Mr. STEVENS) as Chairman of the Senate Delegation to the British-American Interparliamentary Group during the 106th Congress.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 105–244, announces the appointment of the following individuals to serve as members of the Web-Based Education Commission: Patti S. Abraham, of Mississippi and George Bailey, of Montana.

The Chair, on behalf of the majority leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the Commission on Online Child Protection:

Arthur Derosier, Jr., of Montana—Representative of academia with expertise in the field of technology;

Albert F. Ganier III, of Tennessee—Representative of a business providing Internet filtering or blocking services or software;

Donna Rice Hughes, of Virginia—Representative of a business making content available over the Internet;

C. Bradley Keirnes, of Colorado—Representative of a business providing Internet access services; and

Karen L. Talbert, of Texas—Representative of a business providing labeling or ratings services.

The Chair, on behalf of the majority leader, pursuant to Public law 105–277, announces the appointment of Manuel H. Johnson, of Virginia, to serve as a member of the International Financial Institution Advisory Commission.

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the National Commission on Terrorism: Richard Kevin Betts of New Jersey and Maurice Sonnenberg of New York.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1087. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers'' (RIN0572-AA86) received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1088. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Commission Records and Information; Open Commission Meetings'' received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1089. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Temporary Licenses for Associated Persons, Floor Brokers, Floor Traders and Guaranteed Introducing Brokers'' received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1090. A communication from the Deputy Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Voting by Interested Members of Self-Regulatory Organization Governing Boards and Committees'' received on January 14, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1091. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Office's report entitled ''Unauthorized Appropriations and Expiring Authorizations'' dated January 8, 1999; to the Committee on Appropriations.

EC–1092. A communication from the Secretary of Defense, transmitting, notice of a routine military retirement in the Air Force; to the Committee on Armed Services.

EC–1093. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Educational and Training functions at Robins Air Force Base, Georgia; to the Committee on Armed Services.

EC–1094. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Base Training and Education functions at 18 Air Combat Command Bases; to the Committee on Armed Services.

EC–1095. A communication from the Principal Deputy Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's annual report on the National Defense Stockpile for fiscal year 1998; to the Committee on Armed Services.

EC–1096. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''Exports of High Performance Computers under License Exception CTP'' (RIN0694-AB82) received on January 12, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1097. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Organization and Operations of Federal Credit Unions'' received on January 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1098. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Organization and Operations of Federal Credit Unions'' received on January 11, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–1099. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures'' (I.D. 212498A) received on January 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1100. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Revision to the NASA FAR Supplement Coverage on Information to the Internal Revenue Service'' received on January 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1101. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Yellowfin Sole Fishery by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands'' (I.D. 113098A) received on January 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1102. A communication from the Administrator of the Federal Aviation Administration, Department of Commerce, transmitting, pursuant to law, the Administration's report on Civil Aviation Security Responsibilities and Funding; to the Committee on Commerce, Science, and Transportation.

EC–1103. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Nationality Procedures—Amendment to Report of Birth Regulation Passport Procedures—Amendment to Revocation or Restriction of Passports Regulation'' received on January 14, 1999; to the Committee on Foreign Relations.

EC–1104. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the Corps' report on environmental activities for 1997; to the Committee on Foreign Relations.

EC–1105. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the Commission's consolidated annual report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1106. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Finalizing Without Change the Interim Regulations that Added Visa Waiver Pilot Program Countries'' (RIN1115-AB93) received on January 8, 1998; to the Committee on the Judiciary.

EC–1107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on mechanisms for surveying and certifying renal dialysis facilities for compliance with the Medicare conditions and certain requirements of the Social Security Act; to the Committee on Finance.

EC–1108. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rulings and Determination Letters'' (Rev. Proc. 99–7) received on January 5, 1999; to the Committee on Finance.

EC–1109. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Retention of Income Tax Return Preparers' Signatures'' (RIN 1545–AW83) received on January 5, 1999; to the Committee on Finance.

EC–1110. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rulings and Determination Letters'' (Rev. Proc. 99–4) received on January 5, 1999; to the Committee on Finance.

EC–1111. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Direct Food Substances Affirmed as Generally Recognized as Safe; Magnesium Hydroxide; Technical Amendment'' (Docket 78N–0281) received on January 8, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1112. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers'' (Docket 97F–0504) received on January 8, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1113. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Exemptions From Premarket Notification; Class II Devices'' (Docket 98P–0506) received on January 14, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC–1114. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Utah: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL6217–7) received on January 6, 1999; to the Committee on Environment and Public Works.

EC–1115. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''FY 1999 MBE/WBE Terms and Conditions'' and ''Modification of the Ozone Monitoring Season for Washington and Oregon'' (FRL6220–3) received on January 14, 1999; to the Committee on Environment and Public Works.

EC–1116. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–1117. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the Agency's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1118. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Administration's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1119. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1120. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Equal Opportunity Recruitment Program for fiscal year 1997; to the Committee on Governmental Affairs.

EC–1121. A communication from the Executive Director of the Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated January 5, 1999; to the Committee on Governmental Affairs.

EC–1122. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1123. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–1124. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Office's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1125. A communication from the Attorney General, Department of Jusitce, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1126. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Department's report under the Inspector General Act for the period from April 1, 1998 through September 30, 1998; to the Committee on Governmental Affairs.

EC–1127. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1128. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1129. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for

fiscal year 1998; to the Committee on Governmental Affairs.

EC–1130. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the Department's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1131. A communication from the Chairwoman of Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's annual report under the Federal Managers' Financial Integrity Act for fiscal year 1998; to the Committee on Governmental Affairs.

EC–1132. A communication from the Members of the Centennial of Flight Commission, transmitting, a report on Constitutional and ethical issues relative to the Centennial of Flight Commemoration Act; to the Committee on Governmental Affairs.

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. DORGAN (for himself and Mr. HAGEL):

S. 317. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence; to the Committee on Finance.

By Mr. INOUYE:

S. 318. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 319. A bill to provide for childproof handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 320. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 321. A bill to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CAMPBELL (for himself and Mr. BROWNBACK):

S. 322. A bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 323. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. LEVIN, and Mr. MOYNIHAN):

S. 324. A bill to amend the Controlled Substances Act with respect to registration requirements for practitioners who dispense narcotic drugs in schedule IV or V for maintenance treatment or detoxification treatment; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. NICKLES, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. BREAUX, Mr. BROWNBACK, Mr. COCHRAN, Mr. CONRAD, Mr. ENZI, Mr. GRAMM, Mr. INHOFE, Ms. LANDRIEU, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. STEVENS, Mr. THOMAS, Mr. BURNS, and Mr. LOTT):

S. 325. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, and Mr. SESSIONS):

S. 326. A bill to improve the access and choice of patients to quality, affordable health care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAGEL (for himself, Mr. DODD, Mr. DORGAN, Mr. GRAMS, Mr. HARKIN, Mr. LUGAR, Mr. ROBERTS, and Mr. WARNER):

S. 327. A bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions; to the Committee on Foreign Relations.

By Mr. SMITH of New Hampshire:

S. 328. A bill to make permanent the moratorium on the imposition of taxes on the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 329. A bill to amend title, United States Code, to extend eligibility for hospital care amd medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes; to the Committee on Veterans Affairs.

By Mr. AKAKA (for himself, Mr. LOTT, Ms. LANDRIEU, Mr. CRAIG, and Mr. GRAHAM):

S. 330. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. SARBANES, Ms. SNOWE, Mr. STEVENS, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 331. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. ROBB, and Mr. LUGAR):

S. 332. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 30. A resolution relative to the procedures concerning the Articles of Impeachment against William Jefferson Clinton; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. HAGEL):

S. 317. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence, to the Committee on Finance.

CAPITAL GAINS TAX FAIRNESS FOR FAMILY FARMERS

• Mr. DORGAN. Mr. President, today Senator HAGEL of Nebraska and I rise to introduce a bill to correct a fundamental flaw and inequity in the tax code that we need to fix immediately. This legislation is identical to a bill that I authored in the last Congress.

Too often, family farmers are not able to take full advantage of the $500,000 capital gains tax break that city folks get when they sell their homes. Today, this inequity is particularly onerous for thousands of family farmers who are being forced to sell their farms due to depressed commodity prices, crop disease and failed federal farm policies. Once family farmers have been beaten down and forced to sell the farm they've farmed for generations, they get a rude awakening. Many of them discover, as they leave the farm, that Uncle Sam is waiting for them at the end of the lane with a big tax bill.

One of the most popular provisions included in the major tax bill in 1997 permits families to exclude from federal income tax up to $500,000 of gain from the sale of their principal residences. That's a good deal, especially for most urban and suburban dwellers who have spent many years paying for their houses, and who regard their houses as both a home and a retirement account. For many middle income families, their home is their major financial asset, an asset the family can draw on for retirement. House prices in major growth markets such as Washington, D.C., New York, or California may start at hundreds of thousands of dollars. As a result, the urban dwellers who have owned their homes through many years of appreciation can often benefit from a large portion of this new $500,000 capital gains tax exclusion. Unfortunately this provision, as currently applied, is virtually useless to family farmers.

For farm families, their farm is their major financial asset. Unfortunately, family farmers under current law receive little or no benefit from the new $500,000 exclusion because the IRS separates the value of their homes from the value of the land the homes sit on. As people from my state of North Dakota

know, houses out on the farmsteads of rural America are more commonly sold for $5,000 to $40,000. Most farmers plow any profits they make into the whole farm rather than into a house that will hold little or no value when the farm is sold. It's not surprising that the IRS often judges that homes far out in the country have very little value and thus farmers receive much less benefit from this $500,000 exclusion than do their urban and suburban counterparts. As a result, the capital gains exclusion is little or no help to farmers who are being forced out of business. They may immediately face a hefty capital gains tax bill from the IRS.

This is simply wrong, Mr. President. It is unfair. Federal farm policy helped create the hole that many of these farmers find themselves in. Federal tax policy shouldn't dig the hole deeper as they attempt to shovel their way out.

The Dorgan-Hagel bill recognizes the unique character and role of our family farmers and their important contributions to our economy. It expands the $500,000 capital gains tax exclusion for sales of principal residences to cover family farmers who sell their farmhouses or surrounding farmland, so long as they are actively engaged in farming prior to the sales. In this way, farmers may get some benefit from a tax break that would otherwise be unavailable to them.

Our bill is not a substitute for larger policy reforms that are needed to restore the economic health of our farm communities. This tax relief measure is just one of a number of policy initiatives we can use to ease the pain for family farmers as we pursue other initiatives to help turn around the crippled farm economy.

Specifically, the Dorgan-Hagel bill would expand the $500,000 tax exclusion for principle residences to cover the entire farm. This provision will allow a family or individual who has actively engaged in farming prior to the farm sale to exclude the gain from the sale up to the $500,000 maximum.

What does this relief mean to the thousands of farmers who are being forced to sell off the farm due to current economic conditions?

Take, for example, a farmer who is forced to leave today because of crop disease and slumping grain prices and sells his farmstead that his family has operated for decades. If he must report a gain of $10,000 on the sale of farm house, that is all he can exclude under current law. But if, for example, he sold 1000 acres surrounding the farm house for $400,000, and the capital gain was $200,000, he would be subject to $40,000 tax on that gain. Again, our provision excludes from tax the gain on the farmhouse and land up to the $500,000 maximum that is otherwise available to a family on the sale of its residence.

We must wage, on every federal and state policy front, the battle to stem the loss of family farmers. Reforming tax provisions has grown increasingly important as a tool in helping our farm families deal with drought, floods, crop disease and price swings.

We believe that Congress should move quickly to pass this legislation and other meaningful measures to get working capital into the hands of our family farmers in the Great Plains and all across the nation. Let's stop penalizing farmers who are forced out of agriculture. Let's allow farmers to benefit from the same kind of tax exclusion that most homeowners already receive. This is the right thing to do. And it's the fair thing to do.●

● Mr. HAGEL. Mr. President, today I rise with Senator DORGAN to introduce tax legislation that will help our family farmers cope with the economic crisis now affecting them.

Our tax code is full of provisions that are unfair and punitive. We need to overhaul our tax code to make it flatter, fairer and simpler. However, until the present tax code is overhauled, it is important that we fix specific provisions of the tax code to ensure that all taxpayers are treated fairly and equally.

In the 105th Congress we passed the Taxpayer Relief Act of 1997. This legislation included capital gains tax and federal estate tax relief. It was a good first step, but we can't stop there. We have much more to do. We need more capital gains tax relief, and I will keep pushing for more cuts and the eventual elimination of the tax. The federal estate tax also needs to be abolished. The estate tax is a leading cause for the break-up of family-run businesses, including farming, and I will continue to work for its elimination. Additionally, we need to provide all American taxpayers with an across-the-board tax cut.

We gave most Americans serious capital gains tax relief in 1997, but we neglected the family farmer. We now have the opportunity and obligation to correct this omission. The Taxpayer Relief Act of 1997 created a $500,000 exclusion for homeowners on the sale of a principal residence, but this does not adequately address the needs of family farmers. Most farmers put whatever profit they earn from their hard work back into the land, not their home. As a result, the $500,000 exclusion for the sale of a principal residence does not provide the same level of relief to the family farmer as it does for the vast majority of others. So, when family farmers are forced to sell their farms due to economic downturns, not only are they out of the farming business, but the federal government is waiting to take a large portion in taxes on the sale of their home and farmland.

The legislation that Senator DORGAN and I are introducing would help ease the financial burden associated with selling the farm. It would allow the family farmer to take advantage of capital gains tax relief. It expands the $500,000 capital gains tax exclusion for sales of principal residences to cover family farmers who sell their farmhouses and/or surrounding farmlands.

This legislation is not a cure-all solution to the many problems now affecting our family farmers and ranchers. However, it will help. There are many other things that can be done including more tax relief in the areas of the estate tax and capital gains tax. We need to continue to open new markets for our commodities and knock down unilateral economic sanctions that are unfairly punishing our farmers. The future of U.S. agriculture lies in export expansion and trade reform. This tax legislation starts the process, but we must continue to push forward to help our family farmers and ranchers.●

By Mr. INOUYE:

S. 318. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

THE AMERASIAN IMMIGRATION ACT AMENDMENT OF 1999

● Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends Public Law 97–359, the Amerasian Immigration Act, to include American children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines to November 24, 1992, the date of the last United States military base closure and the date of enactment of the proposed legislation for Japan.

Under the Amerasian Immigration Act (Public Law 97–359) children born in Korea, Laos, Kampuchea, Thailand, and Vietnam after December 31, 1950, and before October 22, 1982, who were fathered by United States citizens, are allowed to immigrate to the United States. The initial legislation introduced in the 97th Congress included Amerasians born in the Philippines and Japan with no time limits on their births. The final version enacted by the Congress included only those areas where the U.S. had engaged in active military combat from the Korean War onward. Consequently, Amerasians from the Philippines and Japan were excluded from eligibility.

Although the Philippines and Japan were not considered war zones from 1950 to 1982, the extent and nature of U.S. military involvement in both countries are not dissimilar to U.S. military involvement in other Asian countries during the Korean and Vietnam conflicts. The role of the Philippines and Japan as vital supply and stationing bases brought tens of thousands of U.S. military personnel to these countries. As a result, interracial relations in both countries were common, leading to a significant number of Amerasian children being fathered by U.S. citizens. There are now more than 50,000 Amerasian children in the Philippines. According to the Embassy of Japan, there are 6,000 Amerasian children in Japan born between 1987 and 1992.

Public Law 97–359 was enacted in the hope of redressing the situation of

Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam who, due to their illegitimate or mixed ethnic make-up, their lack of a father or stable mother figure, or impoverished state, have little hope of escaping their plight. It became the ethical and social obligation of the United States to care for these children.

The stigmatization and ostracism felt by Amerasian children in those countries covered by the Amerasian Immigration Act also is felt by Amerasian children in the Philippines and Japan. These children of American citizens deserve the same viable opportunities of employment, education and family life that are afforded their counterparts from Korea, Laos, Kampuchea, Thailand, and Vietnam.

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

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

S. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(f)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(f)(2)(A)) is amended—

(1) by inserting ''(I)'' after ''born''; and

(2) by inserting after ''subsection,'' the following ''(II) in the Philippines after 1950 and before November 24, 1992, or (III) in Japan after 1950 and before the date of enactment of this subclause,''.

By Mr. LAUTENBERG:

S. 319. A bill to provide for childproof handguns, and for other purposes; to the Committee on the Judiciary.

THE CHILDPROOF HANDGUN ACT

● Mr. LAUTENBERG. Mr. President, I rise to introduce legislation that will help prevent the tragedies that occur when children gain access to firearms.

Each year, there are 10,000 injuries and deaths due to the accidental discharge or unauthorized use of a firearm. Many of these incidents involve children who have gained access to improperly stored guns.

Recently, a family in my home state of New Jersey suffered this type of tragedy. Akeen Williams, a 4-year-old boy for Lawnside, was visiting a relative with his 5-year-old sister, Gabrielle, and their 6-year-old brother, Phillip. Eventually, the children were put in a bedroom for an afternoon nap. But they found a gun stored in the room, and Akeen and Gabrielle began playing with it. The gun accidentally discharged, and Akeen was hit in the face by the ricocheting bullet.

Across the nation, similar stories have become all too common. Families in Jonesboro, Paducah, Pearl, Edinboro, and Springfield are still struggling to deal with the horrific shootings in their communities. We must find new ways to stop gun violence.

In many other areas the federal government has taken steps to protect consumer safety: cars are now sold with seat belts and airbags; drug containers have childproof caps; and lawn mowers have guards and automatic braking devices. It is hard to understand how anyone can oppose similar safety measures for deadly weapons. The time has come to hold firearm manufacturers to a higher standard of safety.

The bill I am introducing today will help prevent children from being killed or injured in firearm tragedies. My bill would require that all handguns be engineered so that they can only be fired by an authorized user. To give manufacturers time to comply, this requirement would not go into effect until 3 years after the bill is enacted. Additionally, to spur additional innovation and help lower the cost of the new handgun designs, my bill would also authorize the National Institute of Justice to provide grants for improvements in firearms safety. In order to prevent the unauthorized use of handguns and better protect children in the 3-year period before this regulation goes into effect, my bill would also require that, 90 days after enactment, all handguns be sold with a locking device and a warning concerning responsible firearm storage.

Despite what some members of the gun lobby may say, the technology to make handguns childproof exists today. Since 1976, more than 30 patents have been granted for various technologies that will prevent a handgun from being fired by anyone except the authorized user. For example, the SafTLok company in Florida manufactures a push-button combination lock that is incorporated into the grip of a handgun. If the buttons are not pushed in the proper sequence, the gun will not fire. These locks sell for $80 each, and the Boston police department recently announced that these locks will be standard equipment for its officers.

Similarly, the Fulton Arms company in Texas has developed a revolver that cannot be fired unless the user is wearing a magnetic ring. And Colt Manufacturing in Connecticut has designed a prototype handgun that emits a radio signal and cannot be fired unless the user is wearing a small transponder that returns a coded radio signal.

In addition to making children safer, these technologies will also help law enforcement. Data from the Federal Bureau of Investigation shows that about 16 percent of the officers killed in the line of duty, as many as 19 in a single year, are killed by a suspect armed with either the officer's firearm or that of another officer. Because of the potential to stop these ''take away'' shootings, the National Institute of Justice has funded studies of these technologies and supported development of the Colt prototype. However, in order to ensure that the police have the weapons they need to protect the public, law enforcement entities are exempt from the requirements in the bill.

None of the provisions in this legislation will burden the vast majority of firearm owners who are already storing their handguns safely and securely. Of course, Congress cannot legislate responsibility. But we can and should take steps to lessen the likelihood that guns will fall into the wrong hands and be used improperly.

I urge my colleagues to work with me to pass this measure and help make homes, school, and communities safer for our children.

Mr. President, I ask unanimous consent that a copy 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. 319

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Childproof Handgun Act of 1999''.

SEC. 2. HANDGUN SAFETY.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35)(A) The term 'childproof' means, with respect to a firearm that is a handgun, a handgun that incorporates within its design and as part of its original manufacture technology that—

''(i) automatically limits the operational use of the handgun;

''(ii) is not capable of being readily deactivated; and

''(iii) ensures that the handgun may only be fired by an authorized or recognized user.

''(B) The technology referred to in subparagraph (A) includes—

''(i) radio tagging;

''(ii) touch memory;

''(iii) remote control;

''(iv) fingerprint;

''(v) magnetic encoding; and

''(vi) other automatic user identification systems that utilize biometrics, mechanical, or electronic systems.

''(36) The term 'locking device' means—

''(A) a device that, if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock; or

''(B) a locking mechanism incorporated into the design of a firearm that prevents discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) CHILDPROOF HANDGUNS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), beginning 3 years after the date of enactment of the Childproof Handgun Act of 1999, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the handgun is childproof.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, of a handgun for purposes of law enforcement (whether on or off-duty).''.

''(aa) LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), beginning 90 days after the date of enactment of the Childproof Handgun Act of 1999, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun—

''(A) to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun; or

''(B) to any person, unless the handgun is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the gun and on a separate sheet of paper included within the packaging enclosing the handgun:

''''THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN.

'FAILURE TO PROPERLY LOCK AND STORE YOUR FIREARM MAY RESULT IN CIVIL OR CRIMINAL LIABILITY UNDER STATE LAW. IN ADDITION, FEDERAL LAW PROHIBITS THE POSSESSION OF A HANDGUN BY A MINOR IN MOST CIRCUMSTANCES.'

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, of a handgun for purposes of law enforcement (whether on or off-duty).''.

(c) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f) or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO FAILURE TO PROVIDE FOR CHILDPROOF HANDGUNS OR LOCKING DEVICES AND WARNINGS.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of subparagraph (A) or (B) of section 922(z)(1) or subparagraph (A) or (B) of section 922(aa)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

SEC. 3. GRANTS TO IMPROVE GUN SAFETY.

(a) IN GENERAL.—

(1) GRANTS.—Subject to the availability of appropriations, the Attorney General, acting through the Director of the National Institute of Justice (referred to in this section as the ''Director''), shall make grants under this section for the purpose specified in paragraph (2) to applicants that submit an application that meets requirements that the Attorney General, acting through the Director, shall establish.

(2) PURPOSE.—The purpose of a grant under this section shall be to reduce violence caused by firearms through the improvement of firearm safety technology, weapon detection technology, or other technology.

(3) CONSULTATION.—In making grants under this section, the Attorney General, acting through the Director, shall consult with appropriate employees of the National Institute of Justice with expertise in firearms and weapons technology.

(b) PERIOD OF GRANT.—A grant under this section shall be for a period of not to exceed 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section $10,000,000 for each of fiscal years 2000 through 2002.●

By Mr. FEINGOLD:

S. 320. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

IRRIGATION SUBSIDY REDUCTION ACT OF 1999

● Mr. FEINGOLD. Mr. President, I am introducing a measure that I sponsored in the 105th Congress to reduce the amount of federal irrigation subsidies received by large agribusiness interests. I believe that reforming federal water pricing policy by reducing subsidies is an important area to examine as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the federal government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the federal government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the federal government, some of the beneficiaries of federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345 acre cotton farm (roughly 20 square miles), operating under a single partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations, and 11 trusts which were all operated as one large unit. A seventh trust very large trust was the sole topic of a 1990 GAO report. The Westhaven trust is a 23,238 acre farming operation in California's Central

Valley. It was formed for the benefit of 326 salaried employees of the J.G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary's interest exceeds the law's ownership limits. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J.G. Boswell Company re-organized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J.G. Boswell Company operated the acreage as one large farm and paid full cost for the federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holdings attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for federal water then they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The Department of the Interior has acknowledged that these problems do exist. Interior published a proposed rulemaking in the Federal Register on November 18, 1998. The proposed rulemaking requires farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities to submit RRA forms to the district(s) where such land is located. If the rule is finalized, the districts will be required to provide specific information about declaring farm operators to Interior annually. This information will be an important step toward enforcing the legislation that I am reintroducing today.

This legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million dollars, a ratio of $500,000 (the means test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means testing proposal is featured, for the fourth year in a row, in this year's 1999 Green Scissors report which is being released today. This report is compiled by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. I am pleased to join with the Senator from New Hampshire (Mr. GREGG) in distributing a copy of this report to all members of the Senate. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our effort to achieve a truly balanced budget and eliminate our national debt. The Green Scissors recommendation on means testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the federal government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over five years.

When countless federal program are subjected to various types of means tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of federal water projects, such as the power recipients, should also be concerned when they learn that they will be expected to pick up the tab for a portion of the funds that irrigators were supposed to pay back. The federal water program was simply never intended to benefit these large interests, and I am hopeful that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the federal government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should pay their fair share. We should act to close these loopholes and increase the return to the treasury from irrigators as soon as possible. I ask unanimous consent that the text of the measure be printed in the RECORD.

