section 2412 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 1613. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 1614. A bill to require a permit for the making of motion picture, television program, or other form of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System; to the Committee on Energy and Natural Resources.

By Mr. CLELAND (for himself, Mr. COVERDELL, Mr. HELMS, and Mr. GLENN):

S. 1615. A bill to present a gold medal to Len ''Roy Rogers'' Slye and Octavia ''Dale Evans'' Smith; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS:

S. 1616. A bill to authorize the exchange of existing Federal oil and gas leases in the State of Montana, located in the Lewis and Clark National Forest and the Flathead National Forest, for credits in future Federal oil and gas lease sales in the Gulf of Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. BOXER (for herself, Mr. CHAFEE, Ms. SNOWE, Ms. MIKULSKI, Mr. JEFFORDS, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KERREY, Ms. COLLINS, and Ms. MOSELEY-BRAUN):

S. Res. 173. A resolution expressing the sense of the Senate with respect to the protection of reproductive health services clinics; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. FEINGOLD):

S. 1612. A bill to provide for taxpayer recovery of costs, fees, and expenses under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

THE EQUAL ACCESS TO JUSTICE FOR TAXPAYERS ACT OF 1998

Mr. LEAHY. Mr. President, I wish to introduce the Equal Access to Justice for Taxpayers Act of 1998. I am pleased that the Senator from Wisconsin, Senator FEINGOLD, is joining me as an original sponsor of this important legislation.

Like so many Americans, I was disgusted by the evidence that surfaced of so many abuses of the IRS at recent hearings by the Senate Finance Committee. I followed the hearings very closely, and I heard taxpayer after taxpayer come before the Finance Committee recounting horror stories and trying to fight against unjustified action by the IRS that cost them thousands of dollars and countless hours of emotional distress. These average taxpayers told of frustration and despair caused by rogue IRS personnel who used the awesome resources of that agency to punish them.

Probably the saddest part about what we heard was that these good Americans, taxpayers, felt powerless to even question or fight back against their own Government. I believe, as many of my colleagues from both sides of the aisle do, that Congress needs to reform the IRS and stop these abuses from ever happening again.

Unfortunately, current law hamstrings taxpayers who challenge the IRS. Our legislation would change that by giving taxpayers, for the first time ever, a cause of action under the existing Equal Access to Justice Act (EAJA). Under our bill, taxpayers may exercise their rights under the EAJA to win awards of legal fees, expert witness fees and other costs against the IRS when that agency takes substantially unjustified action against them. Thousands of citizens have won vindication against unjust governmental action under the EAJA, and taxpayers should be able to do the same thing.

Today, most taxpayers feel that if the IRS comes after them, even if they think it is unjustified, they don't dare fight it because it will cost more in lawyers, accountant fees, and so on. Under our act, if they prove it was unjustified action, the Government pays them for their lawyer fees and for their accountant's fees. This was done by Congress to help individuals, partnerships, and corporations in other administrative actions involving the Government. We should do the same with the IRS.

In 1981, Congress enacted the EAJA to help individuals, partnerships and corporations seek review of, or to defend against, unjustified governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings. The EAJA permits citizens who prevail in these actions in proceedings against federal agencies to recover their costs when the government acted unjustly. Its purpose is to deter abusive actions and overreaching by the government and to enable individuals to vindicate their rights, regardless of their economic circumstances.

But court decisions have interpreted the EAJA to exempt all civil actions and administrative proceedings in connection with the Internal Revenue Service (IRS) from its protections. Instead, taxpayers must seek review of, or defend against, unjustified actions by the IRS under provisions in the Internal Revenue Code. These Internal Revenue Code provisions make it much harder for average taxpayers to recover against unjust IRS actions.

The recent report of National Commission on Restructuring the Internal Revenue Service agreed that the Internal Revenue Code fails to provide taxpayers with adequate legal rights to recover attorney's fees and other costs against unjust IRS actions. The Commission recently proposed numerous reforms to make the IRS more effective and responsive to taxpayers. I commend Senators KERREY and GRASSLEY, who served on this bipartisan commission, for introducing legislation to implement many of its recommendations. I am a cosponsor of the IRS reform bill that they have introduced, and I hope the Senate's majority leadership will allow this bill to come to a vote soon to put these taxpayer protections in place as rapidly as possible.

The Commission's report found that: ''While the Taxpayer Bill of Rights legislation made great strides to allow taxpayers to recover damages for IRS malfeasance, current provisions do not provide adequate relief. In addition, there are many cases in which taxpayers are not able to obtain review of IRS actions.'' The Commission concluded that: ''Congress must provide taxpayers with adequate and reasonable compensation for actual damages incurred for wrongful actions by the IRS.''