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

S. 320

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Irrigation Subsidy Reduction Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking ''owned or operated under a lease which'' and inserting ''that is owned, leased, or operated by an individual or legal entity and that'';

(3) by inserting after paragraph (6) the following:

''(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

''(8) OPERATOR.—

''(A) IN GENERAL.—The term 'operator'—

''(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcel) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

''(ii) if the individual or legal entity—

''(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

''(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

''(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water.''; and

(4) by adding at the end the following:

''(14) SINGLE FARM OPERATION.—

''(A) IN GENERAL.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

''(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION.—

''(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

''(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.''.

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

''SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

''(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

''(b) SHARED DECISIONMAKING AND SUPERVISION.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

''(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

''(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1).

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

''(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

''(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

''(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

''(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

''(3) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 1998 shall be equal to the product of—

''(i) $500,000, multiplied by

''(ii) the inflation adjustment factor for the taxable year.

''(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 1998. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

''(C) GDP IMPLICIT PRICE DEFLATOR.—For purposes of subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

''(D) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.''.

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

''SEC. 206. CERTIFICATION OF COMPLIANCE.

''(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

''(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

''(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

''(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.''.

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking ''(c) The Secretary'' and inserting the following:

''(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

''(1) REGULATIONS; DATA COLLECTION.—The Secretary''; and

(B) by adding at the end the following:

''(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.''.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: ''The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).''.

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting ''operator or'' before ''contracting entity'' each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

''SEC. 229. MEMORANDUM OF UNDERSTANDING.

''The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.''.●

By Mr. CRAIG:

S. 321. A bill to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PLANT PROTECTION ACT OF 1999

● Mr. CRAIG. Mr. President, I rise today to introduce the ''Plant Protection Act of 1999''—a comprehensive bill which will focus the effort of federal agencies in fighting noxious weeds and other plant pests.

Noxious weeds are a serious problem on both public and private lands across the nation. They are particularly troublesome in the West where much of our land is entrusted to the management of the federal government. A ''slow burning wildfire,'' noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods—including farmers, ranchers, recreationists, and others.

The bill I introduce today will focus the efforts of the federal government to better fight this wildfire. It organizes and expands the functions of the Animal and Plant Health Inspection Service (APHIS) and appoints it as the lead government agency in this fight.

The bill was drafted with the assistance and advice of APHIS as well as several national agriculture organizations such as the American Nursery

and Landscape Association, National Association of State Departments of Agriculture, National Christmas Tree Association, National Potato Council, and American Farm Bureau Federation. The Idaho Department of Agriculture and many concerned citizens from my state have also helped me shape the bill I introduce today.

Similar legislation will be introduced in the House of Representatives some time next month by Representative CANADY of Florida. The two bills have only one difference. The bill I introduce today lacks the section on federal preemption included in Mr. CANADY's legislation. This is an issue that will have to be addressed during the legislative process. I will admit that APHIS will not endorse the legislation without the preemption section. However, I am confident that, working together with all of those interested in fighting noxious weeds at the federal and state levels, we can resolve this matter in a way we might all agree to.

Working together is what this entire effort is about. Along that same vein, I know of several Senators with an interest in this issue, including Senator AKAKA who introduced legislation on this matter earlier this month, and I hope we can work together in finding a solution we can all support. In addition, I might mention that it is my understanding that the President and the Secretary of the Interior have expressed interest in noxious weeds and may be planning their own announcement. I invite them—indeed, I invite everyone interested in this matter—to work with me to find an approach which confronts this problem head on.

Mr. President, I believe we must focus our efforts to rid our lands of these noxious weeds and plant pests. We must reclaim the rangeland for natural species. We must return the acres of lost farmland to production. Doing so will require the combined efforts of the federal government, state governments, local weed control boards, and private land owners.

I believe the ''Plant Protection Act of 1999'' is the first step in this process.

Mr. President, I ask unaminous consent that a copy 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. 321

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Plant Protection Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—PLANT PROTECTION

Sec. 101. Regulation of movement of plant pests.
Sec. 102. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance.
Sec. 103. Notification and holding requirements on arrival.
Sec. 104. General remedial measures for new plant pests and noxious weeds.
Sec. 105. Extraordinary emergencies.
Sec. 106. Recovery of compensation for unauthorized activities.
Sec. 107. Control of grasshoppers and Mormon crickets.
Sec. 108. Certification for exports.

TITLE II—INSPECTION AND ENFORCEMENT

Sec. 201. Inspections, seizures, and warrants.
Sec. 202. Collection of information.
Sec. 203. Subpoena authority.
Sec. 204. Penalties for violation.
Sec. 205. Enforcement actions of Attorney General.
Sec. 206. Court jurisdiction.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Cooperation.
Sec. 302. Buildings, land, people, claims, and agreements.
Sec. 303. Reimbursable agreements.
Sec. 304. Protection for mail carriers.
Sec. 305. Regulations and orders.
Sec. 306. Repeal of superseded laws.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.
Sec. 402. Transfer authority.

SEC. 2. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests and noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control—

(A) is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds; and

(B) should be facilitated by the Secretary of Agriculture, Federal agencies, and States, whenever feasible;

(3) the smooth movement of enterable plants, plant products, certain biological control organisms, or other articles into, out of, or within the United States is vital to the economy of the United States and should be facilitated to the extent practicable;

(4) markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(5) the unregulated movement of plants, plant products, biological control organisms, plant pests, noxious weeds, and articles capable of harboring plant pests or noxious weeds would present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(6) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could threaten crops, other plants, and plant products of the United States and burden interstate commerce or foreign commerce; and

(7) all plants, plant products, biological control organisms, plant pests, noxious weeds, or articles capable of harboring plant pests or noxious weeds regulated under this Act are in or affect interstate commerce or foreign commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) ARTICLE.—The term ''article'' means a material or tangible object that could harbor a pest, disease, or noxious weed.

(2) BIOLOGICAL CONTROL ORGANISM.—The term ''biological control organism'' means an enemy, antagonist, or competitor organism used to control a plant pest or noxious weed.

(3) ENTER.—The term ''enter'' means to move into the commerce of the United States.

(4) ENTRY.—The term ''entry'' means the act of movement into the commerce of the United States.

(5) EXPORT.—The term ''export'' means to move from the United States to any place outside the United States.

(6) EXPORTATION.—The term ''exportation'' means the act of movement from the United States to any place outside the United States.

(7) IMPORT.—The term ''import'' means to move into the territorial limits of the United States.

(8) IMPORTATION.—The term ''importation'' means the act of movement into the territorial limits of the United States.

(9) INTERSTATE.—The term ''interstate'' means—

(A) from 1 State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(10) INTERSTATE COMMERCE.—The term ''interstate commerce'' means trade, traffic, movement, or other commerce—

(A) between a place in a State and a point in another State;

(B) between points within the same State but through any place outside the State; or

(C) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(11) MEANS OF CONVEYANCE.—The term ''means of conveyance'' means any personal property or means that could harbor a pest, disease, or noxious weed and that is used for or intended for use for the movement of any other personal property.

(12) MOVE.—The term ''move'' means to—

(A) carry, enter, import, mail, ship, or transport;

(B) aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) offer to carry, enter, import, mail, ship, or transport;

(D) receive to carry, enter, import, mail, ship, or transport;

(E) release into the environment; or

(F) allow any of the activities referred to this paragraph to be conducted by a person under another person's control.

(13) MOVEMENT.—The term ''move'' means the act of—

(A) carrying, entering, importing, mailing, shipping, or transporting;

(B) aiding, abetting, causing, or inducing the carrying, entering, importing, mailing, shipping, or transporting;

(C) offering to carry, enter, import, mail, ship, or transport;

(D) receiving to carry, enter, import, mail, ship, or transport;

(E) releasing into the environment; or

(F) allowing any of the activities referred to this paragraph to be conducted by a person under another person's control.

(14) NOXIOUS WEED.—The term ''noxious weed'' means a plant or plant product that has the potential to directly or indirectly injure or cause damage to a plant or plant product through injury or damage to a crop (including nursery stock or a plant product), livestock, poultry, or other interest of agriculture (including irrigation), navigation, natural resources of the United States, public health, or the environment.

(15) PERMIT.—The term ''permit'' means a written (including electronic) or oral authorization by the Secretary to move a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of

conveyance under conditions prescribed by the Secretary.

(16) PERSON.—The term ''person'' means an individual, partnership, corporation, association, joint venture, or other legal entity.

(17) PLANT.—The term ''plant'' means a plant (including a plant part) for or capable of propagation (including a tree, tissue culture, plantlet culture, pollen, shrub, vine, cutting, graft, scion, bud, bulb, root, and seed).

(18) PLANT PEST.—The term ''plant pest'' means—

(A) a living stage of a protozoan, invertebrate animal, parasitic plant, bacteria, fungus, virus, viroid, infection agent, or pathogen that has the potential to directly or indirectly injure or cause damage to, or cause disease in, a plant or plant product; or

(B) an article that is similar to or allied with an article referred to in subparagraph (A).

(19) PLANT PRODUCT.—The term ''plant product'' means—

(A) a flower, fruit, vegetable, root, bulb, seed, or other plant part that is not considered by the Secretary to be a plant; and

(B) a manufactured or processed plant or plant part.

(20) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(21) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(22) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

TITLE I—PLANT PROTECTION

SEC. 101. REGULATION OF MOVEMENT OF PLANT PESTS.

(a) PROHIBITION OF UNAUTHORIZED MOVEMENT OF PLANT PESTS.—Except as provided in subsection (b), no person shall import, enter, export, or move in interstate commerce a plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may promulgate to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) AUTHORIZATION OF MOVEMENT OF PLANT PESTS BY REGULATION.—

(1) EXCEPTION TO PERMIT REQUIREMENT.—The Secretary may promulgate regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the Secretary finds that a permit under subsection (a) is not necessary.

(2) PETITION TO ADD OR REMOVE PLANT PESTS FROM REGULATION.—A person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations promulgated under paragraph (1).

(3) RESPONSE TO PETITION BY THE SECRETARY.—In the case of a petition submitted under paragraph (2), the Secretary shall—

(A) act on the petition within a reasonable time; and

(B) notify the petitioner of the final action the Secretary takes on the petition.

(4) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

(c) PROHIBITION OF UNAUTHORIZED MAILING OF PLANT PESTS.—

(1) IN GENERAL.—Subject to section 304, a letter, parcel, box, or other package containing a plant pest, whether sealed as letter-rate postal matter, is nonmailable, and a mail carrier shall not knowingly convey in the mail or deliver from a post office such a package, unless the package is mailed in compliance with such regulations as the Secretary may promulgate to prevent the dissemination of plant pests into the United States or interstate.

(2) APPLICATION OF POSTAL LAWS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws (including regulations).

(d) REGULATIONS.—Regulations promulgated by the Secretary to implement subsections (a), (b), or (c) may include provisions requiring that a plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from a post office—

(1) be accompanied by a permit issued by the Secretary before the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest may be infested with other plant pests, may pose a significant risk of causing injury to, damage to, or disease in a plant or plant product, or may be a noxious weed; and

(4) be subject to such remedial measures as the Secretary determines are necessary to prevent the dissemination of plant pests.

SEC. 102. REGULATION OF MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of a plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) REGULATIONS.—The Secretary may promulgate regulations to carry out this section, including regulations requiring that a plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued in a manner and form required by the Secretary or by appropriate official of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) in the case of a plant or biological control organism, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(c) LIST OF RESTRICTED NOXIOUS WEEDS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) PETITIONS TO ADD PLANT SPECIES TO OR REMOVE PLANT SPECIES FROM LIST.—

(A) IN GENERAL.—A person may petition the Secretary to add a plant species to, or remove a plant species from, the list authorized under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

(d) LIST OF BIOLOGICAL CONTROL ORGANISMS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of biological control organisms the movement of which in interstate commerce is not prohibited or restricted.

(2) DISTINCTIONS.—In publishing the list, the Secretary may take into account distinctions between biological control organisms that are indigenous, nonindigenous, newly introduced, or commercially raised.

(3) PETITIONS TO ADD BIOLOGICAL CONTROL ORGANISMS TO OR REMOVE BIOLOGICAL CONTROL ORGANISMS FROM LIST.—

(A) IN GENERAL.—A person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the list authorized under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

SEC. 103. NOTIFICATION AND HOLDING REQUIREMENTS ON ARRIVAL.

(a) DUTY OF SECRETARY OF THE TREASURY.—

(1) NOTIFICATION.—The Secretary of the Treasury shall promptly notify the Secretary of the arrival of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry.

(2) HOLDING.—The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is—

(A) inspected and authorized by the Secretary of Agriculture for entry into or movement through the United States; or

(B) otherwise released by the Secretary.

(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is imported from a country or region of a country designated by the Secretary, by regulation, as exempt from the requirements of those paragraphs.

(b) NOTIFICATION BY RESPONSIBLE PERSON.—The person responsible for a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 101 or 102 shall promptly, on arrival at the port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry,

notify the Secretary or, at the Secretary's direction, the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe, of—

(1) the name and address of the consignee;

(2) the nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved; and

(3) the country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) PROHIBITION OF MOVEMENT OF ITEMS WITHOUT INSPECTION AND AUTHORIZATION.—No person shall move from a port of entry or interstate an imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance has been—

(1) inspected and authorized by the Secretary for entry into or movement through the United States; or

(2) otherwise released by the Secretary.

SEC. 104. GENERAL REMEDIAL MEASURES FOR NEW PLANT PESTS AND NOXIOUS WEEDS.

(a) AUTHORITY TO HOLD, TREAT, OR DESTROY ITEMS.—If the Secretary considers it necessary to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that—

(1)(A) is moving into or through the United States or interstate, or has moved into or through the United States or interstate; and

(B)(i) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or

(ii) is or has been otherwise in violation of this Act;

(2) has not been maintained in compliance with a post-entry quarantine requirement; or

(3) is the progeny of a plant, plant product, biological control organism, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act.

(b) AUTHORITY TO ORDER AN OWNER TO TREAT OR DESTROY.—

(1) IN GENERAL.—The Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in a manner the Secretary considers appropriate.

(2) FAILURE TO COMPLY.—If the owner or agent of the owner fails to comply with an order of the Secretary under paragraph (1), the Secretary may take an action authorized by subsection (a) and recover from the owner or agent of the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

(c) CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—To facilitate control of noxious weeds, the Secretary may develop a classification system to describe the status and action levels for noxious weeds.

(2) CATEGORIES.—The classification system may include the geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

(3) MANAGEMENT PLANS.—In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

(d) APPLICATION OF LEAST DRASTIC ACTION.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

SEC. 105. EXTRAORDINARY EMERGENCIES.

(a) AUTHORITY TO DECLARE.—Subject to subsection (b), if the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may—

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including a plant, plant product, biological control organism, article, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine a State or portion of a State in which the Secretary finds the plant pest or noxious weed or a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; or

(4) prohibit or restrict the movement within a State of a plant, plant product, biological control organism, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) REQUIRED FINDING OF EMERGENCY.—The Secretary may take action under this section only on finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(c) NOTIFICATION PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), before any action is taken in a State under this section, the Secretary shall—

(A) notify the Governor or another appropriate official of the State;

(B) issue a public announcement; and

(C) except as provided in paragraph (2), publish in the Federal Register a statement of—

(i) the findings of the Secretary;

(ii) the action the Secretary intends to take;

(iii) the reason for the intended action; and

(iv) if practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) TIME SENSITIVE ACTIONS.—If it is not practicable to publish a statement in the Federal Register under paragraph (1) before taking an action under this section, the Secretary shall publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(d) APPLICATION OF LEAST DRASTIC ACTION.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(e) PAYMENT OF COMPENSATION.—

(1) IN GENERAL.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of action taken by the Secretary under this section.

(2) AMOUNT.—The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review.

SEC. 106. RECOVERY OF COMPENSATION FOR UNAUTHORIZED ACTIVITIES.

(a) RECOVERY ACTION.—The owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 104 or 105 may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment) if the owner establishes that the destruction or disposal was not authorized under this Act.

(b) TIME FOR ACTION; LOCATION.—

(1) TIME FOR ACTION.—An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant product, biological control mechanism, plant pest, noxious weed, article, or means of conveyance involved.

(2) LOCATION.—The action may be brought in a United States District Court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

(c) PAYMENT OF JUDGMENTS.—A judgment in favor of the owner shall be paid out of any money in the Treasury appropriated for plant pest control activities of the Department of Agriculture.

SEC. 107. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS.

(a) IN GENERAL.—Subject to the availability of funds under this section, the Secretary shall carry out a program to control grasshoppers and Mormon Crickets on all Federal land to protect rangeland.

(b) TRANSFER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (3), on the request of the Secretary, the Secretary of the Interior shall transfer to the

Secretary, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on Federal land under the jurisdiction of the Secretary of the Interior.

(2) USE.—The transferred funds shall be available only for the payment of obligations incurred on the Federal land.

(3) TRANSFER REQUESTS.—The Secretary shall make a request for the transfer of funds under this subsection as promptly as practicable.

(4) LIMITATION.—The Secretary may not use funds transferred under this subsection until funds specifically appropriated to the Secretary for grasshopper and Mormon Cricket control have been exhausted.

(5) REPLENISHMENT OF TRANSFERRED FUNDS.—Funds transferred under this section shall be replenished by supplemental or regular appropriations, which the Secretary shall request as promptly as practicable.

(c) TREATMENT FOR GRASSHOPPERS AND MORMON CRICKETS.—

(1) IN GENERAL.—Subject to the availability of funds under this section, on request of the head of the administering agency or the agriculture department of an affected State, the Secretary, to protect rangeland, shall immediately treat Federal, State, or private land that is infested with grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) OTHER PROGRAMS.—In carrying out this section, the Secretary shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) FEDERAL COST SHARE OF TREATMENT.—

(1) CONTROL ON FEDERAL LAND.—Out of funds made available under this section, the Secretary shall pay 100 percent of the cost of grasshopper or Mormon Cricket control on Federal land to protect rangeland.

(2) CONTROL ON STATE LAND.—Out of funds made available under this section, the Secretary shall pay 50 percent of the cost of grasshopper or Mormon Cricket control on State land.

(3) CONTROL ON PRIVATE LAND.—Out of funds made available under this section, the Secretary shall pay 33.3 percent of the cost of grasshopper or Mormon Cricket control on private land.

(e) TRAINING.—From funds made available or transferred by the Secretary of the Interior to the Secretary to carry out this section, the Secretary shall provide adequate funding for a program to train personnel to accomplish effectively the purposes of this section.

SEC. 108. CERTIFICATION FOR EXPORTS.

The Secretary may certify a plant, plant product, or biological control organism as free from plant pests and noxious weeds, and exposure to plant pests and noxious weeds, according to the phytosanitary or other requirements of the countries to which the plant, plant product, or biological control organism may be exported.

TITLE II—INSPECTION AND ENFORCEMENT

SEC. 201. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) IN GENERAL.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(3) stop and inspect, without a warrant, a person or means of conveyance moving in intrastate commerce or on premises quarantined as part of an extraordinary emergency declared under section 105 on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act; and

(4) enter, with a warrant, a premises in the United States for the purpose of conducting investigations or making inspections and seizures under this Act.

(b) WARRANTS.—

(1) IN GENERAL.—A United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, on proper oath or affirmation showing probable cause to believe that there is on certain premises a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance regulated under this Act, issue a warrant for entry on the premises to conduct an investigation or make an inspection or seizure under this Act.

(2) EXECUTION.—The warrant may be applied for and executed by the Secretary or a United States marshal.

SEC. 202. COLLECTION OF INFORMATION.

The Secretary may gather and compile information and conduct such investigations as the Secretary considers necessary for the administration and enforcement of this Act.

SEC. 203. SUBPOENA AUTHORITY.

(a) AUTHORITY TO ISSUE.—The Secretary may require by subpoena—

(1) the attendance and testimony of a witness; and

(2) the production of all documentary evidence relating to the administration or enforcement of this Act or a matter under investigation in connection with this Act.

(b) LOCATION OF PRODUCTION.—The attendance of a witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) ENFORCEMENT OF SUBPOENA.—If a person fails to comply with a subpoena, the Secretary may request the Attorney General to invoke the aid of a court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in obtaining compliance.

(d) FEES AND MILEAGE.—

(1) IN GENERAL.—A witness summoned by the Secretary shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(2) DEPOSITIONS.—A witness whose depositions is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(2) LEGAL SUFFICIENCY.—The procedures shall include a requirement that a subpoena be reviewed for legal sufficiency and signed by the Secretary.

(3) DELEGATION.—If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) SCOPE OF SUBPOENA.—A subpoena for a witness to attend a court in a judicial district or to testify or produce evidence at an administrative hearing in a judicial district in an action or proceeding arising under this Act may run to any other judicial district.

SEC. 204. PENALTIES FOR VIOLATION.

(a) CRIMINAL PENALTIES.—A person that knowingly violates this Act, or that knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates this Act, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) $50,000 in the case of an individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of this Act by an individual moving regulated articles not for monetary gain), or $250,000 in the case of any other person for each violation, except the amount of penalties assessed under this subparagraph in a single proceeding shall not exceed $500,000; or

(B) twice the gross gain or gross loss for a violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in this Act that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary—

(A) shall take into account the nature, circumstance, extent, and gravity of the violation; and

(B) may take into account the ability to pay, the effect on ability to continue to do business, any history of prior violations, the degree of culpability of the violator, and any other factors the Secretary considers appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) IN GENERAL.—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) COLLECTION ACTION.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of the courts of the United States.

(c) LIABILITY FOR ACTS OF AN AGENT.—For purposes of this Act, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment or office of the officer, agent, or person, shall be considered to be the act, omission, or failure of the other person.

(d) GUIDELINES FOR CIVIL PENALTIES.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable

notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

SEC. 205. ENFORCEMENT ACTIONS OF ATTORNEY GENERAL.

The Attorney General may—

(1) prosecute, in the name of the United States, a criminal violation of this Act that is referred to the Attorney General by the Secretary or is brought to the notice of the Attorney General by any person;

(2) bring a civil action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by a person with the Secretary in carrying out this Act, if the Attorney General has reason to believe that the person has violated or is about to violate this Act, or has interfered, or is about to interfere, with the Secretary; and

(3) bring a civil action for the recovery of an unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this Act.

SEC. 206. COURT JURISDICTION.

(a) IN GENERAL.—Except as provided in section 204(b), a United States district court, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions are vested with jurisdiction in all cases arising under this Act.

(b) LOCATION.—An action arising under this Act may be brought, and process may be served, in the judicial district where—

(1) a violation or interference occurred or is about to occur; or

(2) the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. COOPERATION.

(a) IN GENERAL.—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies or entities;

(2) States or political subdivisions of States;

(3) national governments;

(4) local governments of other nations;

(5) domestic or international organizations;

(6) domestic or international associations; and

(7) other persons.

(b) RESPONSIBILITY.—The individual or entity cooperating with the Secretary shall be responsible for conducting the operations or taking measures on all land and property within the foreign country or State, other than land and property owned or controlled by the United States, and for other facilities and means determined by the Secretary.

(c) TRANSFER OF BIOLOGICAL CONTROL METHODS.—The Secretary may transfer to a Federal or State agency or other person biological control methods using biological control organisms against plant pests or noxious weeds.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—The Secretary may cooperate with State authorities or other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms.

SEC. 302. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREEMENTS.

(a) IN GENERAL.—The Secretary may acquire and maintain such real or personal property, and employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements, as are necessary to carry out this Act.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim (in the manner authorized in the first paragraph of section 2672 of title 28, United States Code) if the claim arises outside the United States in connection with an activity authorized under this Act.

(2) REQUIREMENTS OF CLAIM.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim arises.

SEC. 303. REIMBURSABLE AGREEMENTS.

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, biological control organisms, articles, and means of conveyance for movement to the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that may be established by the Secretary and shall remain available until expended without fiscal year limitation.

(b) OVERTIME.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an employee of the Department of Agriculture performing services under this Act relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by the employee, at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT OF SECRETARY.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for funds paid by the Secretary for the services.

(3) ACCOUNT.—All funds collected under this subsection shall be credited to the account that incurs the costs and remain available until expended without fiscal year limitation.

(c) LATE PAYMENT PENALTY AND INTEREST.—

(1) COLLECTION.—On failure of a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person.

(2) INTEREST.—Overdue funds due the Secretary under this section shall accrue interest in accordance with section 3717 of title 31, United States Code.

(3) ACCOUNT.—A late payment penalty and accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 304. PROTECTION FOR MAIL CARRIERS.

This Act shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

SEC. 305. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary considers necessary to carry out this Act.

SEC. 306. REPEAL OF SUPERSEDED LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(2) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(3) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(4) The Federal Plant Pest Act (7 U.S.C. 150aa et seq).

(5) The Joint Resolution of April 6, 1937 (56 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(6) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(7) The Act of August 20, 1912 (commonly known as the ''Plant Quarantine Act'') (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(8) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(9) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(10) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section and section 15 of that Act (7 U.S.C. 2801 note, 2814).

(b) EFFECT ON REGULATIONS.—Regulations promulgated under the authority of a provision of law repealed by subsection (a) shall remain in effect until such time as the Secretary promulgates a regulation under section 304 that supersedes the earlier regulation.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) COMPENSATION.—Except as provided in section 106 and as specifically authorized by law, no part of the amounts appropriated under this section shall be used to provide compensation for property injured or destroyed by or at the direction of the Secretary.

SEC. 402. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER CERTAIN FUNDS.—In connection with an emergency in which a plant pest or noxious weed threatens a segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the dissemination of the plant pest or noxious weed and for related expenses.

(b) AVAILABILITY.—Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.●

By Mr. CAMPBELL (for himself and Mr. BROWNBACK):

S. 322. A bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

THE DR. MARTIN LUTHER KING, JR. DAY RECOGNITION ACT OF 1999

● Mr. CAMPBELL. Mr. President, today I am introducing legislation that would amend the ''Flag Code'' to add the Martin Luther King, Jr. holiday to the list of days on which the American flag should be displayed nationwide.

It is a testament to the greatness of Martin Luther King, Jr., that nearly every major city in the U.S. has a street or school named after him. I have to admit, I was surprised to learn that the American flag was not flown to commemorate the Dr. King holiday.

Dr. King, a minister, prolific writer and Nobel Prize winner originated the nonviolence strategy within the activist civil rights movement. He was one of the most important black leaders of his era and in American history.

When Dr. King was tragically assassinated on April 4, 1968, he had already transformed himself as a national hero and a pioneer in trying to unite a divided nation. He strove to build communities of hope and opportunity for

all and recognized that all Americans must be free to truly have a great country.

Dr. King was a person who wanted all people to get along regardless of their race, color or creed. His holiday came about due to the work of many determined people who wanted all of us to pause to remember his legacy.

This legislation simply would make sure that we celebrate his birthday as a federal holiday in the fashion afforded to other great Americans whose birthdays are cause for national commemoration. I urge my colleagues to join me in supporting this important bill.

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

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

S. 322

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

SECTION 1. ADDITION OF MARTIN LUTHER KING JR. HOLIDAY TO LIST OF DAYS.

Section 6(d) of title 4, United States Code, is amended by inserting ''Martin Luther King Jr.'s birthday, third Monday in January;'' after ''January 20;''.●

By Mr. CAMPBELL:

S. 323. A bill to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

BLACK CANYON NATIONAL PARK AND GUNNISON GORGE NATIONAL CONSERVATION AREA ACT OF 1999

● Mr. CAMPBELL. Mr. President, today I am introducing legislation to create the Black Canyon National Park. This bill is based on legislation which I introduced in the 104th Congress, but has been revised to include additional input from the Bureau of Land Management and the National Park Service. In 1996, as the former Chairman of the Subcommittee on Parks, Historic Preservation and Recreation, I conducted a field hearing and received input from local groups and individuals which I also incorporated into my new bill.

With its narrow opening, sheer walls, and scenic depths, the Black Canyon is a jewel in North America. Nearly everyone who has visited the site is struck by the breathtaking beauty of this 2,000 foot deep, nearly impenetrable canyon. The canyon is also home to a vast assortment of wildlife that range from chipmunks to black bear, from bobcats to coyotes. Its unique combination of geologic features makes the Black Canyon deserving of National Park status.

This legislation has been a long time coming to the State of Colorado, and in particular, the Western Slope of my state. My Black Canyon bill incorporates the input of the federal agencies involved and, in my view, represents an innovative approach to protecting unique natural resources for future generations in the most fiscally responsible manner possible.

This legislation does far more than simply create a new national park from what is now a national monument. This legislation establishes a cooperative approach to managing this natural resource and calls on all affected resource management agencies in the area to play key collaborative roles.

I want to stress that this legislation does not increase federal expenditures, and the collective management approach this legislation creates does not in any way require, imply, or contemplate an attempt by the Federal Government to usurp state water rights, state water law, or intrude upon private property rights.

The Secretary of the Interior will manage the entire area and will be able to utilize all available fiscal and human resources in the administration and management of this natural resource in a unique, money-saving manner. This legislation will also eliminate duplicate operations and form a coordinated, efficient and fiscally responsible management structure.

I have worked to forge consensus on this issue, and I am pleased to propose this cooperative management plan for this beautiful example of our natural heritage. I urge my colleagues to support passage of this bill. I ask unanimous consent that the bill and letters of support be printed in the RECORD.

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

S. 323

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Black Canyon National Park and Gunnison Gorge National Conservation Area Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Black Canyon of the Gunnison National Monument was established for the preservation of its spectacular gorges and additional features of scenic, scientific, and educational interest;

(2) the Black Canyon and adjacent upland include a variety of unique ecological, geological, scenic, historical, and wildlife components enhanced by the serenity and rural western setting of the area;

(3) the Black Canyon and adjacent land provide extensive opportunities for educational and recreational activities, and are publicly used for hiking, camping, and fishing, and for wilderness value, including solitude;

(4) adjacent public land downstream of the Black Canyon of the Gunnison National Monument has wilderness value and offers unique geological, paleontological, scientific, educational, and recreational resources;

(5) public land adjacent to the Black Canyon of the Gunnison National Monument contributes to the protection of the wildlife, viewshed, and scenic qualities of the Black Canyon;

(6) some private land adjacent to the Black Canyon of the Gunnison National Monument has exceptional natural and scenic value, that, would be threatened by future development pressures;

(7) the benefits of designating public and private land surrounding the national monument as a national park include greater long-term protection of the resources and expanded visitor use opportunities; and

(8) land in and adjacent to the Black Canyon of the Gunnison Gorge is—

(A) recognized for offering exceptional multiple use opportunities;

(B) recognized for offering natural, cultural, scenic, wilderness, and recreational resources; and

(C) worthy of additional protection as a national conservation area, and with respect to the Gunnison Gorge itself, as a component of the national wilderness system.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres surrounding the Gunnison Gorge as depicted on the Map.

(2) MAP.—The term ''Map'' means the map entitled ''Black Canyon National Park and Gunnison Gorge NCA—1/22/99''.

(3) PARK.—The term ''Park'' means the Black Canyon National Park established under section 4 and depicted on the Map.

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

SEC. 4. ESTABLISHMENT OF BLACK CANYON NATIONAL PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Black Canyon National Park in the State of Colorado, as generally depicted on the Map.

(2) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior.

(3) REDESIGNATION OF MONUMENT.—

(A) TERMINATION OF BLACK CANYON DESIGNATION.—The designation of the Black Canyon of the Gunnison National Monument in existence on the date of enactment of this Act is terminated.

(B) TRANSFER.—All land and interests within the boundary of the Black Canyon of the Gunnison National Monument are incorporated in and made part of the Black Canyon National Park, including—

(i) land and interests within the boundary of the Black Canyon of the Gunnison National Monument as established by section 2(a) of the first section of Public Law 98–357; and

(ii) any land and interests identified on the Map and transferred by the Bureau of Land Management under this Act.

(C) REFERENCE TO PARK.—Any reference to the Black Canyon of the Gunnison National Monument shall be deemed a reference to Black Canyon National Park.

(D) FUNDS.—Any funds made available for the purposes of the Black Canyon of the Gunnison National Monument shall be available for purposes of the Park.

(b) AUTHORITY.—The Secretary, acting through the Director of the National Park Service, shall manage the Park subject to valid rights, in accordance with this Act and the provisions of law applicable to units of the National Park System, including—

(1) the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1 et seq.);

(2) the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.); and

(3) other applicable provisions of law.

(c) GRAZING.—

(1) GRAZING PERMITTED.—The Secretary may permit grazing within the Park, if the

use of the Park for grazing is permitted on the date of enactment of this Act.

(2) GRAZING PLAN.—The Secretary shall prepare a grazing management plan to administer any grazing activities within the Park.

SEC. 5. ACQUISITION OF PROPERTY AND MINOR BOUNDARY ADJUSTMENTS.

(a) ADDITIONAL ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may acquire land or interests in land depicted on the Map as proposed additions.

(2) METHOD OF ACQUISITION.—

(A) IN GENERAL.—Land or interests in land may be acquired by—

(i) donation;

(ii) transfer;

(iii) purchase with donated or appropriated funds; or

(iv) exchange.

(B) CONSENT.—No land or interest in land may be acquired without the consent of the owner of the land.

(b) BOUNDARY REVISION.—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly-acquired land within the boundary; and

(2) administer newly-acquired land subject to applicable laws (including regulations).

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of enactment of this Act, the Secretary shall complete an official boundary survey of the Park

(d) HUNTING ON PRIVATELY OWNED LANDS.—

(1) IN GENERAL.—The Secretary may permit hunting on privately owned land added to the Park under this Act, subject to limitations, conditions, or regulations that may be prescribed by the Secretary.

(2) TERMINATION OF AUTHORITY.—On the date that the Secretary acquires fee ownership of any privately owned land added to the Park under this Act, the authority under paragraph (1) shall terminate with respect to the privately owned land acquired.

SEC. 6. EXPANSION OF THE BLACK CANYON OF THE GUNNISON WILDERNESS.

(a) EXPANSION OF BLACK CANYON.—The Black Canyon of the Gunnison Wilderness, as established by subsection (b) of the first section of Public Law 94–567 (90 Stat. 2692), is expanded to include the parcel of land depicted on the Map as ''Tract A'' and consisting of approximately 4,460 acres.

(b) ADMINISTRATION.—The Black Canyon of the Gunnison Wilderness shall be administered as a component of the Park.

SEC. 7. ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.

(a) IN GENERAL.—There is established the Gunnison Gorge National Conservation Area, consisting of approximately 57,725 acres as generally depicted on the Map.

(b) MANAGEMENT OF CONSERVATION AREA.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area to protect the resources of the Conservation Area in accordance with—

(1) this Act;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) other applicable provisions of law.

(c) WITHDRAWAL OF LAND.—Subject to valid rights in existence on the date of enactment of this Act, all Federal land and interests within the Conservation Area acquired by the United States are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(d) PERMITTED USES.—

(1) IN GENERAL.—The Secretary shall permit hunting, trapping, and fishing within the Conservation Area in accordance with applicable laws (including regulations) of the United States and the State of Colorado.

(2) EXCEPTION.—The Secretary, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons concerning—

(A) public safety;

(B) administration; or

(C) public use and enjoyment.

(e) USE OF MOTORIZED VEHICLES.—In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the Conservation Area shall be allowed—

(1) to the extent the use is compatible with off-highway vehicle designations as described in the management plan in effect on the date of enactment of this Act; or

(2) to the extent the use is practicable under a management plan prepared under this Act.

(f) CONSERVATION AREA MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall—

(A) develop a comprehensive plan for the long-range protection and management of the Conservation Area; and

(B) transmit the plan to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Resources of the House of Representatives.

(2) CONTENTS OF PLAN.—The plan—

(A) shall describe the appropriate uses and management of the Conservation Area in accordance with this Act;

(B) may incorporate appropriate decisions contained in any management or activity plan for the area completed prior to the date of enactment of this Act;

(C) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Conservation Area prior to the date of enactment of this Act;

(D) shall be prepared in close consultation with appropriate Federal, State, county, and local agencies; and

(E) shall use information developed prior to the date of enactment of this Act in studies of the land within or adjacent to the Conservation Area.

(g) BOUNDARY REVISIONS.—The Secretary may make revisions to the boundary of the Conservation Area following acquisition of land necessary to accomplish the purposes for which the Conservation Area was designated.

SEC. 8. DESIGNATION OF WILDERNESS WITHIN THE CONSERVATION AREA.

(a) GUNNISON GORGE WILDERNESS.—

(1) IN GENERAL.—Within the Conservation Area, there is designated as wilderness, and as a component of the National Wilderness Preservation System, the Gunnison Gorge Wilderness, consisting of approximately 17,700 acres, as generally depicted on the Map.

(2) ADMINISTRATION.—

(A) WILDERNESS STUDY AREA EXEMPTION.—The approximately 300-acre portion of the wilderness study area depicted on the Map for release from section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall not be subject to section 603(c) of that Act.

(B) INCORPORATION INTO NATIONAL CONSERVATION AREA.—The portion of the wilderness study area described in subparagraph (A) shall be incorporated into the Conservation Area.

(b) ADMINISTRATION.—Subject to valid rights in existence on the date of enactment of this Act, the wilderness areas designated under this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(c) STATE RESPONSIBILITY.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act or in the Wilderness Act shall affect the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish on the public land located in that State.

SEC. 9. WITHDRAWAL.

The land identified as tract B on the Map, consisting of approximately 1,554 acres, is withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws;

(2) from location, entry, and patent under the mining laws; and

(3) from operation of the mineral leasing and geothermal leasing laws.

SEC. 10. WATER RIGHTS.

(a) EFFECT ON WATER RIGHTS.—Nothing in this Act shall—

(1) constitute an express or implied reservation of water for any purpose; or

(2) affect any water rights in existence prior to the date of enactment of this Act, including any water rights held by the United States.

(b) ADDITIONAL WATER RIGHTS.—Any new water right that the Secretary determines is necessary for the purposes of this Act shall be established in accordance with the procedural and substantive requirements of the laws of the State of Colorado.

SEC. 11. STUDY OF LANDS WITHIN AND ADJACENT TO CURECANTI NATIONAL RECREATION AREA.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Director of the National Park Service, shall conduct a study concerning land protection and open space within and adjacent to the area administered as the Curecanti National Recreation Area.

(b) PURPOSE OF STUDY.—The study required to be completed under subsection (a) shall—

(1) assess the natural, cultural, recreational and scenic resource value and character of the land within and surrounding the Curecanti National Recreation Area (including open vistas, wildlife habitat, and other public benefits);

(2) identify practicable alternatives that protect the resource value and character of the land within and surrounding the Curecanti National Recreation Area;

(3) recommend a variety of economically feasible and viable tools to achieve the purposes described in paragraphs (1) and (2); and

(4) estimate the costs of implementing the approaches recommended by the study.

(c) SUBMISSION OF REPORT.—Not later than 3 years from the date of enactment of this Act, the Secretary shall submit a report to Congress that—

(1) contains the findings of the study required by subsection (a);

(2) makes recommendations to Congress with respect to the findings of the study required by subsection (a); and

(3) makes recommendations to Congress regarding action that may be taken with respect to the land described in the report.

(d) ACQUISITION OF ADDITIONAL LAND AND INTERESTS IN LAND.—

(1) IN GENERAL.—Prior to the completion of the study required by subsection (a), the Secretary may acquire certain private land or interests in land as depicted on the Map entitled ''Proposed Additions to the Curecanti National Recreation Area,'' dated 09/15/98, totaling approximately 1,065 acres and entitled ''Hall and Fitti properties''.

(2) METHOD OF ACQUISITION.—

(A) IN GENERAL.—Land or an interest in land under paragraph (1) may be acquired by—

(i) donation;

(ii) purchase with donated or appropriated funds; or

(iii) exchange.

(B) CONSENT.—No land or interest in land may be acquired without the consent of the owner of the land.

(C) BOUNDARY REVISIONS FOLLOWING ACQUISITION.—Following the acquisition of land under paragraph (1), the Secretary shall—

(i) revise the boundary of the Curecanti National Recreation Area to include newly-acquired land; and

(ii) administer newly-acquired land according to applicable laws (including regulations).

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

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

MONTROSE CHAMBER OF COMMERCE,
Montrose, CO, January 26, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: The Montrose Chamber of Commerce, Board of Directors, has been informed of your intent to introduce legislation regarding the Black Canyon National Park endeavor. We are writing to endorse the legislation. The Black Canyon is truly one of God's gifts to Colorado. By giving it National Park status, it receives the accolades it deserves.

Please keep us apprised as to the status of the legislation. If there is any way we can assist with your efforts please do not hesitate to ask. We thank you for your efforts and dedication to Western Colorado and its citizens.

Sincerely,

MARGE KEEHFUSS,
Executive Director.

BOARD OF COUNTY COMMISSIONERS,
GUNNISON COUNTY, CO,
January 19, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
Senator, Washington, DC.

DEAR SENATOR CAMPBELL: As you are aware, the National Park Service administers the lands within Curecanti National Recreation Area under a 1965 agreement with the Bureau of Reclamation. Colorado State Highway 92 is one of the most scenic drives in Colorado as it skirts the Black Canyon on the Gunnison within and adjacent to Curecanti. This portion of the highway is also designated as a component of the West Elk Loop Scenic and Historic Byway. The preservation of the rural values now dominating Highway 92 will play an important role in maintaining the quality of life for area residents as well as providing a quality visitor experience worth remembering. The National Park Service has been working with two willing landowners that own property adjacent to Highway 92 and within the Curecanti National Recreation Area. Collectively, this ownership represents 1,065 acres and development of this significant amount of land would forever alter the scenic values.

We realize the National Park Service has very limited authority to acquire lands outside of its boundaries. This is especially true for the recreation area since its boundary has never been formally established. Therefore, it is our understanding that specific authority will need to be granted through legislation by Congress in order to adjust the boundary and acquire these lands.

The Gunnison County Board of Commissioners is very supportive of these properties being acquired by the National Park Service. The Board of Commissioners would encourage you to also support this acquisition and hopes you would consider sponsoring legislation to achieve this goal. If you have any questions regarding Gunnison County's support of this acquisition or its importance, please don't hesitate to contact my office.

Respectfully,

JOHN DEVORE,
County Manager.●

By Mr. HATCH (for himself, Mr. LEVIN, and Mr. MOYNIHAN):

S. 324. A bill to amend the Controlled Substances Act with respect to registration requirements for practitioners who dispense narcotic drugs in schedule IV or V for maintenance treatment or detoxification treatment; to the Committee on the Judiciary.

THE DRUG ADDICTION TREATMENT ACT OF 1999

● Mr. HATCH. Mr. President, I rise to introduce S. 324, the ''Drug Addiction Treatment Act of 1999''—the DATA Act. The goal in this bill is simple but it is important: S. 324 attempts to help make drug treatment more available and more effective.

In developing this legislation I have worked closely with Representative THOMAS BLILEY of Virginia, Chairman of the House Committee on Commerce who plans to introduce shortly the House counterpart of this bill. I am very pleased to report that in sponsoring this bi-partisan bill I am joined by two colleagues from across the aisle—Senator LEVIN from Michigan and Senator MOYNIHAN from New York. Senators LEVIN and MOYNIHAN and I have long shared an interest in speeding the development of anti-addiction medications.

One of the most troublesome problems that our Nation faces today is drug abuse. The spectrum of deleterious by-products of drug abuse include rampant and often violent crime, breakdown in family life and other fundamental social structures, and the inability of addicted individuals to reach their full potential as contributing members of American society. For example, a 1997 report by the Utah State Division of Substance Abuse, ''Substance Abuse and Need for Treatment Among Juvenile Arrestees in Utah'' cites literature reporting that heroin-using offenders committed 15 times more robberies, 20 times more burglaries, and 10 times more thefts than offenders who do not use drugs.

In my own state of Utah—I am sorry to report—a 1997 survey by the State Division of Substance Abuse reported that 9.6% of Utahns—one in ten of our citizens—used illicit drugs in the past month. That is simply too high.

Unfortunately, no state or city in our great Nation is immune from the dangers of illicit drugs. I want the children of Utah to grow up drug free so that they may realize their enormous potential. And I want to help my neighbors in Salt Lake and fellow citizens across Utah and throughout the country who are addicted to break the grip of this deadly epidemic.

The wide variety of negative behaviors associated with drug abuse require policymakers to employ a wide variety of techniques to cut down both the supply of and demand for illegal drugs. We must do all we can do to stop the criminal behavior involved in supplying the contraband products as well as taking steps to stop all Americans from starting or continuing to use drugs.

This legislation I am introducing today focuses on increasing the availability and effectiveness of drug treatment. The purpose of the Drug Addiction Treatment Act of 1999 is to allow qualified physicians, as determined by experts at the Department of Health and Human Services, to prescribe schedule IV and V anti-addiction medications in physicians' offices without an additional Drug Enforcement Administration (DEA) registration if certain conditions are met.

These conditions include certification by participating physicians that: they are licensed under state law and have the training and experience to treat opium addicts; they have the capacity to refer patients to counseling and other ancillary services; and they will not treat more than 20 in an office setting unless the Secretary of Health and Human Services adjusts this number.

The DATA provisions allow the Secretary, as appropriate, to add to these conditions and allow the Attorney General to terminate a physician's DEA registration if these conditions are violated. This program will continue after three years only if the Secretary and Attorney General determine that this new type of decentralized treatment should not continue based on a number of determinations. These determinations include whether the availability of drug treatment has significantly increased without adverse consequences to the public health and the extent to which covered drugs have been diverted or dispensed in violation of the law such as exceeding the initial 20-patient per doctor limitation. This bill would allow the Secretary and Attorney General to discontinue the program earlier than three years if, upon consideration of the specified factors, they determine that early termination is advisable.

Nothing in the waiver policy undertaken in the new bill is intended to change the rules pertaining to methadone clinics or other facilities or practitioners that conduct drug treatment services under the dual registration system imposed by current law.

In drafting the waiver provisions of the bill, the co-sponsors have consulted with the Drug Enforcement Agency, the Food and Drug Administration, and the National Institute on Drug Abuse. As well, this initiative is consistent with the recent announcement of the Director of the Office of National Drug Control Policy, General Barry McCaffrey, of the Administration's intent to work to decentralize methadone treatment.

In 1995, the Institute of Medicine of the National Academy of Sciences issued a report, ''Development of Medications for Opiate and Cocaine Addictions: Issues for the Government and Private Sector.'' The study called for ''(d)eveloping flexible, alternative means of controlling the dispensing of anti-addiction narcotic medications that would avoid the 'methadone model' of individually approved treatment centers.''

The Drug Addiction Treatment Act—DATA—is exactly the kind of policy initiative that experts have called for in America's multifaceted response to the drug abuse epidemic. I recognize that the DATA legislation is just one mechanism to attack this problem and I plan to work with my colleagues to devise additional strategies to reduce both the supply and demand for drugs. I urge all my colleagues to support S. 324 because it promises to get more patients into treatment and back on the road to honest, productive lives.

I ask unanimous consent that the text of S. 324 be printed in the RECORD.

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

S. 324

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Drug Addiction Treatment Act of 1999''.

SEC. 2. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—

(1) in paragraph (2), by striking ''(A) security'' and inserting ''(i) security'', and by striking ''(B) the maintenance'' and inserting ''(ii) the maintenance'';

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by inserting ''(1)'' after ''(g)'';

(4) by striking ''Practitioners who dispense'' and inserting ''Except as provided in paragraph (2), practitioners who dispense''; and

(5) by adding at the end the following:

''(2)(A) Subject to subparagraphs (D) and (G), the requirements of paragraph (1) are waived in the case of the dispensing, by a practitioner, of narcotic drugs in schedule IV or V or combinations of such drugs if the practitioner meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

''(B) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a practitioner are that, before dispensing narcotic drugs in schedule IV or V, or combinations of such drugs, to patients for maintenance or detoxification treatment, the practitioner submit to the Secretary a notification of the intent of the practitioner to begin dispensing the drugs or combinations for such purpose, and that the notification contain the following certifications by the practitioner:

''(i) The practitioner is a physician licensed under State law, and the practitioner has, by training or experience, the ability to treat and manage opiate-dependent patients.

''(ii) With respect to patients to whom the practitioner will provide such drugs or combinations of drugs, the practitioner has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

''(iii) In any case in which the practitioner is not in a group practice, the total number of such patients of the practitioner at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 20, except that the Secretary may by regulation change such total number.

''(iv) In any case in which the practitioner is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 20, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of practitioners in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.

''(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule IV or V or combinations of such drugs are as follows:

''(i) The drugs or combinations of drugs have, under the Federal Food, Drug and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.

''(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of practitioners to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

''(D)(i) A waiver under subparagraph (A) with respect to a practitioner is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

''(I) The notification under subparagraph (B) is in writing and states the name of the practitioner.

''(II) The notification identifies the registration issued for the practitioner pursuant to subsection (f).

''(III) If the practitioner is a member of a group practice, the notification states the names of the other practitioners in the practice and identifies the registrations issued for the other practitioners pursuant to subsection (f).

''(IV) A period of 30 days has elapsed after the date on which the notification was submitted, and during such period the practitioner does not receive from the Secretary a written notice that one or more of the conditions specified in subparagraph (B), subparagraph (C), or this subparagraph, have not been met.

''(ii) The Secretary shall provide to the Attorney General such information contained in notifications under subparagraph (B) as the Attorney General may request.

''(E) If in violation of subparagraph (A) a practitioner dispenses narcotic drugs in schedule IV or V or combinations of such drugs for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the practitioner to have committed an act that renders the registration of the practitioner pursuant to subsection (f) to be inconsistent with the public interest.

''(F) In this paragraph, the term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

''(G)(i) This paragraph takes effect on the date of enactment of the Drug Addiction Treatment Act of 1999, and remains in effect thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).