What I am saying is this: If the IRS comes after a taxpayer, and if they use draconian methods in an unjustified action, that not only is the taxpayer going to win but the taxpayer is going to get their costs of defending back. So that at least we are going to have the potential of an equal playing field so that we will not have taxpayers who feel that they are being attacked in an unjustified fashion. We will not have them think, ''I will either pay the lawyers or I am going to pay the IRS. I might as well surrender, even though I have done no wrong.'' Now they can defend their rights.

It is time for Congress to heed this advice and give taxpayers the same rights that other citizens now have to seek review of, or to defend against, unjust governmental action. The IRS should be treated like every other federal agency under the law—no better and no worse.

I urge my colleagues to support this legislation to provide taxpayers with the same rights as all other citizens who are subject to unjust governmental action.

Mr. FEINGOLD. Mr. President, I am pleased to join my colleague, Senator LEAHY, the distinguished Ranking Member of the Senate Judiciary Committee, in introducing a bill today that gives American taxpayers greater ability to recover attorneys fees and other costs against the Internal Revenue Service (IRS) for unjustified civil actions and administrative proceedings under the Equal Access To Justice Act (EAJA).

Clearly, there is a need for such legislation in light of recent hearing testimony that average taxpayers have lost thousands of dollars in actual damages defending themselves against unjustified IRS actions. As the National Commission on Restructuring the Internal Revenue Service reported, current Internal Revenue Code provisions do not provide adequate relief for unjust IRS

actions, much less enable many taxpayers to obtain review of IRS actions at all. I am pleased to join the Senator from Vermont in this effort to help level the playing field and help the American taxpayer recover when the IRS acts improperly.

Like other citizens who seek review of, or defend against, unjustified governmental action by federal agencies, taxpayers who successfully defend against the IRS should be able to recover attorneys fees and other costs against when the situation warrants such an award. By providing such relief to taxpayers under the EAJA, not only does this bill help individuals recover the cost of their defense, but also helps deter future abusive actions by the IRS. The Equal Access to Justice Act has helped American citizens and small businesses recover against other federal agencies and this bill makes the IRS accountable under EAJA, just like the rest of the federal government.

My interest in the Equal Access To Justice Act predates my election to this body, dating back to my tenure as a State Senator where I worked on the Wisconsin version of EAJA. In addition to working on the Wisconsin EAJA, I have introduced in a previous Congress, and will do so again today, separate legislation to update and streamline the existing federal EAJA—to make the process of recovery less cumbersome and to help ensure that people are made whole when the government cannot defend their actions.

The federal EAJA was originally enacted in 1980 and made permanent in 1985. The Act was intended to make taking on the federal government in court less intimidating and I was specifically aimed at helping average citizens and small businesses that prevail against unjustified governmental actions. In my view, EAJA is an effective and valuable check on the virtually limitless power of the federal government.

One would assume that the typical American taxpayer is protected by the EAJA. However, this is not the case as the Act exempts all civil actions and administrative proceedings in connection with the IRS from its protections. In addition, court decisions have consistently interpreted the tax code as providing the only relief for taxpayers treated unjustly. The current system is inadequate and this legislation will help to change that untenable situation.

I want to commend my friend and colleague from Vermont for his leadership on this important issue. The legislation we are introducing today is only one step in reforming the Internal Revenue Service and making that agency more accountable to the American people. However, it is an important and essential step in that process. The American people should not have to squander their hard earned money defending against unjustified actions by federal agencies—including the IRS. I look forward to working with Senator LEAHY and the other concerned Members of this body as this legislation moves forward.

By Mr. FEINGOLD:

S. 1613. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO JUSTICE AMENDMENTS OF 1998

Mr. FEINGOLD. Mr. President, I rise today to introduce the Equal Access to Justice Reform Amendments of 1998. This legislation contains necessary improvements to existing law, the Equal Access to Justice Act, which will streamline and improve the current process of awarding attorney's fees to private parties who prevail in litigation against the government of the United States. I am introducing this legislation for the second consecutive Congress because I believe the reforms embodied in this legislation are important steps in reducing the government generated burden under which many individuals and small businesses currently operate.

Over the past few years, certainly since the elections of 1994, many Members of the Senate have taken to the floor and spoken about the importance of ''getting government off the backs of the American people.'' We often hear about the need to reform government in very fundamental ways that effect people all across this nation. I agree and the legislation I propose here today deals directly with some aspects of the concerns we have heard in this chamber, by assisting everyday Americans who face legal battles with the federal government and prevail.