''(ii) For the purposes relating to clause (iii), the Secretary and the Attorney General shall, during the 3-year period beginning on the date of enactment of the Drug Addiction Treatment Act of 1999, make determinations in accordance with the following:

''(I)(aa) The Secretary shall—

''(aaa) make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings;

''(bbb) make a determination regarding whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and

''(ccc) make a determination regarding whether such waivers have adverse consequences for the public health.

''(bb) In making determinations under this subclause, the Secretary—

''(aa) may collect data from the practitioners for whom waivers under subparagraph (A) are in effect;

''(bb) shall promulgate regulations (in accordance with procedures for substantive rules under section 553 of title 5, United States Code) specifying the scope of the data that will be required to be provided under this subclause and the means through which the data will be collected; and

''(cc) shall, with respect to collecting such data, comply with applicable provisions of chapter 6 of title 5, United States Code (relating to a regulatory flexibility analysis) and of chapter 8 of such title (relating to congressional review of agency rulemaking).

''(II) The Attorney General shall—

''(aa) make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment;

''(bb) make a determination regarding whether waivers under subparagraph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule IV or V or combinations of such drugs are being dispensed or possessed in violation of this Act; and

''(cc) make a determination regarding whether such waivers have adverse consequences for the public health.

''(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that this paragraph should not remain in effect, this paragraph ceases to be in effect 60 days after the date on which the decision is so published. The Secretary shall, in making any such decision, consult with the Attorney General, and shall, in publishing the decision in the Federal Register, include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall, in making any such decision, consult with the Secretary, and shall, in publishing the decision in the Federal Register, include any comments received from the Secretary for inclusion in the publication.

''(H) During the 3-year period beginning on the date of enactment of the Drug Addiction

Treatment Act of 1999, a State may not preclude a practitioner from dispensing narcotic drugs in schedule IV or V, or combinations of such drugs, to patients for maintentance or detoxification treatment in accordance with the Drug Addiction Treatment Act of 1999, unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing such drugs or combination of drugs.''.

(e) CONFORMING AMENDMENT.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a), in the matter following paragraph (5), by striking ''section 303(g)'' each place the term appears and inserting ''section 303(g)(1)''; and

(2) in subsection (d), by striking ''section 303(g)'' and inserting ''section 303(g)(1)''.

● Mr. LEVIN. Mr. President, the need for additional anti-addiction medications is a matter of great concern to me and an issue that I have been deeply involved with for a number of years. We must come up with new medications which block the craving of heroin. This is why I am very pleased to join with Senator HATCH and Senator MOYNIHAN in introducing legislation that would establish the infrastructure to enable qualified physicians to prescribe schedule IV and V anti-addiction medications in their offices without an additional DEA registration if certain conditions are met. This will allow for a promising new drug, buprenorphine, to be used in the treatment of opiate addiction in physicians offices, under a separate registration from the Attorney General. Specific conditions would have to be met. These conditions include: Certification by participating physicians that they are licensed under state law and have the training and experience to treat heroin addicts; and that they have the capacity to refer patients to counseling and other ancillary services.

Mr. President, there are a number of reasons why this legislation is necessary. The Narcotic Addict Treatment Act of 1974, requires separate DEA registrations for physicians who want to use approved narcotics in drug abuse treatment and separate approvals of registrants by U.S. Department of Health and Human Services (HHS) and by state agencies. The result has been a treatment system consisting primarily of large methadone clinics located in big cities, and preventing physicians from treating patients in an office setting or in rural areas or small towns, thereby denying treatment to thousands in need of it. Additionally, experts say that many heroin addicts who want treatment are often deterred because of the stigma that is associated with such with such clinics.

The intent of our legislation is to exclude medications like buprenorphine from burdensome regulatory requirements of the Narcotic Treatment Act, in order to carry drug abuse treatment beyond the methadone clinics and into physicians' offices. In so doing, the legislation includes protections against abuse. These protections include the following: Physicians may not treat more than 20 patients in an office setting unless the HHS Secretary adjusts this number; the HHS Secretary, as appropriate, may add to these conditions and allow the Attorney General to terminate a physician's DEA registration if these conditions are violated; and the program will continue after three years only if the HHS Secretary and Attorney General determine that this new type of decentralized treatment should continue based on a number of determinations.

The National Institute on Drug Abuse [NIDA], under a Cooperative Research and Development Agreement with a pharmaceutical manufacturer, has helped to develop buprenorphine, which is expected to be approved by the Food and Drug Administration in the near future. The Congress, NIDA and the National Academy of Sciences Institute of Medicine (IOM) have long recognized the urgent need to develop new medications for drug addiction treatment. This is evident in the enactment of the Anti-Drug Abuse Act of 1988, which established the Medications Development Division of the National Institute on Drug Abuse, and the enactment of legislation requiring HHS and IOM to cooperate in the development of anti-addiction medications.

Recent data show that five out of six opiate addicts are currently not in treatment. This has contributed to a continuing public health crisis of significant proportions—the age of first heroin use is dropping; the number of heroin users is increasing; and the number of people becoming dependent on heroin is increasing. According to NIDA, the incidence of first-time use of herion in the 12–17 year old group has increased fourfold from the 1980s to 1995.

These facts and sentiments were also expressed by experts in this field of critical importance to the Nation during a May 9, 1997 Drug Forum on Anti-addiction Research, which I convened along with Senator MOYNIHAN and Senator Bob KERREY. Forum participants, including distinguished experts such as Dr. Herbert Kleber and Dr. Donald Landry of Columbia University, Dr. Charles Schuster of Wayne State University and Dr. James Woods of the University of Michigan, made it crystal clear that time is of the essence—we must act expeditiously on new treatment discoveries. According to public health experts, the untreated population of opiate addicts (and other injection drug users) is the primary means for the spread of HIV, hepatitis B and C, and tuberculosis into the general population, not to mention the families of such addicted persons. Failure to block the craving for drugs along with failure to provide traditional treatment will most certainly continue the spiral of huge health care costs—costs that will largely be borne not by the addicts, not by insurance companies—but by the American taxpayer.

Buprenorphine, currently in Schedule V of the Controlled Substances Act, has a unique property—it has a ceiling effect, it is well tolerated by opiate addicted persons, and has a very low value for diversion on the street. Clinical trials conducted in 12 hospitals around the United States proved the new medication to be an extremely effective treatment medication. According to NIDA, of the 100,000 heroin addicts in France, between 40,000–50,000 addicts are being treated with buprenorphine without ill effects. Dr. Donald Wesson, Chairman of the American Society of Addiction Medicine {ASAM} Medication Development Committee wrote: ''The availability of buprenorphine in physicians' offices adds a needed level of care and is one avenue to expand current opioid treatment capacity. ASAM strongly supports federal legislation to enable buprenorphine to be prescribed in physicians' offices for treatment of opioid dependence . . . We are very pleased to see that the bill makes provisions for physician training and qualification.''

Mr. President, finally, there are a number of questions that I raised with NIDA regarding buprenorphine prior to the introduction of this legislation which I would like to share with my colleagues in the Senate. I would also like to share the informative memo on this subject which I received from The American Society of Addiction Medicine (ASAM). I ask unanimous consent that the October 5, 1998 reply from NIDA Director, Dr. Alan Leshner, and the October 8, 1998 memo from Dr. Donald R. Wesson of ASAM be printed in the RECORD.

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

DEPARTMENT OF HEALTH & HUMAN SERVICES, NATIONAL INSTITUTE ON DRUG ABUSE,

Rockville, MD, October 5, 1998.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for your letter dated September 17 requesting the views of the National Institute on Drug Abuse (NIDA) regarding the use of buprenorphine and buprenorphine/naloxone for the treatment of opiate dependence. Your letter asked us to address three specific questions. Our answers are provided below.

Question No. 1. Is buprenorphine (alone and in combination) a safe and effective treatment for drug addiction?

While the ultimate decision concerning safety and efficacy rests with the Food and Drug Administration (FDA), NIDA has funded many studies that support the safety and efficacy of buprenorphine and the buprenorphine/naloxone combination for the treatment of opiate dependence. During the time NIDA has studied this medication, we have been impressed with its safety and efficacy as a treatment for opiate dependence. Over the last 5 years, NIDA has worked with Reckitt & Colman Pharmaceuticals, Inc., under a Cooperative Research and Development Agreement in an attempt to bring buprenorphine (which the FDA has designated as an orphan product), to a marketable status in the United States. These studies have been submitted by Reckitt & Colman to the FDA in support of a New Drug Application for buprenorphine products in

the treatment of opiate dependence. The major studies of relevance have shown that buprenorphine is more effective than a low dose of methadone (Johnson et al, J.A.M.A., 1992), and that an orderly dose effect of buprenorphine on reduction of opiate use occurred (Ling et al, Addiction, 1998). Most recently, buprenorphine tablets (either buprenorphine alone or the combination with naxolone) were shown in a large clinical trial to be superior to placebo treatment in reducing opiate use (Fudala et al, CPDD, 1998). Additional clinical studies have shown that the addition of naxolone to the buprenorphine tablet decreased the response to buprenorphine when the combination is injected under controlled conditions. This means that when persons attempt to dissolve the tablets and inject them, they will either experience withdrawal or a diminished buprenorphine effect. These properties will make buprenorphine combined with naxolone undesirable for diversion to illicit use, especially when compared with other existing illegal and legal opiate products.

Pharmacologically, buprenorphine is related to morphine but is a partial agonist (possesses both agonist and antagonist properties). Partial agonists exhibit ceiling effects (i.e., increasing the dose only has effects to a certain level). Therefore, partial agonists usually have greater safety profiles than full agonists (such as heroin or morphine and certain analgesic products chemically related to morphine). This means that buprenorphine is less likely to cause respiratory depression, the major toxic effect of opiate drugs, in comparison to full agonists such as morphine or heroin. We believe this will translate into a greatly reduced chance of accidental or intentional overdose. Another benefit of buprenorphine is that the withdrawal syndrome seen upon discontinuation with buprenorphine is, at worst, mild to moderate and can often be managed without administration of narcotics.

Question No. 2. Do current regulations properly set forth the rules for administration, delivery, and use of these drugs?

There are no current regulations which address the use of buprenorphine or buprenorphine/naloxone for the treatment of opiate dependence because these products are not yet approved for this purpose by the FDA. The current regulations (21 CFR 291) for administration and delivery of narcotic medications in the treatment of narcotic dependent persons were written for the use of full agonist medications such as methadone with demonstrated abuse potential and do not take into account the unique pharmacological properties of these drugs. Therefore, these regulations would need to be reexamined and substantially rewritten in order to recognize the unique possibilities posed by buprenorphine/naloxone. Among these are the potential to administer buprenorphine and buprenorphine/naloxone in settings and situations other than the formal Narcotic Treatment Programs (NTPs) which have existed to date under existing regulations. As you may be aware, NTPs are the most highly regulated form of medicine practiced in the U.S., as they are subject to Federal, State, and local regulation. Under this regulatory burden, expansion of this system has been static for many years. This has resulted in a ''treatment gap'', which is defined as the difference between the number of opiate dependent persons and those in treatment. The gap currently is over 600,000 persons and represents 75–80% of all addicts.

It may be useful to note the status of the last new product introduced to the opiate dependence treatment market (levoacetyl methadol, tradename ORLAAM). ORLAAM was an orphan product developed by NIDA and a U.S. small business in the early 1990s for narcotic dependence. ORLAAM was approved by the FDA as a treatment medication for opiate dependence in July 1993. In the five years since its approval and dispensing under the more restrictive rules relating to the use of full agonist medications (21 CFR 291), ORLAAM has been poorly utilized to increase treatment for narcotic dependence. It is estimated that 2,000 of the estimated 120,000 patients in narcotic treatment programs are receiving ORLAAM. The failure of ORLAAM to make an appreciable impact under the more restrictive rules suggests that if buprenorphine is to make an appreciable impact on the ''treatment gap'' it must be delivered under different rules and regulations.

The issue then becomes why should buprenorphine products be delivered differently from ORLAAM and methadone. First, buprenorphine's different pharmacology should be kept in mind when rules and regulations are promulgated. The regulatory burden should be determined based on a review of the risks to individuals and society of this medication being dispensed by prescription and commensurate with its safety profile, as is the case with evaluation of all controlled substances. It is our understanding that the Drug Enforcement Administration has recognized the difference between buprenorphine treatment products and those currently subject to 21 CFR 291 and has communicated these views to your staff. Second, there are many narcotic addicts who refuse treatment under the current system. In a recent NIDA funded study (NIDA/VA #1008), approximately 50% of the subjects had never been in treatment before. Of that group, fully half maintained that they did not want treatment in the current narcotic treatment program system. The opportunity to participate in a new treatment regimen (buprenorphine) was a motivating factor. Fear of stigmatization is a very real factor holding back narcotic dependent individuals from entering treatment. Third, narcotic addiction is spreading from urban to suburban areas. The current system, which tends to be concentrated in urban areas, is a poor fit for the suburban spread of narcotic addiction. There are many communities whose zoning will not permit the establishment of narcotic treatment facilities, which has in part been responsible for the treatment gap described above. While narcotic treatment capacity has been static, there has been an increase in the amount of heroin of high purity. The high purity of this heroin has made it possible to nasally ingest (snort) or smoke heroin. This change in the route of heroin administration removes a major taboo, injection and its attendant use of needles, from initiation and experimentation with heroin use. The result of these new routes of administration is an increase in the number of younger Americans experimenting with, and becoming addicted to, heroin. The incidence of first-time use of heroin in the 12 to 17 year old group has increased fourfold from the 1980s to 1995. Treatment for adolescents should be accessible, and graduated to the level of dependence exhibited in the patient. Buprenorphine products will likely be the initial medication(s) for most of the heroin-dependent adolescents.

Question No. 3: Should more physicians be permitted to dispense these drugs under controlled circumstances?

It is our contention that more treatment should be made more widely available for the reasons stated above. The safety and effectiveness profiles for buprenorphine and buprenorphine/naloxone suggest they could be dispensed under controlled circumstances that would be delineated in the product labeling and associated rules and regulations. As currently envisioned, buprenorphine and buprenorphine/naloxone would be prescription, Schedule V controlled substances. The treatment of patients by physicians or group practice would allow office-based treatment to augment the current system, while placing an adequate level of control on the dispensing of these medications. Given the increased need for treatment, the relative safety and efficacy of the treatment product, and the development of a regulatory scheme satisfactory to the Department of Health and Human Services, we believe that these goals could be accomplished in a timely and effective manner.

Thank you for the opportunity to respond to your questions. Should you need additional information, please feel free to contact me again.

Sincerely,

ALAN I. LESHNER, PH.D,
Director.

CHAIRMAN, MEDICATION DEVELOPMENT COMMITTEE, THE AMERICAN SOCIETY OF ADDICTION MEDICINE, OCTOBER 8, 1998

(By Donald R. Wesson, M.D.)

Clinical experience within the context of narcotic treatment clinics, drug abuse treatment clinics, and private practice shows that opioid[1] abusers are very diverse in lifestyle, extent of involvement in the drug subculture, and criminal activities. Clinical experience has also established that many opioid abusers relapse to opioid use unless they are maintained on medications with opioid properties.

Opioid maintenance treatment, by blocking the effect of illicit opioids and stabilizing patients' emotional states, allows patients to receive outpatient treatment while making the life-style changes needed to remain abstinent. Most opioid abusers will relapse to illicit opioid abuse unless they are also provided drug counseling, group therapy or individual psychotherapy; however, all opioid abusers do not require the same level of drug abuse treatment services. Some need the highly-structured, behavior modification services and maintenance with methadone or LAAM. Others require less intensive drug abuse treatment and could be adequately treated with a less potent opioid maintenance medication, such as buprenorphine, provided within the context of physicians' offices in conjunction with an appropriate level of psychosocial services.

Treatment of opioid addiction has for many years been separated from mainstream medical practice. There is a body of specialized knowledge concerning treatment of opioid addiction that has evolved from clinical experience with methadone maintenance and from non-narcotic treatment of opioid addiction. Unlike most areas of medicine in which physicians voluntarily confine their medical practice to areas in which they have specialized training, treatment of drug abusers is unusual in that many physicians may assume competence that they may not, in fact, possess. At the present time, many physicians who are not addiction specialists do not understand addiction, particularly narcotic addiction. Further, there are no generally accepted practice guidelines for office-based narcotic addiction treatment.

The American Society on Addiction Medicine strongly supports the position that physicians appropriately trained and qualified in

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[1]Opioid is a broad term that covers drugs and medications with morphine-like effects. Technically, opiate refers to drugs or medications that are derived from the opium poppy plant. The most common abused opiate is heroin; however, synthetic medications with morphine-like effects, such a fentanyl, are also abused. Opioid is the more inclusive term. Opioid and opiate are often used interchangeably.

the treatment of opiate withdrawal and opiate dependence should be permitted to prescribe buprenorphine in the normal course of medical practice and in accordance with appropriate medical practice guidelines, and that federal controlled substance scheduling guidelines and other federal and state regulations should permit buprenorphine to be made available for physicians to prescribe to their patients in accordance with documented clinical indications.[2]

The American Society of Addiction Medicine (ASAM) has a certification examination in addiction medicine and the American Board of Psychiatry and Neurology has a certification examination in addiction psychiatry. The American Society of Addiction Medicine, the American Methadone Treatment Association and the American Academy of Addiction Psychiatry have agreed to develop guidelines and physician training for use of opioids in office-based physician practices.

It is highly desirable that physicians who plan to prescribe opioids from their offices be certified by one of the national organizations that offers training and certification in addiction medicine or psychiatry.

A problem with current federal regulation of opioid treatment is that opioid maintenance is viewed as a treatment of last resort and only possible within the context of specially licensed clinics with methadone or LAAM. Because of costs, or limited public sector treatment capacity, or because they do not meet state and federal requirements for maintenance with methadone or LAAM, many patients who need opioid medication treatment cannot access methadone or LAAM treatment. The availability of buprenorphine in physicians' offices adds a needed level of care and is one avenue to expand current opioid treatment capacity.●

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. NICKLES, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. BREAUX, Mr. BROWNBACK, Mr. COCHRAN, Mr. CONRAD, Mr. ENZI, Mr. GRAMM, Mr. INHOFE, Ms. LANDRIEU, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. STEVENS, Mr. THOMAS, Mr. BURNS, and Mr. LOTT):

S. 325. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

THE U.S. ENERGY ECONOMIC GROWTH ACT

● Mrs. HUTCHISON. Mr. President, today I am pleased to introduce the U.S. Energy Economic Growth Act.

Mr. President, the oil and gas industry in this country is in a state of crisis. In energy producing states, we are hearing daily from our constituents about this crisis.

This week the oil and gas rig count hit an all-time low of 588 rigs nationwide. This is down from nearly 5,000 rigs operating in 1981. Crude oil prices are at their lowest point in decades, and some think they will fall further.

According to the Texas Comptroller of Public Accounts, for every dollar drop in the price of oil, ten thousand Texas jobs are at risk. Last year, the energy industry lost 30,000 jobs in the United States.

Mr. President, not only is this an economic issue, it's a national security issue. We are importing more oil than we produce. This is not a healthy situation for shaping our foreign policy agenda.

To reverse these trends and increase our energy independence, I have worked, on a bi-partisan basis, to develop the U.S. Energy Economic Growth Act.

This legislation provides tax incentives in two significant areas to boost U.S. oil production. First, the legislation would provide a $3 dollar a barrel tax credit, on the first three barrels that can offset the cost of keeping marginal wells operating at a time of low prices.

Marginal wells are those that produce 15 barrels a day or less. On average, they produce two barrels a day. There are close to 500,000 such wells across the U.S. that collectively produce 20 percent of America's oil. To put this in perspective, we import 20 percent of our oil from Saudia Arabia. Texas, alone, has 100,000 marginal wells. Regrettably, 48,000 wells have been idled or shut in the past year.

In recent months, some marginal well producers report prices as low as $6 per barrel. If we don't act soon, these producers—and the thousands they employ—will go out of business.

These marginal wells can still be profitable for all of us. In 1998, these low-volume wells generated $314 million in taxes paid annually to state governments.

Second, Mr. President, the bill would provide incentives to restart inactive wells by offering producers a tax exemption for the costs of doing so.

In Texas, a similar program has resulted in 6,000 wells being returned to production, injecting approximately $1.65 billion into the Texas economy.

Mr. President, improving the production and flow from both marginal wells and inactive wells will do a great deal to improve our energy production. This is vital to improving the state of the U.S. oil and gas industry.

I am pleased that this legislation has 18 co-sponsors from both sides of the aisle. I would invite all members of the Senate to join me as a co-sponsor.

This morning I testified before the Senate Energy Committee on this bill. Certainly that Committee recognizes the gravity of this situation. I would hope that, with the introduction of this bill, the Senate as a whole will begin to focus on this problem and we can begin finding solutions.●

● Mr. NICKLES. Mr. President, I rise today to join in offering the U.S. Energy and Economic Growth Act. This legislation is an effort to help revive our domestic oil and gas industry which plays such a vital role in our national security. If our domestic industry is to survive, then Congress needs to act now to provide tax incentives to encourage energy production in America.

Since the early 1980's, oil and gas extraction employment has been cut in half. Employment in the oil and gas industry has declined by almost 500,000 since 1984. Imports of crude oil products were $71 billion in 1977, and the import dependency ratio now exceeds fifty percent. From 1973 to 1998, crude oil production dropped 43% in the lower 48 states. We must take action now to save domestic production not only for the sake of the oil and gas industry but for the sake of the national security of this nation.

To date, the Clinton Administration has done nothing to encourage domestic production. In the President's State of the Union address, he named no initiatives to aid this troubled industry and recently, his Administration has conspired with the U.N. to almost double the amount of oil Iraq can export under the so-called food-for-oil program.

The U.S. Energy and Economic Growth Act is intended to do just what its name implies—preserve and revitalize the domestic oil and gas industry through economic incentives to production. This bill would accomplish these goals through specific tax proposals.

Marginal wells are those which produce less than 15 barrels per day or gas wells which produce less than 90 thousand cubic feet per day. The United States has over 500,000 marginal wells producing nearly 700 million barrels of oil each year and contributing 80,000 jobs and $14 billion to the annual economy.

This legislation provides incentives to keep these valuable wells in production through a $3 per barrel tax credit on the first three barrels of daily production, or $0.50 per mcf for the first 18 mcf of daily natural gas production. These credits would only apply when low market prices necessitated them for the survival of the industry, and are phased out when prices increase.

In an effort to reclaim oil lost to closed wells, this bill allows producers to exclude income attributable to oil and natural gas from a recovered inactive well. The provision only applies to wells which have been inactive for at least two years prior to the date of enactment, and which are recovered within five years from the date of enactment.

The U.S. Energy and Economic Growth Act would also allow current expensing of geological and geophysical costs incurred domestically including the Outer Continental Shelf. These costs are an important and integral part of exploration and production for oil and natural gas, and should be expensed.

Furthermore, this bill clarifies that delay rental payments are deductible, at the election of the taxpayer, as ordinary and necessary business expenses. This clarifies an otherwise gray area in Treasury regulations and eliminates costly administrative and compliance burdens on both taxpayers and the IRS.

Lastly, the legislation includes hydro injection and horizontal drilling as tertiary recovery methods for purposes of

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[2] Adopted by ASAM Board April 15, 1998.

the Enhanced Oil Recovery Credit. Although the Treasury Department is tasked with continued evaluations and editions to the list of recovery methods covered under this credit, they have proven notably lax in pursuing this objective. By legislating this outcome, this bill keeps domestic production of our endangered marginal wells on the cutting edge of available technology.

Collectively, the provisions of this bill provide much needed incentives to an industry that is vital to our national security. The sooner the Administration and Congress acknowledge the critical importance of the domestic oil and gas industry and stop burdening this industry with high taxes and regulatory obstacles, the sooner we can take the necessary actions to preserve and revitalize this important sector of our economy. Passage of the U.S. Energy and Economic Growth Act would be a significant step in that direction. I urge my colleagues to support this legislation which will positively impact the domestic oil and gas industry by helping to bridge the gap in these lean economic times.●

● Mr. BURNS. Mr. President, I rise today to join Senator HUTCHISON, many members of the Energy and Natural Resources Committee, and other Senators who recognize the importance of our domestic energy market in presenting the United States Energy Economic Growth Act. This act is extremely important given the current state of our domestic oil and gas industry. The current market, coupled with government inaction and misguided regulation, has created an environment that is forcing many of our producers out of the energy market.

I have risen many times before, and unless things change I will rise many times again, to voice my concern over that fact that we are running our producers into the ground. Agriculture, timber, mining and energy; it doesn't seem to make a difference these days which natural resource market you work in, you don't get a fair price for an honest day's work.

This morning in the Energy and Natural Resource Committee, we had a hearing on this very problem. I must say, I heard some of the best testimony that I have ever heard before a Senate Committee. It just made good sense. We didn't have people asking for handouts. We didn't have people placing blame. We had some hard working oil and gas producers, state governors and representatives of oil and gas producing states outline the problem and offer solutions.