At the outset, it is important to understand what the Equal Access to Justice Act is, and why it exists. The premise is very simple, EAJA places individuals and small businesses who face the United States Government in litigation, on equal footing by establishing guidelines for the award of attorney's fees when the individual or small business prevails. Quite simply, EAJA acknowledges that the resources available to the federal government in a legal dispute far outweigh those available to everyday Americans. This disparity is resolved by requiring the government, in certain instances, to pay the attorney's fees of successful private parties. By giving successful parties the right to seek attorney's fees from the United States, EAJA seeks to prevent small business owners from having to risk their companies in order to seek justice.

My interest in this issue predates my election to the Senate and arises from my experience both as a private attorney and a Member of the Senate in my home state of Wisconsin. While in private practice, I became aware of how the ability to recoup attorney's fees is often the initial inquiry which must be made when deciding whether or not to seek redress in the courts. The significance of this factor should not be underestimated. Upon entering the State Senate, I authored legislation modeled on the federal law. Today, section 814.246 of the Wisconsin statutes contains provisions similar to the federal EAJA statute.

It seemed to me then, as it does now, that we should do what we can to help ease the burdens on parties who need to have their claims reviewed and decided by impartial decision makers. To this end, I have reviewed the existing federal statutes with an eye toward improving them and making them work better. I believe that my legislation does just that. The bill I am introducing today, does a number of things to make EAJA more effective for individuals and small business men and women all across this country.

One provision of my original bill that I introduced previously, raising the hourly attorneys fee cap to $125 from $75, has already been enacted as part of the Small Business Fair Treatment Act signed into law during the 104th Congress. While I am pleased that significant change was adopted, my legislation goes further by eliminating the existing ''special factors'' language which allowed the fee cap to be increased in certain circumstances. I believe the $125 level is consistent with the going rate and obviates the need for ''special factor'' language which often serves to slow the recovery process. Further, my legislation explicitly establishes a formula for calculating cost-of-living adjustments for awards and eliminates the often time consuming evaluation that was previously required in the absence of a specific standard. Both of these changes, coupled with the fee increase will work to make EAJA more efficient and effective for Americans.

Another significant factor of my legislation is the elimination of the language which allows the government to escape paying attorneys' fees even if it loses a suit but can provide a substantial justification for its action. I believe that if an individual or small business battles the federal government in an adversarial proceeding and prevails, the government should pay the fees incurred. Imagine the scenario of a person who spends countless time and money dueling with the government and prevails, only to find out that they must now undergo the additional step of litigating the justification of the underlying governmental action. For the government, with its vast resources, this additional step poses no difficulty, but for the citizen it may simply not be financially feasible. A 1992 study prepared by University of Virginia Professor Harold Krent on behalf of the Administrative Conference of the United States found that only a small percentage of EAJA awards were denied because of the substantial justification defense and that while it is impossible to determine the exact cost of litigating the issue of justification, it is his opinion, based upon review of cases in 1989 and 1990, that while the substantial justification defense may save some money awards, it

was not enough to justify the cost of the additional litigation. In short, eliminating this often burdensome second step is a cost effective step which will streamline recovery under EAJA.

The final point in regard to streamlining and improving EAJA is language designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government is provided the ability to make an offer of settlement up to 10 days prior to a hearing on a fees claim. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to attorneys' fees and costs they incurred after the date of government's offer. Again, this will speed the process and thereby reduce the time and expense of the litigation.

We all know that the American small business owner has a difficult road to make ends meet and that unnecessary or overly burdensome government regulation can be a formidable obstacle to doing business. It can be the difference between success or failure. The Equal Access to Justice Act was conceived and implemented to help overcome the formidable power of the federal government. In this regard it has helped many Americans do just that. The legislation I am offering today will make EAJA more effective for more Americans while at the same time deterring the government from acting in an indefensible and unwarranted manner.

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. 1613

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

SECTION 1. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This Act may be cited as the ''Equal Access to Justice Reform Amendments of 1998''.

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after ''(2)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after ''(B)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(c) HOURLY RATE FOR ATTORNEY FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A)(ii) of title 5, United States Code, is amended by striking all beginning with ''$125 per hour'' and inserting ''$125 per hour unless the agency determines by regulation that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking all beginning with ''$125 per hour'' and inserting ''$125 per hour unless the court determines that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);''.

(d) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking all beginning with '', unless the adjudicative officer'' through ''expenses are sought''; and

(B) in subsection (a)(2), by striking ''The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking '', unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust'';

(B) in paragraph (1)(B), by striking ''The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought.''; and

(C) in paragraph (3), by striking '', unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust''.

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

By Mr. CAMPBELL:

S. 1614. A bill to require a permit for the making of motion picture, television program, or other form of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System; to the Committee on Energy and Natural Resources.