One of the biggest problems discussed was the loss of domestic production capability in the form of marginal wells. We are losing these wells at an alarming rate. As a result our reliance on foreign energy sources is skyrocketing. We are running our producers out of business, increasing our dependence on foreign oil, and throwing our trade balance askew.

This legislation will help our independent producers running marginal wells stay in business. Much more needs to be done, but this bill will help relax the heavy hand of government on an ailing industry. As pointed out this morning, the current administration stepped in to help the straw broom industry when less than a hundred jobs were at risk. It's time this Congress takes a stand, and hopefully the administration will join us, in supporting an industry where tens of thousands of jobs, our national security, and our economic well-being are all being placed at risk.●

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, and Mr. SESSIONS);

S. 326. A bill to improve the access and choice of patients to quality, affordable health care, to the Committee on Health, Education, Labor, and Pensions.

PATIENTS' BILL OF RIGHTS

● Mr. JEFFORDS. Mr. President, today, I am proud to join with eight other members of the Committee on Health, Education, Labor, and Pensions in introducing the ''Patients' Bill of Rights.'' I think it is solid legislation that will result in a greatly improved health care system for Americans.

As Chairman of the Committee on Health, Education, Labor, and Pensions, with its jurisdiction of private health insurance and public health programs, I anticipate that the Committee will have an active health care agenda during the 106th Congress, including early consideration of patient protection legislation. In fact, on January 20th, the Committee held a hearing on the Department of Labor's proposed rules on health plan information requirements and internal and external appeals rights.

Last week's hearing builds on the foundation of 14 related hearings, which my Committee held during the 105th Congress. These included 11 hearings related to the issues of health care quality, confidentiality, genetic discrimination, and the Health Care Financing Administration's (HCFA) implementation of its new health insurance responsibilities. And Senator BILL FRIST's Public Health and Safety Subcommittee held three hearings on the work of the Agency for Health Care Policy and Research (AHCPR). Each of these hearings helped us in developing the separate pieces of legislation that are reflected in our ''Patients' Bill of Rights.''

People need to know what their plan will cover and how they will get their health care. The ''Patients' Bill of Rights'' requires full information disclosure by an employer about the health plans he or she offers to employees. Patients also need to know how adverse decisions by the plan can be appealed, both internally and externally, to an independent medical reviewer.

The limited set of standards under the Employee Retirement and Income Security Act (ERISA) may have worked well for the simple payment of health insurance claims under the fee-for-service system in 1974. We have moved from a system where an individual received a treatment or procedure, and the bill was simply paid. In our current system, an individual frequently obtains authorization before a treatment or procedure can be provided. And it is in the context of these changes that ERISA needs to be amended in order to give participants and beneficiaries the right to appeal adverse coverage or medical necessity decisions to an independent medical expert.

Under the ''Patients' Bill of Rights,'' enrollees will get timely decisions about what will be covered. Furthermore, if an individual disagrees with the plan's decision, that individual may appeal the decision to an independent, external reviewer. The reviewer's decision will be binding on the health plan. However, the patient maintains his or her current rights to go to court. Timely utilization decisions and a defined process for appealing such decisions is the key to restoring trust in the health care system.

Another important provision of the ''Patients' Bill of Rights'' would limit the collection and use of predictive genetic information by group health plans and health insurance companies. As our body of scientific knowledge about genetics increases, so, too, do the concerns about how this information may be used. There is no question that our understanding of genetics has brought us to a new future. Our challenge as a Congress is to quickly enact legislation to help ensure that our society reaps the full health benefits of genetic testing, and also to put to rest any concerns that the information will be used as a new tool to discriminate against specific ethnic groups or individual Americans.

Our legislation addresses these concerns by prohibiting group health plans and health insurance companies in all markets from adjusting premiums on the basis of predictive genetic information; and it prohibits group health plans and health insurance companies from requesting predictive genetic information as a condition of enrollment.

Many of our colleagues argue that the current accountability structure of ERISA is insufficient to protect patients from bad decisions made by health plans. They would like to hold health plans accountable by removing the ERISA preemption and allowing group health plans to be sued in State court for damages resulting from personal injury or for wrongful death due to ''the treatment of or the failure to treat a mental illness or disease.''

Mr. President, patients already have the right to sue their health plan in State court. Patients can sue health plans for personal injury or wrongful death resulting from the delivery of

substandard care or the failure to diagnose and properly treat an illness or disease. Furthermore, the courts have determined that health plans can be held liable for having policies that encourage providers to deliver inadequate medical care.

You simply cannot sue your way to better health. We believe that patients need to get the care they need when they need it. In the ''Patients' Bill of Rights,'' we make sure each patient is afforded every opportunity to have the right treatment decision made by health care professionals. And, we make sure that a patient can appeal an adverse decision to an independent medical expert outside the health plan. This approach, Mr. President, puts teeth into ERISA and will assure that patients get the care they need. Prevention, not litigation, is the best medicine.

As the Health and Education Committee works on health care quality legislation, I will keep in mind three goals. First, to give families the protections they want and need. Second, to ensure that medical decisions are made by physicians in consultation with their patients. And, finally, to keep the cost of this legislation low, so that it displaces no one from getting health care coverage.

Our goal is to give Americans the protections they want and need in a package that they can afford and that we can enact. This is why I hope the ''Patients' Bill of Rights'' we have introduced today will be enacted and signed into law by the President.●

By Mr. HAGEL (for himself, Mr. DODD, Mr. DORGAN, Mr. GRAMS, Mr. HARKIN, Mr. LUGAR, Mr. ROBERTS, and Mr. WARNER):

S. 327. A bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions; to the Committee on Foreign Relations.

FOOD AND MEDICINE SANCTION RELIEF ACT OF 1999

● Mr. HAGEL. Mr. President, today Senator DODD and I are introducing the Food and Medicine Sanctions Relief Act of 1999. Joining us as cosponsors are our colleagues Senators DORGAN, GRAMS, HARKIN, LUGAR, ROBERTS, and WARNER.

This bill makes the simple statement that we should not include food and medicine in any unilateral sanction or embargo we may place on another country. Food and medicine are the most fundamental of human needs. Food and medicine should have no place in any sanctions we may impose on other countries because we do not like the policies of an aggressive or oppressive government.

We have gone too far in imposing unilateral economic sanctions on other nations. Sanctions can be a tool of foreign policy, but too often then have become a substitute for foreign policy.

From 1993 to 1996, the United States imposed 61 unilateral economic sanctions on 35 nations. We now have some form of sanctions on more than half of the world's population. It is time that we say ''no more.'' This legislation says that we will no longer use farm policy as a foreign policy weapon.

The pace of change today is unprecedented in modern history, and maybe all of history. Trade, and particularly the trade in food and medicine, is the common denominator that ties together the nations of the world. American exports of food and medicine acts to build bridges around the world. It strengthens ties between people and demonstrates the basic humanitarian impulse of the American people.

We live in a dynamic, interconnected world. Sanctions without the support of our allies only hurt us. And from a foreign policy perspective, unilateral sanctions rarely achieve their goal. Their real harm is on U.S. producers. It's estimated that sanctions cost the U.S. economy more than $20 billion each year. If a nation can't purchase products from the United States, particularly agricultural products, other nations are more than ready to fill the needs of those markets.

American agriculture and the U.S. government must send a strong message to our customers and our competitors around the world—our agricultural producers are going to be consistent and reliable suppliers of quality and plentiful agricultural products.

Once foreign agricultural markets are lost—for whatever reason—it can take decades to restore them. In 1973, the U.S. banned soybean exports to Japan. What did that accomplish? It turned Brazil into a significant soybean producer, and America has never fully recovered its soybean market share in Japan . . . and for good reasons, because it raised questions about the reliability of America as an agricultural supplier. Another example is that the Soviet grain embargo of 1979 cost the U.S. $2.3 billion in lost farm exports and USDA compensation to farmers. When the U.S. cut off sales of wheat to protest the Soviet invasion of Afghanistan, France, Canada, Australia and Argentina stepped in to claim this market and the former Soviet states have been timid buyers of U.S. farm products ever since.

This is also the right thing to do. It's beneath this great nation to withhold medicine and food as a tool to implement its foreign policy. We are the most powerful nation on earth. Removing these items from the U.S. arsenal of economic sanctions will say to the poor and hungry of the world that they will not have to suffer the consequences of their government's actions.

I am from a Midwestern state, a large agriculture exporting state. But there is not a farmer or rancher in Nebraska who would say, ''I would trade America's national or security interests just to sell more corn or beef.'' That is not the question. The question is whether we should place a humanitarian hardship on the people of other countries because of the actions of their governments. Doing this does not advance our country's interests. In fact, it hurts our national interest, just as it intensifies the hardship being faced today by America's agricultural producers.

History has shown, Mr. President, that trade and commerce does more to change attitudes and alter behaviors over time than any one thing. Why? It improves diets; it improves standards of living; it opens societies; it exposes people who lived under totalitarian rule to the concepts of personal freedom, economic freedom, and individual choice.

Ultimately, sanctions and embargoes mostly isolate ourselves. Trade embargoes isolate those who impose them. This bill is an important step forward, and is a part of the larger debate this Congress on the role of the U.S. in the world and how we intend to engage in the world. Trade is the keystone of our global engagement.

Mr. President, I encourage my colleagues to support this legislation, and to engage in the debate over the role of unilateral economic sanctions in American foreign policy.

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. 327

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Food and Medicine Sanctions Relief Act of 1999''.

SEC. 2. PURPOSE.

It is the purpose of this Act to exempt agricultural products, medicines and medical equipment from U.S. economic sanctions.

SEC. 3. FINDINGS.

(1) Prohibiting or otherwise restricting the donations or sales of food, other agricultural products, medicines or medical equipment in order to sanction a foreign government for actions or policies that the United States finds objectionable unnecessarily harms innocent populations in the targeted country and rarely causes the sanctioned government to alter its actions or policies.

(2) For the United States as a matter of U.S. policy to deny access to United States food, other agricultural products, medicines, and medical equipment by innocent men, women and children in other countries weakens the international leadership and moral authority of the United States.

(3) Sanctions on the sale or donations of American food, other agricultural products, medicine or medical equipment needlessly harm American farmers and workers employed in these sectors by foreclosing markets for these United States products.

SEC. 4. EXCLUSION FROM SANCTIONS.

(1) Notwithstanding any other provision of law, the President shall not restrict or otherwise prohibit any exports (including financing) of food, other agricultural products (including fertilizer), medicines or medical equipment as part of nay policy of existing or future unilateral economic sanctions imposed against a foreign government.

(2) Exceptions. Section 4(1) of this Act shall not apply to any regulations or restrictions of such products for health or safety

purposes or during periods of domestic shortages of such products.

SEC. 5. EFFECTIVE DATE.

(1) The provisions of this Act shall become effective upon the enactment of this Act.●

By Mr. SMITH of New Hampshire:

S. 328. A bill to make permanent the moratorium on the imposition of taxes on the Internet; to the Committee on Commerce, Science, and Transportation.

INTERNET CONSUMER PROTECTION LEGISLATION

● Mr. SMITH of New Hampshire. Mr. President, last year, we enacted a three-year moratorium on new Internet sales taxes. Today, I am introducing a bill that would make this moratorium permanent.

Internet commerce has exploded in recent years. For example, U.S. sales on the Internet last year totaled $8 billion. This last Christmas season was about three times as busy as the previous one, with consumers spending about $3 billion on goods purchased over the Internet. A recent survey of American adults by the Pew Research Center suggests that 41% of American adults now uses the Internet.

For Americans who live in remote areas, such as residents of New Hampshire's North Country, the Internet offers major advantages. They now can shop by computer instead of driving several hours to the urban shopping malls or Main Street businesses. As noted by economist Larry Kudlow, other potential Internet shoppers include the elderly, busy executives, stay-at-home parents, the disabled and others.

Despite all of its benefits for our economy and American consumers, Internet commerce is at risk from state and local politicians seeking ever more tax revenues. Already, a number of states have imposed taxes on Internet sales. But there are several reasons why we should refuse to transform the Internet into a pot of gold for state and local tax collectors.

First, not only do all states and localities have other options for raising revenue—such as income taxes, use taxes and property taxes—but most are running budget surpluses. I asked the Congressional Research Service to analyze what has happened to traditional sales tax revenues over the past five years, when Internet use exploded. CRS reported that the growth in sales tax revenues has outpaced inflation in this period.

Second, a tax on Internet shopping is really just another tax on the American consumer. American consumers already pay taxes on their salaries, taxes on their capital gains, property taxes on their homes, taxes on the goods they purchase from instate vendors, and estate taxes on any property they have managed to save by the time of their death. Imposing yet another layer of taxes in cyberspace is simply unfair, especially because many Internet shoppers already pay shipping or handling costs in addition to the purchase price of the goods they buy.

Furthermore, imposing new taxes on Internet-related revenues could stifle the development of Internet commerce in the U.S. As reported in yesterday's Wall Street Journal, a University of Chicago economist who studied the buying decisions of 25,000 Internet shoppers found that applying sales taxes to Internet commerce ''would reduce the number of online buyers by 25% and spending by more than 30%.''

Some politicians would like to make each online business be a sales tax collector for every tax jurisdiction in the United States. Doing so simply would give Internet businesses—especially those whose profit margins are slim—a good incentive to move offshore. Geography is not important on the Internet, and many Internet vendors can relocate without disruption to their customers.

Finally, many Internet transactions are really interstate commerce. The Founding Fathers recognized the danger that each state might impose taxes or tariffs on goods produced in other states, so they authorized the Federal government to prevent interstate trade wars. In interpreting the Commerce Clause of the U.S. Constitution, the Supreme Court has held that commerce which crosses state boundaries should be subject to state sales taxes only when both seller and buyer are in the same state, or when the seller has a presence in the buyer's state.

There is little reason to fear, as some have claimed, that Main Street businesses are at risk from Internet vendors. I can think of nothing that would prevent these businesses from offering their own on-line shopping services. Some already have done so with great success. Moreover, the Internet likely will attract entirely new customers whose purchases will only increase total retail sales.

The purpose of the bill I am introducing today is to allow Internet commerce to continue to prosper in this country, by making permanent the three-year moratorium that we enacted last year. Under my bill, state and local governments could not impose new Internet sales taxes.

Mr. President, I hope that all of my colleagues will support this legislation, which is of great importance to the American consumer and our economy.●

By Mr. ROBB:

S. 329. A bill to amend title, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

COMBAT VETERANS MEDICAL EQUITY ACT OF 1999

Mr. ROBB. Mr. President, I rise today to introduce the Combat Veterans Medical Equity Act of 1999, legislation which will serve to codify America's obligation to provide for the medical needs of our combat-wounded veterans.

Although we have long recognized the combat-wounded vet to be among our most deserving veterans, and although we have long distinguished the sacrifices of these veterans by awarding the Purple Heart medal, remarkably, there is nothing in current law that stipulates an entitlement to health care based upon this physical sacrifice. In fact, I believe most Americans would be surprised to learn that a combat-wounded Purple Heart recipient could be denied services for which a non-combat veteran, with a non-service-connected disability, would be eligible. This legislation would seek to remedy that situation.

Specifically, this bill establishes for VA hospital care and medical services based upon the award of the Purple Heart Medal. It also gives Purple Heart recipients an enrollment priority on par with former Prisoners of War and veterans with service-connected disabilities rated between 10 and 20%.

Mr. President, as a Vietnam Veteran who has been privileged to lead marines in combat, and as a member of the Senate Armed Services Committee, I have a keen appreciation for the sacrifices made by all of our men and women in uniform. At the same time, in the face of tighter budgets and greater competition for services, I believe strongly that Congress should ensure equity in disbursing of medical services for our most deserving veterans—the combat wounded. These veterans, who have shed their blood to keep our country safe and free, deserve no less.

Mr. President, I salute them, and 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. 329

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

SECTION 1. ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES BASED ON AWARD OF PURPLE HEART.

(a) ELIGIBILITY.—Section 1710(a)(2) of title 38, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph (G):

''(G) who has been awarded the Purple Heart; or''.

(b) ENROLLMENT PRIORITY.—Section 1705(a)(3) of such title is amended—

(1) by striking ''and veterans'' and inserting ''veterans''; and

(2) by inserting '', and veterans whose eligibility for care and services under this chapter is based solely on the award of the Purple Heart'' before the period at the end.

(c) CONFORMING AMENDMENTS.—(1) Section 1722(a) of such title is amended by striking ''section 1710(a)(2)(G)'' and inserting ''section 1710(a)(2)(H)''.

(2) Section 5317(c)(3) of such title is amended by striking ''subsections (a)(2)(G),'' and inserting ''subsections (a)(2)(H),''.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr.

GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. SARBANES, Ms. SNOWE, Mr. STEVENS, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 331. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes; to the Committee on Finance.

WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. JEFFORDS. Mr. President, today Senators KENNEDY, ROTH, MOYNIHAN, and I, joined by many of our colleagues are introducing the Work Incentives Improvement Act of 1999. The reason for this broad bipartisan effort is both compelling and simple. Currently, individuals with disabilities must choose between working or getting health care. Such a choice is absurd. But, current federal law forces individuals with disabilities to make that choice. Our legislation addresses this fundamental flaw.

The federal government helps individuals with significant disabilities, who earn under $500 a month. Individuals, who have less than $2,000 in assets and have not paid into Social Security, receive Supplemental Security Income (SSI) cash payments and access to Medicaid. Individuals, who have worked and paid into Social Security, receive Social Security Disability Insurance (SSDI) cash payments and access to Medicare. Yet, the current system offers no incentive for SSI and SSDI recipients to work to their full potential, to be taxpayers, to contribute to their well-being and that of their families. The facts bear out this assertion. Less than one half of one percent of the 7.5 million individuals on the Social Security disability rolls leave them.

Do these individuals really want to work? The answer is a resounding, ''Yes.'' Over the last 10 years, national surveys consistently confirm that people with disabilities of working age want to work, but only about one-third are working.

Are the numbers low because of discrimination or because of lack of skills? Congress has tackled these issues. We passed the Americans with Disabilities Act in 1990. It is against the law to discriminate against an individual on the basis of disability in employment as well as in all other contexts. The Individuals with Disabilities Education Act, the Rehabilitation Act, and most recently the Workforce Investment Act of 1998 contribute to the access of individuals with disabilities to the education and training they need to become qualified workers.

However, protection against discrimination is not enough. Access to education and training is not enough. Colleagues, the biggest remaining barrier is health insurance. Individuals with significant disabilities who meet the rigorous eligibility criteria of the Social Security disability programs cannot often get reasonably priced, appropriate health insurance coverage from the private sector. These individuals can only get health insurance from the government, and the government gives it to them only if they stay home, or at best, work a minimal amount.

It is difficult to measure fully the effect of having a job on an individual's life. It has a positive impact on a person's identity and sense of self-worth. Having a job results in satisfaction associated with supporting oneself and one's family or at least not being a burden on it. If only one percent of the 7.5 million SSI and SSDI recipients go to work and forgo cash payments from the Social Security Administration (SSA), this would result in a cash savings of $3.5 billion to the federal Treasury over the lifetimes of these individuals. If we factor in the income taxes these individuals would pay, their lack of need for food stamps, subsidized housing, and other forms of assistance, that $3.5 billion dollar figure would be even higher.

Beyond the individual, there is another factor. Recently we learned that our unemployment rate, 4.3 percent, is the lowest it has been since 1956. Our economy, to stay vibrant and strong, needs access to a qualified and enthusiastic pool of potential workers fro which to draw. SSI and SSDI recipients are an untapped resource. Many of the jobs that currently go unfilled, in the service sector and technology industry, are the very jobs that many SSI and SSDI recipients are ready and willing to fill, if only they could have access to health care.

The Work Incentives Improvement Act of 1999 is targeted, fiscally responsible legislation. It would enable individuals with significant disabilities to enter the work force for the first time, reenter the work force, or avoid leaving it in the first place. These individuals would need not worry about losing their health care if they choose to work a forty hour week, to put in overtime, to go for a career advancement or change with more income potential.

Under current law, a poor individual with a disability who has not worked and not paid into Social Security, who meets rigorous criteria, receives monthly SSI payments. Once eligible for SSI cash payments, these individuals have access to Medicaid. In some states these individuals may have coverage of personal assistance services and prescription drugs through Medicaid. An SSI recipient who chooses to earn income, and then exceeds his or her state's threshold for earned income for an SSI beneficiary, loses SSI cash payments and access to Medicaid.

Also under current law, an individual who has worked and paid into Social Security, has a disability, and meets rigorous criteria, receives SSDI payments. After 24 months, these individuals have access to Medicare. Medicare does not cover the cost of personal assistance services or prescription drugs, items an individual with a disability may need to work at all. To access coverage of these items, an individual must spend-down his or her resources until he or she has under $2,000. Then, the individual can become eligible for coverage of these items through Medicaid in states where they are offered. An SSDI recipient who chooses to work and earns $500 monthly in a 12 month period, loses SSDI cash payments. SSDI beneficiaries continue to receive Medicare coverage after returning to work throughout a 39-month extended period of eligibility, but afterwards must pay the full Medicare Part A premium, which is over $300 monthly.

The bill would allow states to expand Medicaid coverage to workers with disabilities. These options build on previous reforms including a recent provision enacted in the Balanced Budget Act of 1997 (BBA). The BBA provision permitted states to offer a Medicaid buy-in to those individuals with incomes below 250 percent of poverty who would be eligible for SSI disability benefits but for their income.

The first option in our legislation would build on the BBA provision. States may elect to offer a Medicaid buy-in to people with disabilities who work and have earnings above 250 percent of poverty. Even so, participating States may also set limits on an individual's unearned income, assets, and resources and may require cost-sharing and premiums on a sliding scale up to a full premium.

The second option in our legislation would allow states that elect to do so to cover individuals who continue to have a severe medically determinable impairment but lose eligibility for SSI or SSDI because of medical improvement. Although medical improvement for individuals with disabilities is inextricably linked to ongoing interventions made possible through insurance coverage, under current law improvement can jeopardize continued eligibility for that coverage.

The legislation requires that states not supplant existing state-only spending with Medicaid funding under either of these options and maintain current spending levels on eligible populations.

A state which elects to implement the first option or the first and second options would receive a grant to support the design, establishment and operation of infrastructures to support working individuals with disabilities. A

total of $150 million would be available for five years, and annual amounts would be increased at the rate of inflation from 2004 through 2009. In 2009, the Secretary of Health and Human Services would recommend whether the program is still needed.

The bill includes a ten-year trial program that would permit SSDI beneficiaries to continue to receive Medicare coverage when they return to work. This option in effect extends the current 39-month extended period of eligibility.

The legislation includes a time-limited demonstration program that would allow states to extend Medicaid coverage to workers who have a disability which, without access to health care, would become severe enough to quality them for SSI or SSDI. This demonstration would provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work. Funding of $300 million would be available for the demonstration, which would sunset at the end of FY 2004.

The legislation eliminates other programmatic disincentives. It would encourage SSDI and SSi beneficiaries to return to work by providing assurance that cash benefits remain available if employment proves unsuccessful. Specifically, the legislation would prohibit using employment as the sole basis for scheduling a continuing disability review and would expedite eligibility determinations for those individuals that need to return to SSDI benefits after losing such benefits because of work.

We estimate the total cost of these health care-related provisions to be a total of $1.2 billion over five years.

Recognizing that some SSI and SSDI recipients will need training and job placement assistance and that they seek choices related to these activities, in our bill we include provisions modeled on Senator BUNNING's legislation that passed the House last year. These ''ticket to work and self-sufficiency'' provisions would give SSI and SSDI beneficiaries more choices in where to obtain vocational rehabilitation and employment services and would increase incentives to public and participating private providers serving these individuals. The ''ticket'' provisions would create a new payment system for employment services to SSI and SSDI beneficiaries the result in employment. For each beneficiary a provider assists, the provider would be reimbursed with a portion of benefits savings to the federal government that would occur when the beneficiary earns more than the current law Substantial Gainful Activity (SGA) standard of $500 per month. These ticket provisions have been estimated to cost a total of $17 million over five years.

To assist individuals with disabilities to understand the myriad options available to them and their interrelationship, the legislation would create a community-based outreach program to provide accurate information on work incentives programs to individuals with disabilities, and a state grant program to help people cut red tape to access work incentives. For the community-based work incentives outreach program, up to $23 million per year would be provided for grants to states or private organizations. SSA would have the authority to provide state grants ($7 million annually) to provide help to beneficiaries in accessing the ''ticket to work'' and other work incentives programs.

The legislation would reauthorize SSA's demonstration authority which expired June 10, 1996. In addition, through mandated demonstration projects SSA is to assess the effect of a gradual reduction in cash benefits a earnings increase. Under current law, SSI recipients have access to a gradual reduction in their cash payments, but SSDI recipients do not. SSDI recipients lose cash payments immediately after earning $500 monthly in a 12 month trial work period. SSDI recipients participating in the demonstration would lose one SSDI dollar for every $2 earned.

Finally, the legislation directs the General Accounting Office (GAO) to study three issues: (1) tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990; (2) the coordination of SSI and SSDI benefits; and (3) the effects of the Substantial Gainful Activity (currently $500 monthly) standard on work incentives.

These provisions have been estimated to cost a total of $55 million over five years.

This legislation represents two years of work. It reflects what individuals with disabilities say they need. It was shaped by input across the philosophical spectrum. It was endorsed by the President in this State of the Union Address. It is an opportunity to bring responsible change to federal policy and eliminate a perverse dilemma for many Americans with disabilities—if you don't work, you get health care; if you do work, you don't.

This legislation is a vital link that will make the American dream a reality for many Americans with disabilities. Let's work together to make the Work Incentives Improvement Act of 1999 the first significant legislation enacted by the 106th Congress.

Ms. COLLINS. Mr. President, I am pleased to join Senators JEFFORDS, KENNEDY, ROTH, and MOYNIHAN in introducing this historic, bipartisan initiative that will help tear down the barriers that prevent Americans with disabilities who want to work from reaching their full potential and achieving economic independence.

Eight million Americans receive more than $50 billion a year in cash disability benefits under the Supplemental Security Income and Social Security Disability programs. While surveys show that the overwhelming majority of adults with disabilities want to work, fewer than ½ of 1 percent of them actually do.

Advances in medicine and technology coupled with tougher civil rights laws have made it possible for more and more people with physical and mental disabilities to enter the workforce. These are people who genuinely want to work. They have the skills and talents necessary to be productive members of the workforce. But they face a Catch-22. If they leave the disability rolls for a job, they risk losing the Medicare and Medicaid benefits that made it possible for them to enter the workforce in the first place. Moreover, many of these individuals' very lives depend on the prescription drugs, technology, personal assistance services, and medical care they receive.

Mr. President, no one should have to make a choice between a job and health care. The legislation we are introducing today will create and fund new options for States to encourage them to allow people with disabilities who enter the workforce to buy into the Medicaid program, so they can continue to receive the prescription drugs, personal assistance services, and medical care upon which they depend. It will also allow workers leaving the social Security Disability Insurance program to extend their Medicare coverage for ten years. This is tremendously important since many people returning to work after having been on SSDI either work part time and are therefore not eligible for employer-based insurance, or they work in jobs that do not offer health insurance. Allowing these disabled individuals to maintain their Medicare coverage will serve as a tremendous incentive for them to return to the workforce.

Other provisions of the legislation we are introducing today incorporate a more ''user-friendly'' approach in programs providing job training and placement assistance to individuals with disabilities who wants to work. Our bill gives disabled SSI and SSDI beneficiaries greater consumer choice by creating a ''ticket'' that enables them to choose whether they want to go to a public or private provider of vocational rehabilitation services. The bill also provides grants to States and organizations to help connect people with disabilities with appropriate services, and funds demonstrations and studies to better understand policies that will encourage and enable work.

Mr. President, the legislation we are introducing today is an investment in human potential that promises tremendous return. By ensuring that Americans with disabilities have access to affordable health insurance, we are removing the major barrier between them and the workplace. The Work Incentives Improvement Act of 1999 will both encourage and enable Americans with disabilities to be full participants in our nation's workforce and growing economy, and I urge all of my colleagues to join me in cosponsoring this important legislation.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues in introducing the Work Incentives Improvement Act to provide affordable and accessible health care for persons with disabilities so they can work and live independently.

Despite the extraordinary growth and prosperity the country is now enjoying, people with disabilities continue to struggle to live independently and become fully contributing members of their communities. We have made significant progress through special education programs that open new horizons for excellence in learning, and through rehabilitation programs that develop practical independent living skills.

Too often, however, the goal of independence is still out of reach. We need to do more to see that the benefits of our prosperous economy are truly available to all Americans, including those with disabilities. Disabled children and adults deserve access to the benefits and support they need to achieve their full potential.

Large numbers of the 54 million disabled Americans have the capacity to work and become productive citizens. But they are unable to do so because of the unnecessary barriers they face. For too long, people with disabilities have suffered from unfair penalties if they go to work. They are in danger of losing their cash benefits if they accept a paying job. They are in danger of losing the medical coverage, which may well mean the difference between life and death. Too often, they face a harsh choice between eating a decent meal and buying their needed medication.

The bipartisan legislation we are introducing today will help to remove these unfair barriers. It will make health insurance coverage more widely available, through opportunities to buy-in to Medicare and Medicaid at an affordable rate. It will phase out the loss of cash benefits as income rises—instead of the unfair sudden cut-off that so many workers with disabilities face today. It will bring greater access for people with disabilities to the services they need in order to become successfully employed.

Our goal is to restructure and improve existing disability programs so that they do more to encourage and support every disabled person's dream to work and live independently, and be productive and contributing members of their community. That goal should be the birthright of all Americans—and when we say all, we mean all.

This bill is the right thing to do, it is the cost effective thing to do, and now is the time to do it. For too long, our fellow disabled citizens have been left out and left behind. A new and brighter day is on the horizon for Americans with disabilities, and together we can make it a reality.

I especially commend Senator JEFFORDS, Senator ROTH and Senator MOYNIHAN for their impressive leadership on this issue. We look forward to working with all members of Congress to pass this landmark legislation that will give disabled persons across the country a better opportunity to fulfill their dreams and participate fully in the social and economic mainstream of the nation.

Mr. KERREY. Mr. President, it is with pleasure that I join Senators MOYNIHAN, ROTH, KENNEDY and JEFFORDS on their significant initiative to expand work opportunities for Americans with disabilities. As Americans, we value the opportunity to support ourselves and our families to the best of our abilities. In fact, we refer to this right and this responsibility as the American dream. But today, millions of Americans who want to work remain on various forms of public assistance, because they can't access the supports they need to begin and continue working.

People with disabilities face unique barriers to self-sufficiency. Many of them need certain types of health services, such as home health care and personal care services, in order to work—yet these services are rarely available under employer-sponsored health insurance. Many of them find private health insurance unavailable or unaffordable. Some need vocational rehabilitation services and help finding employment. Others need assistive technology in order to do their job.

Currently, health care coverage and other services are linked to two cash programs—Social Security Disability (SSDI) and Supplemental Security Income. So people with disabilities must choose whether they want to reach self-sufficiency and risk losing their health coverage and other supportive services, or retain their health insurance but remain dependent on these safety-net programs. At the same time, without personal attendants or other supportive services, they may not be able to work in the first place, or no longer be able to work if their health status is threatened by the loss of the services they can access through health coverage.

I do not believe that people who wish to work and support themselves should face this kind of agonizing choice and take these types of risks. However, we can change this Catch-22. The Work Incentives Improvement Act will make several important changes. Most significantly, it will provide new options for Medicaid and Medicare coverage for disabled individuals who enter the workforce, and expand access to employment services for disabled individuals who are building their employment skills.

By enabling workers with disabilities to buy-in to the Medicaid program, this legislation will permit Americans with disabilities to enter the workforce without worrying about losing the prescription drug coverage, personal care services, and other health care services they need to work in the first place. It also allows States to establish sliding-scale premiums for workers with higher incomes, therefore ensuring that as workers' income increases, they maintain their health coverage but are less financially dependent on public programs. This proposal will also allow States to continue covering people whose health condition has improved through treatment made possible through Medicaid coverage. Finally, through a ten-year demonstration, the Work Incentives Improvement Act will determine whether permitting SSDI beneficiaries to continue their Medicare coverage is a cost-effective strategy for providing health insurance to individuals who lose SSDI when they return to work.

This legislation will also reduce barriers to employment for Americans with disabilities by providing new mechanisms for these individuals to receive the vocational rehabilitation and employment services they need from the providers they choose. In addition, it will encourage SSDI and SSI beneficiaries to develop their skills and venture into the workplace by providing a new assurance that their cash benefits will remain available, if necessary. These individuals may still lose their cash benefits, depending on their working income, but they can be assured that their SSDI and SSI eligibility application would be expedited if their work experience ultimately proves unsuccessful.

As we look towards the next century, we know that America's economic strength and sense of national community are dependent on the contributions of each and every American. We need to take the necessary steps to ensure that all Americans will have a chance to enjoy the American dream. Americans with disabilities have the same dreams as the rest of us—including a productive and rewarding working life that enables them to support their families and achieve economic self-sufficiency. We should do our best to help make these dreams a reality.

Mr. MOYNIHAN. Mr. President, I join today with my colleagues Senators ROTH, KENNEDY and JEFFORDS to introduce The Work Incentives Improvement Act of 1999. This bill would address some of the barriers and disincentives that individuals enrolled in Federal disability programs face in returning to work.

Many persons with disabilities need the health coverage that accompanies their eligibility for cash benefits. (Social Security Disability Insurance (SSDI) beneficiaries are also covered under Medicare. Supplemental Security Income (SSI) beneficiaries receive Medicaid coverage). Disability is determined based on an inability to sustain gainful work activity, which is measured by an earned income threshold. Under current law, as they return to work and earn income, beneficiaries lose their cash benefits and, subsequently, their health coverage. The risk of losing health benefits may deter disabled individuals from returning to work and, instead, encourage them to

continue to receive cash benefits despite their ability to work.

Less than one percent of SSDI and SSI beneficiaries leave the programs and return to work each year. A survey released by the National Organization on Disability showed that, currently, only 29 percent of all disabled adults are employed full-time or part-time, compared to 79 percent of the non-disabled adult population.

PAST INITIATIVES

Our former Majority Leader and Finance Committee Chairman, Senator Bob Dole, should be commended for pioneering legislation to address work disincentives for people with disabilities. On March 19, 1986, Senator Dole introduced The Employment Opportunities for Disabled Americans Act to permanently authorize an SSI demonstration that would allow SSI beneficiaries who return to work to continue to receive cash assistance and, most importantly, continue their Medicaid coverage. At a slightly higher income level, beneficiaries returning to work would have a phased down SSI benefit while maintaining their Medicaid coverage. I was an original cosponsor of that bill, which passed the Senate by a voice vote. On November 11, 1986, President Reagan signed the bill into law.

Most recently, under the Balanced Budget Act of 1997, states were given the option to provide Medicaid coverage on a sliding premium scale for disabled workers with net incomes up to 250 percent of poverty. This provision gave workers with disabilities an opportunity to buy into Medicaid coverage without leaving their job to qualify for SSI and Medicaid.

These initiatives were necessary first steps, yet several disincentives still exist.

THE WORK INCENTIVES IMPROVEMENT ACT OF 1999

The bill we introduce today would provide additional Medicare and Medicaid options for workers with disabilities, and would encourage SSI and SSDI beneficiaries to seek vocational rehabilitative services.

With regard to health coverage, the bill would allow states to lift the income and asset limits for the Medicaid buy-in program established in BBA. States would also have the option to continue Medicaid coverage for workers with disabilities that lose SSI benefits due to a medical improvement criteria. This bill would establish state demonstrations to provide the Medicaid buy-in for workers with disabilities that are not yet severe enough to end work but would be if they did not have comprehensive Medicaid coverage. In addition, as a ten-year trial period, SSDI beneficiaries who return to work may continue to receive Medicare coverage, despite losing SSDI benefits.

The bill would also create incentives for vocational rehabilitation providers to assist beneficiaries in finding work and achieving sufficient income. These providers would be paid a portion of the benefits saved by the beneficiaries returning to work. The bill would create several grant programs for outreach, advocacy, and planning and assistance for beneficiaries in work incentive programs.

Again, Senator Dole has offered his support for this legislation to continue the initiatives he began. My colleagues and I developed this proposal last year and would like to see it pass this year. Chairman ROTH and I are committed to marking up the bill in the Committee on Finance in early spring. At that time, the Chairman's Mark will include offsets to the proposed spending. We urge all members to support this important legislation.

By Mr. AKAKA (for himself, Mr. LOTT, Ms. LANDRIEU, Mr. CRAIG, and Mr. GRAHAM):

S. 330. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

METHANE HYDRATE RESEARCH AND DEVELOPMENT ACT OF 1999

• Mr. AKAKA. Mr. President, on behalf of Senators LOTT, LANDRIEU, CRAIG, and GRAHAM I am introducing the Methane Hydrate Research and Development Act of 1999.

Methane hydrates are rigid, ice-like solids of water surrounding a gas molecule. They remain solid at high pressure and low temperature. Such conditions are found in Arctic permafrost and in deep sea sediments. Methane hydrate has tremendous gas storage capacity: one volume of methane hydrate will expand to more than 160 volumes of methane under normal temperature and pressure conditions.

The data on this unlikely resource will surprise you. We are only beginning to quantify and characterize methane hydrate resources. Fundamental research on methane hydrates is urgently needed to serve our long-term energy supply needs, create short-term advances in conventional fuel extraction, and further the science of global climate change.

Significant, widespread quantities of gas hydrates have been detected, but not characterized, all over the world. In the United States, on-shore Arctic deposits are found in Alaska. Deep sea methane hydrate deposits are perhaps the most abundant source of methane, occurring at depths greater than 300 meters. Marine geologists have identified large deposits off the coasts of most of the U.S., including Alaska, Louisiana, Texas, New Jersey, Oregon, and North and South Carolina. However, we know very little about the quantity and nature of these deposits.

Worldwide, the estimated amount of methane trapped in gas hydrate form is 10,000 gigatons—twice the amount of carbon found in all other fossil fuels on Earth. This represents close to 3,000 times the amount of methane present in the atmosphere. Scientists estimate that 320,000 trillion cubic feet (tcf) of natural gas exists in hydrate form in the U.S.—a staggering resource. By comparison, we have an estimated reserve of 1,300 trillion cubic feet (tcf) of conventional natural gas.

The potential of methane hydrates as an energy resource is best described in terms of consumption. The U.S. consumes 22 trillion cubic feet of natural gas per year; U.S. gas reserves will likely supply gas for approximately 60 years at current consumption rates. However, gas consumption is expected to rise dramatically in the future. If the hydrate resource can be harvested, the amount of natural gas found in one deposit off the Carolina would satisfy our natural gas needs for over 70 years.

Can we produce natural gas from these vast reserves? Natural gas from methane hydrates will never be realized unless we undertake a serious methane hydrates research program. The U.S. is not doing enough to explore this exciting new energy source. Other nations, primarily Japan and India, have launched aggressive R&D programs to explore methane hydrates. Some believe that Japanese commercial production is only a decade away. Clearly we are falling behind in our efforts to understand this energy source. In the face of dwindling energy resources and increased reliance on energy imports, we can hardly afford to miss this important opportunity.

In addition to potential use as an energy source, methane hydrate deposits also represent a challenge to conventional oil and gas extraction. Hydrates influence physical properties of ocean sediments, particularly strength and stability. Characterizing hydrate formation and breakdown is important for the safety of deep offshore drilling and other deep sea operations.

Release of large quantities of methane to the atmosphere from hydrate deposits, and the sequestration methane in hydrate form, can also have significant effects on global climate change. The importance of the process in global climate regulation is relatively unknown, and demands investigation.

Even though this resource accounts for more potential energy than all other conventional fuels combined, has attracted significant foreign investment, challenges conventional oil and gas production, and holds unknown secrets about global climate, the Department of Energy budget is limited to $500,000 in FY 1999.

My bill establishes a small research and development program with the potential for major payback. It would direct the Department of Energy to conduct research and development in collaboration with the U.S. Geological Survey, National Science Foundation, and the Naval Research Laboratory. •

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. ROBB, and Mr. LUGAR):

S. 332. A bill to authorize the extension of nondiscriminatory treatment

(normal trade relations treatment) to the products of Kyrgyzstan. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment to the products of Kyrgyzstan; to the Committee on Finance.

NORMAL TRADE RELATIONS FOR KYRGYZSTAN

● Mr. BROWNBACK. Mr. President, I rise today to introduce a bill which would authorize ''normal trade relations'' treatment to the product of Kyrgyzstan.

In 1998, Kyrgyzstan acceeded into the World Trade Organization, one of two republics of the former Soviet Union to be granted membership. Only Latvia can join Kyrgyzstan in boasting of that accomplishment.

Admission to the World Trade Organization was an acknowledgement of the progress Kyrgyzstan has made in adopting and implementing economic and trade reforms since its independence from the Soviet Union. However, despite World Trade Organization membership, Kyrgyzstan remains subject to the Jackson-Vanik amendment to Title IV of the Trade Act of 1974.

As you are aware, Title IV is the provision of law governing the normal trade relations status of nonmarket economy countries. Under the present arrangement, Kyrgyzstan's compliance with the requirements of the Jackson-Vanik amendment must be assessed semiannually. The legislation that I am introducing would eliminate the twice yearly review by granting Kyrgyzstan permanent ''normal trade relations'' treatment.

Currently, the United States cannot extend unconditional and reciprocal treatment to Kyrgyzstan, nor can we apply the World Trade Organization agreements to Kyrgyzstan. Until granted ''normal trade relations'' treatment, transactions with Kyrgyzstan continue to be governed by the provisions of the bilateral trade agreement negotiated under Title IV.

It is important that Kyrgyzstan be extended unconditional ''normal trade relations'' treatment. It is important not only because the Kyrgyz Republic has met the criteria required by that designation, but also because Kyrgyzstan is deserving of that designation. It is also important because until accorded that status, neither Kyrgyzstan nor the United States can realize fully the benefits of Kyrgyzstan's World Trade Organization membership. Kyrgyzstan has complied with both the freedom-of-emigration and the bilateral commercial agreement requirements of Jackson-Vanik and Title IV.

Kyrgyzstan should graduate from Jackson-Vanik in recognition of the great strides the country has made in employing market-oriented reforms. The Kyrgyz Republic has served as a leader in economic and political reform in Central Asia and demonstrates the potential to serve as a model for other transforming economies.

Passage of this legislation would send a powerful message not only to Kyrgyzstan, but to all of Central Asia that a free-market economy is the path to prosperity. Permanent ''normal trade relations'' status for Kyrgyzstan would help advance further reform not only in that country, but would also serve as incentive for other countries in the region.

''Normal trade relations'' is important for both Kyrgyzstan and the United States. I hope my colleagues will join me in acknowledging Kyrgyzstan's progress and support this bill.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 4

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

At the request of Mr. WARNER, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 4, supra.

S. 5

At the request of Mr. DEWINE, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 20

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mrs. FEINSTEIN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 20, a bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

S. 28

At the request of Mr. HATCH, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 28, a bill to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes.

S. 58

At the request of Ms. COLLINS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 58, a bill to amend the Communications Act of 1934 to improve protections against telephone service ''slamming'' and provide protections against telephone billing ''cramming'', to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes.

S. 89

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 89, a bill to state the policy of the United States with respect to certain activities of the People's Republic of China, to impose certain restrictions and limitations on activities of and with respect to the People's Republic of China, and for other purposes.

S. 92

At the request of Mr. DOMENICI, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Ohio [Mr. DEWINE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 92, a bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 93

At the request of Mr. DOMENICI, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 93, a bill to improve and strengthen the budget process.

S. 98

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 135

At the request of Mr. DURBIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 170

At the request of Mr. SMITH, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 170, a bill to permit revocation by members of the clergy of their exemption from Social Security coverage.

At the request of Mr. LOTT, his name was added as a cosponsor of S. 170, supra.

S. 171

At the request of Mr. MOYNIHAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 171, a bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles.

S. 260

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 260, a bill to make chapter 12 of title 11, United States Code, permanent, and for other purposes.

S. 271

At the request of Mr. FRIST, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 280

At the request of Mr. FRIST, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

S. 290

At the request of Mr. ABRAHAM, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 290, a bill to establish an adoption awareness program, and for other purposes.

S. 301

At the request of Mr. CAMPBELL, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 301, a bill to amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes.

S. 305

At the request of Mr. MCCAIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 305, a bill to reform unfair and anticompetitive practices in the professional boxing industry.

SENATE JOINT RESOLUTION 7

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Joint Resolution 7, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE RESOLUTION 5

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 5, a resolution to establish procedures for the consideration of emergency legislation in the Senate.

SENATE RESOLUTION 6

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Resolution 6, a resolution to reform the Senate's consideration of budget measures.

SENATE RESOLUTION 8

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Resolution 8, a resolution amending rule XVI of the Standing Rules of the Senate relating to amendments to general appropriation bills.

SENATE RESOLUTION 30—RELATIVE TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 30

Resolved,

TITLE I—PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

SEC. 101. That the deposition time for all witnesses be determined by the Senate Majority Leader and Minority Leader, as outlined in Senate Resolution 16, One Hundred Sixth Congress, First Session, and title II of this resolution and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

SEC. 102. When the Senate reconvenes on the day after completion of the depositions, and the review period, it shall be in order for both the House Managers and the President's counsel to move to resolve any objections made during any deposition. After resolution of any such motions, it shall be in order for the House Managers and/or White House counsel to make a motion or motions to admit the depositions or portions thereof into evidence, whether transcribed or on videotape provided further for a presentation employing all or portions of such tape, and it shall then be in order for the two Leaders jointly, only to make motions for additional discovery because of new relevant evidence discovered during the depositions. Motions may also then be made for orders governing the presentation of evidence and/or the testifying of witnesses before the Senate.

SEC. 103. If no such motions are made, or following the completion of any procedures authorized as a result of the votes on any motions, the White House shall have up to 24 hours to make any motions dealing with testimony or evidence that the White House counsel deems appropriate, as described previously.

SEC. 104. If no such motions are made, or no witnesses are called to testify in the Senate, the Senate shall proceed to final arguments as provided in the impeachment rules waiving the two person rule contained in Rule XXII of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials for not to exceed six hours, to be equally divided. If motions are agreed to regarding new evidence or calling of new witnesses, this resolution is suspended.

SEC. 105. At the conclusion of the final arguments the parties shall proceed in accordance with the rules of impeachment: *Provided however,* That no motion with respect to reopening the record in the case shall be in order, and: *Provided further,* That it shall be in order for a Senator to offer a motion to suspend the rules to allow for open final deliberations with no amendments or motions to that motion in order; and the Senate shall proceed to vote on the motion to suspend the rules to provide for open Senate deliberations.

SEC. 106. Following that vote, and if no motions have been agreed to as provided in sections 102 and 103, and no motions are agreed to following the arguments, then the vote will occur on the articles of impeachment no later than 12:00 noon on Friday, February 12, 1999, if all motions are disposed of and final deliberations are completed.

TITLE II—TO AUTHORIZE ISSUANCE OF SUBPOENAS TO TAKE DEPOSITIONS IN THE TRIAL OF THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

SEC. 201. That, pursuant to Rules V and VI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, and Senate Resolution 16, One Hundred Sixth Congress, First Session, the Chief Justice of the United States, through the Secretary of the Senate, shall issue subpoenas for the taking of testimony on oral deposition to the following witnesses: Sidney Blumenthal, Monica S. Lewinsky, and Vernon E. Jordon, Jr.

SEC. 202. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or any other employee of the United States Senate in serving the subpoenas authorized to be issued by this resolution.

SEC. 203. Depositions authorized by this resolution shall be taken before, and presided over by, on behalf of the Senate, two Senators appointed by the Majority Leader and the Democratic Leader, acting jointly, one of whom shall administer to witnesses the oath prescribed by Rule XXV of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials. Acting jointly, the presiding officers shall have authority to rule, as an initial matter, upon any question arising out of the deposition. All objections to a question shall be noted by the presiding officers upon the record of the deposition but the examination shall proceed, and the witness shall answer such question. A witness may refuse to answer a question only when necessary to preserve a legally-recognized privilege, or constitutional right, and must identify such privilege cited if refusing to answer a question.

SEC. 204. Examination of witnesses at depositions shall be conducted by the Managers on the part of the House or their counsel, and by counsel for the President. Witnesses shall be examined by no more than two persons each on behalf of the Managers and counsel for the President. Witnesses may be accompanied by counsel. The scope of the examination by the Managers and counsel for both parties shall be limited to the subject matters reflected in the Senate record. The party taking a deposition shall present to the other party, at least 18 hours in advance of the deposition, copies of all exhibits which the deposing party intends to enter into the deposition. No exhibits outside of the Senate record shall be employed, except for articles and materials in the press, including electronic media. Any party may interrogate any witness as if that witness were declared adverse.

SEC. 205. The depositions shall be videotaped and a transcript of the proceedings shall be made. The depositions shall be conducted in private. No person shall be admitted to any deposition except for the following: The witness, counsel for the witness, the Managers on the part of the House, counsel for the Managers, counsel for the President, and the presiding officers; further, such persons whose presence is required to make and preserve a record of the proceedings in videotaped and transcript forms, and Senate staff members whose presence is required to assist the presiding officers in presiding over the depositions, or for other purposes, as determined by the Majority Leader and the Democratic Leader. All present must maintain the confidentiality of the proceedings.

SEC. 206. The presiding officers at the depositions shall file the videotaped and transcribed records of the depositions with the Secretary of the Senate, who shall maintain them as confidential proceedings of the Senate. The Sergeant at Arms is authorized to make available for review at secure locations, any of the videotaped or transcribed deposition records to Members of the Senate, one designated staff member per Senator, and the Chief Justice. The Senate may direct the Secretary of the Senate to distribute such materials, and to use whichever means of dissemination, including printing as Senate documents, printing in the Congressional Record, photo- and video-duplication, and electronic dissemination, he determines to

be appropriate to accomplish any distribution of the videotaped or transcribed deposition records that he is directed to make pursuant to this section.

SEC. 207. The depositions authorized by this resolution shall be deemed to be proceedings before the Senate for purposes of Rule XXIX of the Standing Rules of the Senate, Senate Resolution 259, One Hundredth Congress, First Session, sections 191, 192, 194, 288b, 288d, 288f of title 2, United States Code, sections 6002, 6005 of title 18, United States Code, and section 1365 of title 28, United States Code. The Secretary shall arrange for stenographic assistance, including videotaping, to record the depositions as provided in section 205. Such expenses as may be necessary shall be paid from the Appropriation Account—Miscellaneous Items in the contingent fund of the Senate upon vouchers approved by the Secretary.

SEC. 208. The Majority and Minority Leaders, acting jointly, may make other provisions for the orderly and fair conduct of these depositions as they seem appropriate.

SEC. 209. The Secretary shall notify the Managers on the part of the House, and counsel for the President, of this resolution.

AMENDMENTS SUBMITTED

RELATIVE TO THE PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

Mr. DASCHLE proposed an amendment to the resolution (S. Res. 30) relative to the procedures concerning the articles of impeachment against William Jefferson Clinton; as follows:

In the resolution strike all after the word ''that'' in the first line and insert the following:

''the deposition time for all witnesses to be deposed be limited to no later than close of business Wednesday, February 3 and that all Senators have an opportunity to review all deposition material, which shall be made available at the earliest possible time.

''When the Senate reconvenes the trial at 10 a.m. on Saturday, February 6 it shall be in order to resolve any objections that may not yet be resolved regarding the dispositions; after these deposition objections have been disposed of, it shall be in order for the House managers and/or the White House counsel to make a motion, or motions to admit the depositions or portions thereof into evidence, such motions shall be limited to transcribed deposition material only;

''On Monday, February 8 there shall be 4 hours equally divided for closing arguments; with the White House using the first 2 hours and the House Republican managers using the final 2 hours; that

''Upon the completion of the closing arguments the Senate shall begin final deliberation on the articles; a timely filed motion to suspend the rules and open these deliberations shall be in order; upon the completion of these deliberations the Senate shall, without any intervening action, amendment, motion or debate, vote on the articles of impeachment.

''*Provided further;* That the votes on the articles shall occur no later than 12 noon Friday, February 12.''

DASCHLE AMENDMENT NO. 2

Mr. DASCHLE proposed an amendment to the resolution, S. Res. 30, supra; as follows:

In the resolution strike all after the word ''that'' in the first line and insert the following:

''the Senate now proceed to closing arguments; that there be 2 hours for the White House counsel followed by 2 hours for the House managers, and that at the conclusion of this time the Senate proceed to vote, on each of the articles, without intervening action, motion or debate, except for deliberations, if so decided by the Senate.''

DASCHLE AMENDMENT NO. 3

Mr. DASCHLE proposed an amendment to the resolution, S. Res. 30, supra; as follows:

On page 3, strike the words ''any pending motions and amendments thereto and then on'' and insert the following at the end of page 3 '', strike the period and insert if all motions are disposed of and final deliberations are completed.''

DEDICATION OF MONUMENT TO VETERANS OF THE BATTLE OF THE BULGE

● Mr. SANTORUM. Mr. President, on January 29, the World War II Historical Preservation Federation will dedicate a monument to Veterans of the Battle of the Bulge. This monument will honor 600,000 Americans who, in World War II, fought three German armies in the Ardennes Forest of Belgium and Luxembourg and won the largest land battle ever fought by the U.S. Army.

Veterans of the Battle of the Bulge is an educational veterans organization made up of veterans who fought in the battle as well as their families and history buffs. The organization was founded to perpetuate the memory of the sacrifices involved during the battle, to preserve historical data and sites relating to the battle, to foster international peace and good will and to promote friendship among the battle's survivors and descendants.

Mr. President, I ask my colleagues to join with me in saluting the veterans who fought through the fog, snow, rain and ice in the bitter cold winter of 1944–1945, in what Sir Winston Churchill deemed an ''ever-famous American victory.''●

REGAINING FARMER POWER WITH HELP FROM ALAN GUEBERT

● Mr. KERREY. Mr. President, while the nation's eyes are turned toward Washington and the Senate impeachment trial, I would like to briefly turn the nation's eyes away from Washington and toward the economic catastrophe that is devastating our family farmers.

Prices are falling at alarming rates, and family farms are perishing, as rural America faces its worst crisis since the Great Depression. And to some, it may appear as though Nero is fiddling while Rome burns.

So I want to assure my constituents—and indeed all family farmers across our great nation—that while Congress spends it time deciding the fate of the President, some members have not lost sight of their daily struggle to make ends meet, and their fate.

On Tuesday, along with Minority Leader Daschle and several other farm state Democratic Senators, we introduced the Agricultural Safety Net and Market Competitiveness Act of 1999. With this legislation we intend to restore an economic safety net to producers and rural communities so that they can remain vital during these times of economic hardship. As well, we proposed ways in which we can revitalize markets—both domestic and abroad—so that all American producers have a fair shot to compete in the marketplace. We also introduced a bill, S. 30, to offset extreme losses to our producers resulting from severe economic and weather-related events.

I want my constituents and all family farmers to know that I will welcome the day when we can turn our attentions toward doing the business of the American people, and more specifically American farmers.

In the January 18, 1999 edition of the Lincoln Journal Star, farm journalist Alan Guebert wrote a thought provoking piece describing 10 ways in which the average American and American farmer can help regain the power they have lost and continue to lose during this economic catastrophe.

I urge my colleagues to take a moment to read this very important article, and I ask that Mr. Guebert's article be printed in the RECORD.

The article follows.

[From the Lincoln Journal Star, January 18, 1999]

(By Alan Guebert)

In the nearly 100 farmer calls, letters, e-mails and faxes to this office in the first two weeks of 1999, the central theme in most was the same: farmer powerlessness.

Many correspondents cited farmers' dwindling share of the retail food dollar as evidence of their growing powerlessness. Others likened supersized, globalized businesses—packers and grain companies being the favored targets—to power-taking, farmer-breaking, peasant-making monsters. And still other suggested ''free, but not fair trade'' drains them of market power.

Despite the woe-filled times, farmers are not powerless. There are many things all can do individually to claim, or reclaim, the power they feel has been vacuumed from them. Here's a list of 10 actions farmers or ranchers can take to be empowered:

1. Get informed. If information is power—and it is—the inverse must be that ignorance is powerlessness. Go to the library, get on the Internet, read the newspaper, turn off the television.

And don't read, listen or view just the ag press. We're some of the duller knives in the journalism drawer. Include nonag sources, too, such as The Wall Street Journal, The Washington Post Weekly Edition and National Public Radio's Morning Edition.

2. Sign a checkoff recall petition. Petitions are circulating for recall votes in both the pork and beef checkoffs. This year also should bring a recall petition for the soybean checkoff. It's your right to petition and your right to vote. Secure it, then exercise it.

3. Write your U.S. representatives and senators to demand full, open and immediate price reporting in all ag markets. Don't ask

for it; demand it. The only entity that can make the present hide-and-seek system work are integrators. And not in just today's livestock markets. Tomorrow's grain markets will be equally messy if the current price reporting system is not pried open so all farmers have equal standing and full information when approaching the market.

4. Don't buy from firms that are destroying farm markets and rural communities. Holdover from the '60s, heh? Positively. You don't have to buy eggs from a sleazy company that violates every state pollution law on the books; you don't need to buy chicken from a firm that buys members of Congress and Cabinet members; and you don't have to buy livestock feed—at whatever price—from the integrated conglomerate that is building hog units and destroying your neighbors' businesses and families. And sure, withholding your nickels and dimes may not stop the inevitable. But it won't finance it either.

5. Join a farm organization—any of them—and get involved. You can't hit the game-winning home run if you're not a player.

6. Make 1999 the year you reclaim your co-ops, especially your regional co-ops. It—and as a stockholder, really you—should not be in the business of ruining the livestock industry and building a fabulously well-paid bureaucracy in the process. If you reshape it from its present vertical structure to a more horizontal structure—the co-op shape your grandfather envisioned—more of its profits will come back to co-op's owners. That's you.

7. Push, prod, poke, pound and humiliate Congress to pass tough, meaningful campaign finance reform. The present system is a dollar democracy, owned and operated by well-oiled influence peddlers and puppeteers who make politicians dance like an organ grinder's monkey.

It is the very rotten core of your growing powerlessness.

8. The United States grows billions of pounds of beef and not one pound of bananas. Yet this administration will fight for the handful of very rich U.S. banana exporters and not impose similar import tariffs on European goods in support of 900,000 U.S. cattlemen (See No. 7.) Every farm group and every farmer should make exposing this sham one of their top five priorities in 1999.

9. Draw the line and categorically oppose every new agribusiness merger. Every one. Why is the farmer's share of the food dollar dwindling? Largely because big—and getting bigger—corporations have strengthened their holds on choke points in the food chain until they choke their profits out of you.

10. Don't quit. To paraphrase an old axiom, all it takes for bad ideas to further dominate agriculture is for good people—you—to do nothing.●

TRIBUTE TO ROBERT J. SCHWINGHAMER

● Mr. SESSIONS. Mr. President, I rise today to recognize Mr. Robert Schwinghamer on the occasion of his retirement for his significant contributions to our nation's space and rocket program. He served most recently within the office of the Director as the Associate Director, Technical, at NASA's George C. Marshall Space Flight Center in Huntsville, Alabama. Bob Schwinghamer's legacy is one of outstanding leadership, unselfish professional service, and a steadfast dedication to America's space program. It is a personal honor for me to recognize the more than 40 years that Bob so willingly committed to our country. I salute the distinguished achievements of this remarkable Alabamian for what his service has meant to the State of Alabama, the Nation, and NASA.

Bob's splendid record of achievement speaks for itself. He has been the recipient of several NASA Outstanding Leadership and Distinguished Service Medals; the Presidential Rank Distinguished Executive Award from President George Bush in 1992; Top Engineer in NASA and one of the Top Ten Engineers in Federal Government in 1990 and 1992. He also received numerous Group Achievement and Sustained Superior Performance Awards. With an ebullient leadership style, Bob Schwinghamer also led NASA investigation teams through times of crisis. In 1973, he received the NASA Medal for Exceptional Service to the Apollo Program. In 1986, he led the Space Shuttle Challenger Accident Solid Rocket Motor Investigation Team. In 1998, he received the NASA Outstanding Leadership Medal for leadership in Returning the Space Shuttle Safely to Flight, and in 1990, he led the Space Shuttle Hydrogen Leak Investigation Team. His outstanding record of service and his unfailing loyalty to the U.S. space program cannot be paid its proper due with mere words.

Bob Schwinghamer received his Bachelor-of-Science Degree in Engineering from Purdue University in 1950 and then completed his Master of Science Degree in Management from the Massachusetts Institute of Technology in 1968. During his notable career, he served as a registered professional engineer in the States of Indiana, Ohio, and Alabama.

Bob is a member of several highly regarded professional and honorary societies including the American Society for Materials, International; American Institute of Aeronautics and Astronautics; Society of Manufacturing Engineers, and the Society for Advancement of Materials and Processes Engineering. His devotion to the field of science has earned him continuing recognition throughout the space and missile community all over the country.

Mr. Schwinghamer's professional prowess and outstanding leadership are certainly noteworthy, but he also deserves recognition for being a devoted husband and father and an involved citizen. As an active member of his community, he has given his efforts to outside activities including service as Vice President of Grissom High School's PTA, President of the Lily Flagg Club, and President of the MSFC Skeet Club. He has and continues to inspire individuals in his workplace, community, and home. Bob's generosity and willingness to serve others is a trait which endears him to all of us.

It is with warmest regards and best wishes that I offer Robert J. Schwinghamer and his family every happiness in all of their future endeavors. It is right that we honor and celebrate his retirement. I salute Bob Schwinghamer as he embarks on the beginning of the next chapter of his life. Our nation's space program will have to replace one of its finest. His presence and expertise will certainly be missed.●

NEW SHOREHAM POLICE CHIEF WILLIAM A. MCCOMBE

● Mr. REED. Mr. President, today I wish to share with my colleagues the outstanding accomplishments of a great Rhode Islander, Mr. William A. McCombe, Chief of Police in the Town of New Shoreham on Block Island, Rhode Island.

Chief McCombe grew up in my hometown of Cranston, Rhode Island. He embarked on a long and successful career in public service by joining the New Shoreham Police Department in 1980 at the age of 20, attending the Rhode Island Police Academy the following year.

After being promoted to Sergeant in 1984, Mr. McCombe received a bachelors degree in Criminal Justice from Roger Williams University in 1987. In 1992, at 32 years of age, he was promoted to Chief of Police for the Town of New Shoreham. Two years later, Chief McCombe graduated from the FBI National Academy in Quantico, Virginia. He also has attended the Secret Service Diplomatic School in Washington, DC in 1998.

I have known Chief McCombe for a few years, but following President Clinton's decision to accept my invitation to visit Block Island, I worked closely with the Chief to ensure the President's short stay went smoothly. Chief McCombe's professionalism and attention to detail were exemplary and were essential in ensuring that the island's limited resources were not overwhelmed.

Chief McCombe has lived on Block Island for 21 years and has served on the police department for 19 of those years. He has devoted his life to preserving the public safety enjoyed by the people of the Town of New Shoreham and the entire state of Rhode Island. We are grateful for his continuing public service.●

OLIVE CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH

● Mr. BOND. Mr. President, I rise today to pay tribute to the Olive Chapel African Methodist Episcopal Church in Kirkwood, Missouri. Although the congregation is 145 years old, they will celebrate their 100th anniversary in their present building on February 26, 27, and 28. This is especially significant considering the Olive Chapel A.M.E. Church is the second oldest A.M.E. church west of the Mississippi River, and the oldest Protestant church in Kirkwood.

I commend Olive Chapel A.M.E. Church for their perseverance throughout the last 100 years and hope they will continue to be a positive influence

in the Kirkwood community for many years to come.●

THE IMPEACHMENT OF PRESIDENT WILLIAM JEFFERSON CLINTON

● Mr. CLELAND. Mr. President, let me begin by saying that the reason we are here today, the reason the United States Senate is being asked to exercise what Alexander Hamilton termed the ''awful discretion'' of impeachment, is because of the wrongful, reprehensible, indefensible conduct of one person, the President of the United States, William Jefferson Clinton. Indeed, I believe it is conduct deserving of the censure of the Senate, and I will support such a resolution when it comes before us.

The question before the Senate, however, is not whether the President's conduct was wrong, or immoral, or even censurable. We must decide solely as to whether or not he should be convicted of the allegations contained in the Articles of Impeachment and thus removed from office. In my opinion, the case for removal, presented in great detail in the massive 60,000 page report submitted by the House, in many hours of very capable but often repetitive presentations to the Senate by the House Managers and the President's defense team, and in many additional hours of Senators' questioning of the two sides, fails to meet the very high standards which we must demand with respect to Presidential impeachments. Therefore, I will vote to dismiss the impeachment case against William Jefferson Clinton, and to vote for the Senate resuming other necessary work for the American people.

To this very point, I have reserved my judgment on this question because of my Constitutional responsibility and Oath to ''render impartial justice'' in this case. Most of the same record presented in great detail to Senators in the course of the last several weeks has long been before the public, and indeed most of that public, including editorial boards, talk show hosts, and so forth, long ago reached their own conclusions as to the impeachment of President Clinton. But I have now heard enough to make my decision. With respect to the witnesses the House Managers apparently now wish to depose and call before the Senate, the existing record represents multiple interrogations by the Office of the Independent Counsel and its Grand Jury, with not only no cross-examinations by the President's counsel but, with the exception of the President's testimony, without even the presence of the witnesses' own counsel. It is difficult for me to see how that record would possibly be improved from the prosecution's standpoint. Thus, I will not support motions to depose or call witnesses.

In reaching my decision on impeachment, there are a number of factors which have been discussed or speculated about in the news media which were not a part of my calculations.

First of all, while as political creatures neither the Senate nor the House can or should be immune from public opinion, we have a very precise Constitutionally-prescribed responsibility in this matter, and popular opinion must not be a controlling consideration. I believe Republican Senator William Pitt Fessenden of Maine said it best during the only previous Presidential Impeachment Trial in 1868:

> To the suggestion that popular opinion demands the conviction of the President on these charges, I reply that he is not now on trial before the people, but before the Senate . . . The people have not heard the evidence as we have heard it. The responsibility is not on them, but upon us. They have not taken an oath to ''do impartial justice according to the Constitution and the laws.'' I have taken that oath. I cannot render judgment upon their convictions, nor can they transfer to themselves my punishment if I violate my own. And I should consider myself undeserving of the confidence of that just and intelligent people who imposed upon me this great responsibility, and unworthy of a place among honorable men, if for any fear of public reprobation, and for the sake of securing popular favor, I should disregard the convictions of my judgment and my conscience.

Nor was my decision premised on the notion, suggested by some, that the stability of our government would be severely jeopardized by the impeachment of President Clinton. I have full faith in the strength of our government and its leaders and, more importantly, faith in the American people to cope successfully with whatever the Senate decides. There can be no doubt that the impeachment of a President would not be easy for the country but just in this Century, about to end, we have endured great depressions and world wars. Today, the U.S. economy is strong, the will of the people to move beyond this national nightmare is great, and we have an experienced and able Vice President who is more than capable of stepping up and assuming the role of the President.

Third, although we have heard much argument that the precedents of judicial impeachments should be controlling in this case, I have not been convinced and did not rely on such testimony in making my decision. After a review of the record, historical precedents, and consideration of the different roles of Presidents and federal judges, I have concluded that there is indeed a different legal standard for impeachment of Presidents and federal judges. Article 11, Section 4 of the Constitution provides that ''the President, Vice President, and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.'' Article III, Section I of the Constitution indicates that judges ''shall hold their Offices during good Behavior.'' Presidents are elected by the people and serve for a fixed term of years, while federal judges are appointed without public approval to serve a life tenure without any accountability to the public. Therefore, under our system, impeachment is the only way to remove a federal judge from office while Presidents serve for a specified term and face accountability to the public through elections. With respect to the differing impeachment standards themselves, Chief Justice Rehnquist once wrote, ''the terms 'treason, bribery and other high crimes and misdemeanors' are narrower than the malfeasance in office and failure to perform the duties of the office, which may be grounds for forfeiture of office held during good behavior.''

And my conclusions with respect to impeachment were not based upon considerations of the proper punishment of President Clinton for his misdeeds. During the impeachment of President Nixon, the Report by the Staff of the Impeachment Inquiry concluded that ''impeachment is the first step in a remedial process—removal from office and possible disqualification from holding future office. The purpose of impeachment is not personal punishment; its function is primarily to maintain constitutional government.'' Regardless of the outcome of the Senate impeachment trial, President Clinton remains subject to censure by the House and Senate, and criminal prosecution for any crimes he may have committed. Whatever punishment President Clinton deserves for his misdeeds will be provided elsewhere.

Finally, I do not believe that perjury or obstruction of justice could never rise to the level of threatening grievous harm to the Republic, and thus represent adequate grounds for removal of a President. However, we must approach such a determination with the greatest of care. Impeachment of a President is, perhaps with the power to declare War, the gravest of Constitutional responsibilities bestowed upon the Congress. During the history of the United States, the Senate has only held impeachment trials for two Presidents, the 1868 trial of President Johnson, who had not been elected to that office, and now President Clinton. Although the Senate can look to impeachment trials of other public officials, primarily judicial, as I have already said, I do not believe that those precedents are or should be controlling in impeachment trials of Presidents, or indeed of other elected officials.

My decision was based on one overriding concern: the impact of this precedent-setting case on the future of the Presidency, and indeed of the Congress itself. It is not Bill Clinton who should occupy our only attention. He already stands rebuked by the House impeachment votes, and by the words of virtually every member of Congress of both political parties. And even if we do not remove him from office, he still stands liable to future criminal prosecution for his actions, as well as to the verdict of history. No, it is Mr. Clinton's successors, Republican, Democrat or any other Party, who should be our concern.

The Republican Senator, Edmund G. Ross of Kansas, who ''looked down into my open grave'' of political oblivion when he cast one of the decisive votes in acquitting Andrew Johnson in spite of his personal dislike of the President explained his motivation this way:

. . . In a large sense, the independence of the executive office as a coordinate branch of the government was on trial . . . If . . . the President must step down . . . upon insufficient proofs and from partisan considerations, the office of President would be degraded, cease to be a coordinate branch of government, and ever after subordinated to the legislative will. It would practically have revolutionized our splendid political fabric into a partisan Congressional autocracy.

While our government is certainly on a stronger foundation now than in the aftermath of the Civil War, the basic point remains valid. If anything, in today's world of rapidly emerging events and threats, we need an effective, independent Presidency even more than did mid-19th Century Americans.

While in the history of the United States the U.S. Senate has never before considered impeachment articles against a sitting elected official, we do have numerous cases of each House exercising its Constitutional right to, ''punish its Members for disorderly behavior, and, with the concurrence of two-thirds expel a Member.'' However, since the Civil War, while a variety of cases involving personal and private misconduct have been considered, the Senate has never voted to expel a member, choosing to censure instead on seven occasions, and the House has rarely chosen the ultimate sanction. Should the removal of a President be subject to greater punishment with lesser standards of evidence than the Congress has applied to itself when the Constitution appears to call for the reverse in limiting impeachment to cases of ''treason, bribery and other high crimes or misdemeanors''? In my view, the answer must be NO.

Thus, for me, as one United States Senator, the bar for impeachment and removal from office of a President must be a high one, and I want the record to reflect that my vote to dismiss is based upon a standard of evidence equivalent to that used in criminal proceedings—that is, that guilt must be proven ''beyond a reasonable doubt''—and a standard of impeachable offense which, in my view, conforms to the Founders' intentions that such an offense must be one which represents official misconduct threatening grievous harm to our whole system of government. To quote Federalist #65, Hamilton defined as impeachable, ''those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.'' As I have said before, I can conceive of instances in which both perjury and obstruction of justice would meet this test, and I certainly believe that most, if not all, capital crimes, including murder, would qualify for impeachment and removal from office. However, in my judgment, the current case does not reach the necessary high standard.

In the words of John F. Kennedy, ''with a good conscience our only sure reward, with history the final judge of our deeds,'' I believe that dismissal of the impeachment case against William Jefferson Clinton is the appropriate action for the U.S. Senate. It is the action which will best preserve the system of government which has served us so well for over two hundred years, a system of checks and balances, with a strong and independent chief executive.

In closing, I wish to address those in the Senate and House, and among the American public, who have reached a different conclusion than have I in this case. I do not question the sincerity or legitimacy of your viewpoint. The process itself pushes us to make absolute judgments—yes or no to conviction and removal from office—and the nature of debate yields portraits of complex issues in stark black-and-white terms, but I believe it is possible for reasonable people to reach different conclusions on this matter. Indeed, I recognize that, while my decision seeks to avoid the dangers of setting the impeachment bar too low, setting that bar too high is not without risks. I believe the House Managers spoke eloquently about the need to preserve respect for the rule of law, including the critical principle that no one, not even the President of the United States, is above that rule. However, I have concluded that the threat to our system of a weakened Presidency, made in some ways subordinate to the will of the legislative branch, outweighs the potential harm to the rule of law, because that latter risk is mitigated by:

An intact, independent criminal justice system, which indeed will retain the ability to render final, legal judgment on the President's conduct;

A vigorous, independent press corps which remains perfectly capable of exposing such conduct, and of extracting a personal, professional and political price; and

An independent Congress which will presumably continue to have the will and means to oppose Presidents who threaten our system of government.

By the very nature of this situation, where I sit in judgment of a Democratic President as a Democratic Senator, I realize that my decision cannot convey the non-partisanship which is essential to achieve closure on this matter, one way or the other. Indeed, in words which could have been written today, the chief proponent among the Founding Fathers of a vigorous Chief Executive, Alexander Hamilton, wrote in 1788, in No. 65 of The Federalist Papers, that impeachments ''will seldom fail to agitate the passions of the whole community, and to divide them into parties, more or less friendly or inimical, to the accused. In many cases, it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence and interest on one side, or on the other; and in such cases there will always be the greatest danger, that the decision will be regulated more by the comparative strength of the parties than by the real demonstration of guilt or innocence.''

I have, however, in making my decision laid out for you the standards which I believe to be appropriate whenever the Congress considers the removal from office of an elected official, whether Executive Branch, or Legislative Branch. I will do my best to stand by those standards in all such cases to come before me while I have the privilege of representing the people of Georgia in the United States Senate, regardless of the party affiliation of the accused. I only hope and pray that no future President, of either Party, will ever again engage in conduct which provides any basis, including the basis of the current case, for the Congress to consider the grave question of impeachment.●

MOTIONS TO DISMISS AND TO SUBPOENA WITNESSES

● Mr. FEINGOLD. Mr. President, during yesterday's impeachment trial proceedings, I voted against the motion to dismiss offered by the senior Senator from West Virginia, Senator BYRD. I also voted in favor of allowing the House Managers to depose a limited number of witnesses in this case. I would like to explain the reasons for my votes.

Let me state first that I understand that this trial is a unique proceeding; it is not precisely a ''trial'' as we understand that term to be used in the criminal context. The Senate, for example, as the Chief Justice made clear in upholding Senator HARKIN's objection early in the trial, is both judge and jury, with the final authority to determine not only the ''guilt'' or ''innocence'' of the defendant, but also the legal standard to apply and what kind of evidence is relevant to the decision.

Nonetheless, Sen. BYRD's motion was a motion to dismiss, which I believe gives the motion a legal connotation we must not ignore. I believe that in order to dismiss the case at this point, a Senator should be of the opinion that it is not possible for the House Managers to show that the President has committed high crimes and misdemeanors, even if they are permitted to call the witnesses that they want to call. Even apart from the possibility of witness testimony, in order to vote for the motion, a Senator should believe that regardless of what occurs in the closing arguments by the parties and in deliberations in the Senate, that a Senator would not vote to convict.

So for me, this motion to dismiss was akin to asking the judge in this case not to send the case to the jury. In a

criminal trial, there is a strong presumption against taking a case out of the hands of the jury, and a very high degree of certainty on the facts of the case is demanded before a judge will take that step. Indeed, a judge must decide that a reasonable juror viewing the evidence in the light most favorable to the prosecution could not vote to convict the defendant, before he will direct a judgment of acquittal.

My view, as of this moment, is that to dismiss this case would in appearance and in fact improperly ''short circuit'' this trial. I simply cannot say that the House Managers cannot prevail regardless of what witnesses might plausibly testify and regardless of what persuasive arguments might be offered either by the Managers or by Senators who support conviction. And when the history of this trial is written, I want it to be viewed as fair and comprehensive, not as having been shortened merely because the result seemed preordained.

As Senator COLLINS and I indicated in a letter to Senator BYRD on Saturday and in a unanimous consent request we offered on Monday, my preference would have been to divide the motion to dismiss and allow separate votes on the two articles of impeachment to more closely approximate the separate final votes on the two articles contemplated by the impeachment rules. It would have allowed the Senate to consider the strength of the evidence presented on the two separate articles and the possibility that one of the articles comes closer to the core meaning of high crimes and misdemeanors than the other.

I believe that many of my colleagues on the Republican side view the perjury article as less convincing than the obstruction article and might have voted to dismiss it had the opportunity to do that been made available. But we will never know. When a final vote is taken on the articles, and I now believe such votes will almost certainly occur, I hope that my colleagues who did not vote to dismiss the case today will carefully consider the two articles separately.

I want to be clear that my vote not to dismiss this case does not mean that I would vote to convict the President and remove him from office or that I am leaning in that direction. I have not reached a decision on that question. It is my inclination, however, to demand a very high standard of proof on this question. Because the House Managers have relied so heavily on the argument that the President has committed the federal crimes of perjury and obstruction of justice as the reason that his conduct rises to the level of high crimes and misdemeanors, they probably should be required to prove each element of those crimes beyond a reasonable doubt. That is the standard that juries in criminal proceedings must apply. In this case, where the ''impeachability'' question rests so much on a conclusion that the President's conduct was not only reprehensible but also criminal, I currently believe that standard is the most appropriate for a Senator to apply.

It is my view at this point that the House Managers' case has some serious problems, and I am not certain that it can be helped by further testimony from witnesses. But I believe it is possible that it can, and the Managers deserve the opportunity to take the depositions they have requested.

In voting against the motion to dismiss and to allow witnesses to be subpoenaed, I have not reached the important question of whether, even if the House Managers manage to prove their case beyond a reasonable doubt, the offenses charged would be ''impeachable'' and require the President to be removed from office. That is an important question that I decided should be addressed in the context of a final vote on the articles after the evidentiary record is complete. Therefore, I want to be clear that my vote against the motion does not mean I am leaning in favor of a final vote to convict the President. I am not.

But I have determined, after much thought, that we must continue to move forward and not truncate the proceeding at this point. I believe that it is appropriate for the House Managers, and if they so choose, the President's Counsel, to be able to depose and possibly to present the live testimony of at least a small number of witnesses. And I want to hear final arguments and deliberate with my colleagues before rendering a final verdict on the articles.

I reached my decision on witnesses for a number of reasons. First, although I recognize that this is not a typical, ordinary criminal trial, it is significant and in my mind persuasive that in almost all criminal trials witnesses are called by the prosecution in trying to prove its case. Because I have decided that the House Managers probably must be held to the highest standard of proof—beyond a reasonable doubt—I believe that they should have every reasonable opportunity to meet that standard and prove their case.

Furthermore, witnesses have been called every time in our history that the Senate has held an impeachment trial. (In two cases, the impeachment of Sen. Blount in 1797 and the impeachment of Judge English in 1926, articles of impeachment passed by the House were dismissed without a trial.) Now I recognize that an unusually exhaustive factual record has been assembled by the Independent Counsel, including numerous interviews with, and grand jury testimony from, key witnesses. That distinguishes this case from a number of past impeachments. But in at least the three judicial impeachments in the 1980s, the record of a full criminal trial (two resulting in conviction and one in acquittal) was available to the Senate and still witnesses testified.

In this case, the House Managers strenuously argued that witnesses should be called. It would call the fairness of the process into question were we to deny the House Managers the opportunity to depose at least those witnesses that might shed light on the facts in a few key areas of disagreement in this case. I regard this as a close case in some respects, and the best course to follow is to allow both sides a fair opportunity to make the case they wish to make.

This does not mean that I support an unlimited number of witnesses or an unnecessarily extended trial. Furthermore, at this point, I am reserving judgment on the question of whether live testimony on the Senate floor should be permitted. I believe the Senate has the power, and should exercise the power, to assure that any witnesses called to deliver live testimony have evidence that is truly relevant to present.

In this regard, I think we should allow somewhat greater latitude to the President's counsel since he is the defendant in this proceeding. I am inclined to give a great deal of deference to requests by the President's counsel to conduct discovery and even call additional witnesses if they feel that is necessary. But at least with respect to the House Manager's case, while we must be fair in allowing them to depose the witnesses they say they need to prove their case, we need not allow them to broaden their case beyond the acts alleged in the articles or inordinately extend the trial with witnesses who cannot reasonably be expected to provide evidence relevant to our decision on those articles.

Finally, let me reiterate. My vote against the motion to dismiss should not be interpreted as a signal that I intend to vote to convict the President. Nor does it mean that I would not support a motion to adjourn or a motion to dismiss offered at some later stage of this trial, although I strongly prefer that this trial conclude with a final vote on the articles. It only means that I do not believe that dismissing the case at this moment is the appropriate course for the Senate to follow.●

MOTION OF THE HOUSE MANAGERS FOR THE APPEARANCE OF WITNESSES AT DEPOSITIONS AND TO ADMIT EVIDENCE

● Mr. LEAHY. Mr. President, the House Managers want to conduct depositions of at least four people and their requests to admit affidavits could very well lead to the depositions of at least three others and, indeed, many more witnesses. The three people they expressly ask be subpoenaed are Monica Lewinsky, Vernon Jordan and Sidney Blumenthal. All three have previously testified before the Starr grand jury and Ms. Lewinsky has been interviewed or testified at least 23 times on these matters over the last year.

The fourth deponent requested by the House Managers is none other than the President of the United States. Although they characterize their request

as a ''petition'' that the President be requested to appear, in their Memorandum, the House Republican Managers are less coy about their request. They note that ''obtaining testimony from the witness named in the motion, and additionally from the President himself'' is what they seek.

The House Manager' request is unprecedented in impeachments. The Senate has never formally requested or demanded that a respondent testify in his own impeachment trial. Should the President decide that he wants to speak to the Senate, that would be his choice. But I cannot support an effort that would have the Senate reject over 200 years of our jurisprudence and begin requiring an accused to prove his innocence.

The presumption of innocence is a core concept in our rule of law and should not be so cavalierly abandoned. The petition of the House Managers is a clever but destructive effort to stand this trial on its head. As a former prosecutor and trial attorney, I appreciate the temptation to turn the tables on an accused person to make up for a weak case, but the Senate should not condone it. The burden of proof is on the House to establish why the Senate should convict and remove from office the person the American people elected to serve as their President.

I commend President Clinton for focussing on his duties as President and on moving the country forward. That the Congress remains immersed in this impeachment trial is distraction enough from the functions of our federal government. We have heard hours of argument from the House Republican Managers and the response of the President's lawyers. Senator BYRD has, pursuant to our Unanimous Consent Resolution governing these proceedings, offered a motion to dismiss to bring this entire matter to conclusion. If, on the other hand, the majority in the Senate wishes to continue these proceedings, that is the majority's prerogative.

The House Managers apparently want to excuse the weaknesses in their case by blaming the Senate for not calling the President to the stand or the President for not volunteering to run the gauntlet of House Managers. Having had the House reject their proposed article of impeachment based on the President's deposition in the Jones case, the House Managers are left to pursue their shifting allegations of perjury before the grand jury. Their allegations of perjury have devolved to semantical differences and the choice of such words as ''occasional'' and ''on certain occasions.'' Their view of perjury allows them to take a part of a statement out of context and say that it is actionable for not explicating all relevant facts and circumstances. They view perjury by a standard that would condemn most presentations, even some of their own presentations before the Senate.

In addition to their request that the President be deposed, the House Republican Managers also propose to include in this record affidavits and other materials apparently not part of the record provided by Mr. Starr or considered by the House. Ironically, in so doing, they have chosen to proceed by affidavit. They must know that by proffering the declaration of an attorney for Paula Jones about that case and the link between that now settled matter and the Starr investigation, they are necessarily opening this area to possible extensive discovery that could result in the depositions of additional witnesses, as well.

Does anyone think that the Senate record can fairly be limited to the proffered declaration of Mr. Holmes without giving the President an opportunity to depose him and other relevant witnesses after fair discovery? The links between the Jones case and the Starr investigation will be fair game for examination in the fullness of time if the Holmes declaration proffered by the House Managers is accepted.

The Holmes declaration is at variance with the House Managers' proffer. The declaration suggests that the Jones lawyers made a collective decision, whereas the House Managers suggest that the decision to subpoena Ms. Currie was Mr. Holmes' decision. Mr. Holmes declares that no Washington Post article played any part in his decisionmaking to subpoena Ms. Currie and that the ''does not recall'' any attorney in his firm saying anything about such an article ''in the discussions in which we decided to subpoena Ms. Currie.'' This could lead to discovery from a number of Jones lawyers.

The Holmes declaration says that the Jones lawyers ''had received what [they] considered to be reliable information that Ms. Currie was instrumental in facilitating Monica Lewinsky's meetings with Mr. Clinton and that Ms. Currie was central to the 'cover story' Mr. Clinton and Ms. Lewinsky had developed to use in the event their affair was discovered.'' That assertion was strongly omitted from the House Republican Managers' proffer. That assertion raises questions abut what the Jones lawyers knew, when they knew it and whether there was any link to the Starr investigation. If the purpose of the declaration is to rebut the notion that Ms. Currie was subpoenaed because the Jones lawyers were following the activities of the Starr investigation, this declaration falls far short of the mark. It raises more questions that it resolves.

I am surprised to see a judicial clerk submit an affidavit in this case. The one thing that is clear from Mr. Ward's affidavit is that it does not support the conclusions drawn in the House Managers' proffer. Mr. Ward says only that President Clinton was looking directly at Mr. Bennett at one moment during the argument by the lawyers during the deposition. He does not aver, as the House Managers suggest he would competently testify, that ''he saw President Clinton listening attentively to Mr. Bennett's remarks.''

While the affidavit of Barry Ward cannot convert the President's silence into statements, it does provide one perspective on the President's deposition in the Jones case. Accepting that proffered evidence may, however, prompt the President's lawyers to want to examine other perspectives to give the Senate a more complete picture and a fairer opportunity to consider what was happening during the discussions among Judge Wright and the lawyers. For that purpose, is the Senate next going to authorize the deposition of Judge Wright and the other lawyers who attended the deposition? The circumstances under which Mr. Ward came to take such an affidavit and what he knows about the variety of issues mentioned in the House Managers' proffer on this item will undoubtedly be fair subjects of discovery by the President's lawyers if this is admitted.

The House Managers characterized documents as certain telephone records and the participants in various telephone calls whose identifies are not revealed by the records. Indeed, those proffered documents are without authentification. The House Republican Managers' brief goes even farther, suggesting that the telephone records will prove what happened at the White House gate on December 6, and asserting the identity of those who participated in telephone calls and the content of those telephone calls and concluding that they prove meetings and conversations that were not even by telephone. The documents appear to be a series of numbers. Giving them content and context will require more than mere authentification and any such testimonial explanation can be expected to engender further discovery, as well.

Now let me turn to the witnesses that the House Managers have identified by name and for which they are expressly seeking subpoenas at the outset of this discovery period. I understand that under Senate Resolution 16 Senator must vote for or against the entire package of witnesses and discovery requested by the House.

The House Republican Managers have already interviewed Monica Lewinsky after Mr. Starr arranged for that interview and had her ordered to comply. In light of the circumstances under which she has already been forced to cooperate with the House Republican Managers, any doubt as to the coercion being exercised through her immunity agreement could not be more starkly seen. I seriously question Ms. Lewinsky's freedom to express herself in the present circumstances and suggest that her immunity situation will inevitably affect the credibility of anything that she might ''add'' to the House's case. Mr. Starr has the equivalent of a loaded gun to her head, along with her mother's and her father's.

Consider also the report in The Washington Post on Tuesday that Mr. Starr

tore up her immunity agreement once before when she tried to clarify her February 1998 proffer to note that she and the President had talked about using a ''cover story'' before she was ever subpoenaed as a witness in the Jones case, not after. That is now a key point of the House Managers' proffer but it points now in the other direction by suggesting that she is now willing to testify that the President ''instructed'' her to invoke cover stories if questioned in connection with the Jones case. Would not such a shift in testimony necessarily lead to discovery into the impact of the immunity agreement on her testimony and the many twists and turns in the 7-month negotiation between Mr. Starr and Ms. Lewinsky's attorneys and the pressures exerted upon her over the last six months?

Moreover, press accounts of the celebrated interview of Ms. Lewinsky by the House Managers last weekend suggest that she may also have said things during that interview that were favorable to the President. The President's counsel are now in the untenable position of having to oppose the House Managers' motion without specific knowledge of any exculpatory information that Ms. Lewinsky may have provided that would weigh against the need to call her as a witness. That is unfair and contrary to basic precepts of our law. The House Managers created this circumstance and should not benefit from it.

The House Managers also insist that they must open discovery to take the deposition of Vernon Jordan. Mr. Jordan has been interviewed or testified under oath before Starr's grand jury at least five times already. The House Managers' proffer is merely that they expect that his live testimony will lead to reasonable and logical inferences that might help their case and somehow link the job search to discouraging her testimony in the Jones case. That is not a proffer of anything new but an attempt to take another shot at eliciting testimony that Mr. Starr could not.

The House Managers also insist that the Senate must depose Sidney Blumenthal. Mr. Blumenthal also testified before the Starr grand jury. The House Managers' proffer notes nothing new that he would be expected to provide.

If the President has been willing to forego the opportunity to cross examine the witnesses whose grand jury testimony has been relied upon by the House Managers, that removes the most pressing need for further discovery in this matter. After all, Ms. Lewinsky and Mr. Jordan, and to a lesser extent, Mr. Blumenthal, were interviewed for days and weeks by the FBI, trained investigators, Mr. Starr's lawyers and then testified, some repeatedly, before the Starr grand jury. That is about as one-sided as discovery gets—no cross examination, no opportunity to compare early statements with the way things are reconfigured and re-expressed after numerous preparation sessions with Mr. Starr's office.

These witnesses testified under threat of prosecution by Mr. Starr. Ms. Lewinsky remains under a very clear threat of prosecution, even though she has a limited grant of immunity from Starr. This special prosecutor has shown every willingness to threaten and prosecute.

If the President has not initiated efforts to obtain more discovery and witnesses and is willing to have the matter decided on the voluminous record submitted to the House, the House Managers carry a heavy burden to justify extending these proceedings further and requiring the reexamination of people who have already testified.

I heard over and over from the House Managers that there is no doubt, that the record established before the House and introduced into this Senate proceeding convinced the House to vote for articles of impeachment to require the removal of the President from office last month. The House Managers have told us that they have done a magnificent job and established their case.

Based on the House Managers' Motion and their proffer in justification, I do not believe that they have justified extending these proceedings into the future through additional depositions and additional evidence. Can anyone confidently predict how many witnesses will be needed to sort through the evidentiary supplement that the House proffers and the issues that it raises? Can anyone confidently predict how long that discovery will take and how long this trial will be extended? And for what? What is the significant and ultimate materiality to the fundamental issues being contested at this trial of the materials the House is moving now to include in the record? Although the House Managers can say that they only sought to depose three witnesses, does anyone think that in fairness the President's lawyers and the House Managers together will not end up deposing at least 10 people if the Senate were to grant the House motion?

The Senate should not extend these proceedings by a single day. The Senate runs a grave risk of being drawn down into the mire that stained the House impeachment proceedings. Republicans and Democrats have all told me that they do not believe that there is any possibility that this trial will end in the conviction of the President and his removal. In that light, the Senate should have proceeded to conclude this matter rather than extend it.●

MOTION TO DISMISS THE ARTICLES OF IMPEACHMENT AGAINST WILLIAM JEFFERSON CLINTON

● Mr. LEAHY. Mr. President, this Senate is the last of the 20th century. We begin this first session of the 106th Congress facing a challenge that no other Senate in over 100 years has been called upon to meet; namely, whether to remove from office the person the American people elected to serve as the President of the United States.

What we do in this impeachment of the President, in terms of the standards we apply and the judgments we make, will either follow the Constitution or alter the intent of the Framers for all time. I have heard more than one Senator acknowledge that in that sense it is not just the President but also the Senate that is on trial in this matter.

The Senate now has an opportunity, as provided in S. Res. 16, to vote on a motion to conclude these proceedings by adopting Senator BYRD'S motion to dismiss. I commend Senator BYRD and agree with him that such action is both appropriate and in the best interests of the nation. I do not believe that the House Managers have proven a case for conviction and removal of the President on the Articles of Impeachment sent by the House last year. I further suggest that those articles are improperly vague and duplicitous.

THE PRESIDENT'S CONDUCT

We can all agree that the President's conduct with a young woman in the White House was inexcusable. It was deeply disappointing, especially to those who know the President and who support the many good things he has done for this country. His conduct in trying to keep his illicit relationship secret from his wife and family, his friends and associates, and from the glare of a politically-charged lawsuit and from the American public, though understandable on a human level, has had terrible consequences for him personally and for the legacy of his presidency.

Last week Senator Bumpers reminded us of the human costs that have been paid by this President and his family. The underlying lawsuit has now been settled and a financial settlement of $850,000 has been paid on a case that the District Court judge had dismissed for failing to state a claim. The President has admitted terribly embarrassing personal conduct before a Federal grand jury, has seen a videotape of that grand jury testimony broadcast to the entire nation and had excerpts replayed over and over, again. Articles of Impeachment were reported by the House of Representatives against a President for only the second time in our history.

The question before the Senate is not whether William Jefferson Clinton has suffered, for surely he has as a result of his conduct. The question is not even whether William Jefferson Clinton should be punished and sent to jail on a criminal charge, for the Constitution does not confer that authority on this court of impeachment. The question, as framed by the House, is whether his conduct violated federal criminal laws and, if he did, whether those crimes constitute ''other high crimes and misdemeanors'' warranting his removal

from the office of President to which he was reelected by the people of the United States in 1996.

SPECIAL PROSECUTOR STARR

Justice Robert Jackson, when he was Attorney General in 1940, observed that the most dangerous power of the prosecutor is the power to ''pick people that he thinks he should get, rather than cases that need to be prosecuted.'' When this happens, he said, ''it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then . . . putting investigators to work, to pin some offense on him.'' ''It is here,'' he concluded, ''that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.''

In the case of President William Jefferson Clinton, things became personal a long time ago. I am not alone in questioning Mr. Starr's conduct. His own ethics advisor felt compelled to resign his position after Mr. Starr appeared before the House Judiciary Committee as the head cheerleader for impeachment.

It now appears that Mr. Starr has gone from head cheerleader to the chief prosecutor for impeachment. Over the last week he forced Ms. Lewinsky to cooperate with the House Republican managers as part of her immunity agreement. She must ''cooperate'' under the threat that Mr. Starr may decide to prosecute her, her mother or her father if he is not satisfied.

THE SENATE

It is now up to the Senate to restore sanity to this process, exercise judgment, do justice and act in the interests of the nation. We will be judged both today and by history on whether we resolve this case in a way that serves the good of the country, not the political ends of any political party or particular person.

I doubt that any Senator can impartially say that the case against the President has been established beyond a reasonable doubt. In this matter, my view is that is the appropriate standard of proof. Here the Senate is being asked to override the electoral judgment of the American people with respect to the person they elected to serve them as the President of the United States. In this matter the charges have not been established beyond a reasonable doubt in a criminal case.

The inferences the House Managers would draw from the facts are not compelled by the evidence. Indeed, the House Managers fail to take into account Ms. Lewinsky's admitted interest in keeping her relationship with President Clinton from the public and out of the Jones case. They ignore the role of Linda Tripp in Ms. Lewinsky's job search and the fact that it was Ms. Tripp who suggested that Ms. Lewinsky involve Vernon Jordan. In light of these and other fundamental flaws in the House Manager's case, I doubt whether many can vote that the articles have been established by clear and convincing evidence.

I know that Republican Senators as well as Democratic Senators have told me that they do not believe there is any realistic possibility that the Senate will convict the President and remove him from office. I agree. Having heard the arguments from both sides and considered the evidence, I do not believe that there is any possibility that the Senate will convict the President on the Articles of Impeachment and remove him from office. That being so, I believe that the interests of the nation are best served by ending this matter now, at the earliest opportunity.

As a consequence of the House's action, the impeachment process is continuing to preoccupy the Congress into this year. This unfinished business of constitutional dimension will necessarily displace the other important business facing the country until it is resolved. I believe this matter should be concluded and we should turn our attention to legislative matters.

History has judged harshly the Radical Republicans who pursued impeachment against President Andrew Johnson. I believe that history will likewise render a harsh judgment against those who have fomented this impeachment of William Jefferson Clinton on the charges brought forward by the House of Representatives. I do not believe those charges have been or can be proven. I do not believe that the House Managers have justified the Senate overriding the 1996 presidential election and ordering the duly elected President of the United States removed from office.

When the Chief Justice as presiding officer sustained objection to the House Managers' mischaracterization of the Senate in this matter, it highlighted the House Managers' misconceptions of the trial. Senators are not merely serving as petit jurors who will be instructed on the law by a judge and are asked to find facts. Senators have a greater role and a greater responsibility in this trial. As the Chief Justice properly observed: ''The Senate is not simply a jury; it is a court in this case.''

Our job is to do justice in this matter and to protect the Constitution. In that process, I believe we must serve the interests of the nation and fulfill our responsibilities to the American people. I believe that this impeachment trial should have been concluded now and that the Articles of Impeachment should be dismissed.●

ORDERS FOR JANUARY 29, FEBRUARY 2, AND FEBRUARY 3, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, January 29, for a pro forma session only.

I further ask consent that immediately after convening on Friday, the Senate then adjourn over until Tuesday, February 2, at 10 a.m., for a pro forma session only.

I further ask that immediately upon convening on Tuesday, the Senate then adjourn automatically until 12 noon on Wednesday, February 3.

I ask unanimous consent that when the Senate convenes on Wednesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and there then be a period for morning business until the hour of 2 p.m. with the time divided as follows: 60 minutes under the control of the majority leader, or his designee; 60 minutes under the control of the minority leader, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEES TO FILE LEGISLATIVE AND EXECUTIVE MATTERS

Mr. LOTT. I finally ask unanimous consent that, notwithstanding the pro forma sessions, it be in order for committees to file legislative and executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. As just announced, the Senate will be conducting pro forma sessions on Friday and Tuesday. No business will be transacted. The Senate will be in legislative session on Wednesday and may consider any legislative or executive items that may be available. The Court of Impeachment will next meet at 1 p.m. on Thursday.

Mr. ROBB addressed the Chair.

Mr. LOTT. I yield, Mr. President, the floor so that the Senator can offer a bill.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. ROBB. I thank the Chair.

(The remarks of Mr. ROBB pertaining to the introduction of S. 329 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until 10 a.m. on Friday, January 29, 1999.