THE NATIONAL PARK SERVICE IMAGE PERMIT FEE ACT

Mr. CAMPBELL. Mr. President, today I introduce a bill that gives our National Park Service the authority to require fee-based permits for the use of the parks in the making of motion pictures, television programs, advertisements or other commercial purposes.

Our national parks are among our nation's most valuable resources. My ''National Park Service Image Fee Permit Act'' would help us to protect

them and ensure that future generations will be able to enjoy their beauty by making sure the parks are reimbursed for their commercial use.

The Bureau of Land Management and the Forest Service already have a similar permit and fee system for commercial filming on public lands. Rocky Mountain National Park in my home state of Colorado has had twenty-five commercial filming operations take place between 1996–1997. According to park supervisors many individuals in the entertainment business are shocked at the fact that they are not currently charged for the use of our great national parks.

It makes no sense that our national parks' lands, that have been deemed to be even more precious by their designation, should be used commercially for free. This is especially important now when taxpayers are facing increased fees to enter the national parks and more and more people are enjoying our natural wonders every year in record numbers.

As the Vice-Chairman of the Parks, Historic Preservation and Recreation Subcommittee of the Senate Energy and Natural Resources Committee, I am concerned about the maintenance backlog that exists in most of our national parks. It is also no secret that the amount of federal tax dollars available for that maintenance has been dwindling for some time now.

I offer this bill as a funding vehicle for our parks to reimburse them for the administrative costs they incur by allowing the images of our precious national parks to be used in commercial ventures. This bill will not provide all of the funds needed to address the maintenance backlog in our parks, nor do I intend it to, but it will defray the real costs associated with making our parks available for commercial enterprises such as the motion picture industry.

We can all understand why Hollywood or book publishers want to use the spectacular beauty of our national parks as backdrops for their productions. My bill simply allows the National Park Service to recover the real costs of allowing such use and devoting those fees to the parks for their preservation. Common sense directs us to do this, and I believe this bill is fair for the commercial users of our parks and more importantly, for the American taxpayers.

This bill is similar to legislation introduced in the House of Representatives by my friend and colleague from Colorado, Congressman HEFLEY.

Mr. President, I have a letter from the National Parks and Conservation Association that has reviewed and endorsed this legislation. I look forward to working with the Association, other interested parties and, of course, the Committee, to deal with the maintenance backlog at our national parks.

I ask unanimous consent that the National Parks and Conservation Association letter of support and my bill be inserted in the RECORD.

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

S. 1614

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

SECTION 1. PERMITS FOR MAKING COMMERCIAL VISUAL DEPICTIONS IN UNITS OF THE NATIONAL PARK SYSTEM AND NATIONAL WILDLIFE REFUGE SYSTEM.

(a) DEFINITIONS.—In this section:

(1) COMMERCIAL VISUAL DEPICTION.—

(A) IN GENERAL.—The term ''commercial visual depiction'' means a visual depiction that a person produces with the intention that the depiction (or reproductions of the depiction) will be disseminated to the public in connection with a for-profit enterprise.

(B) EXCLUSIONS.—The term ''commercial visual depiction'' does not include—

(i) a visual depiction produced for dissemination to the public as news; or

(ii) a visual depiction produced by an individual in a limited number and intended to be sold by the individual as a work of art.

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

(3) VISUAL DEPICTION.—The term ''visual depiction'' means a motion picture, television program, videotape, photograph, or other form of visual depiction or any part of such a depiction.

(b) PERMIT REQUIREMENT.—A person shall not produce a commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System without first obtaining a permit from the Secretary and paying a permit fee.

(c) REGULATION.—The Secretary shall by regulation establish criteria and a procedure for determining the conditions under which a person shall be permitted to produce a commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System and the amount of a permit fee.

(d) FEE AMOUNTS.—

(1) BASIS OF IMPOSITION.—A permit fee may be imposed—

(A) in a single amount for use of any part of a unit of the National Park System and National Wildlife Refuge System or in different amounts for use of different areas within a unit;

(B) in different amounts for different forms of visual depiction; or

(C) in a set amount applicable in all cases or in a negotiated amount applicable in a particular case.

(2) AMOUNT.—

(A) MINIMUM AMOUNT.—The amount of a permit fee shall be not less than an amount that is sufficient to compensate the Secretary for all direct and indirect costs to the Secretary in accommodating the production of a commercial visual depiction (including costs of ensuring compliance with any conditions on the use of the area for production of the commercial visual depiction and costs of cleanup and restoration).

(B) OTHER CONSIDERATIONS.—In establishing the amount of a permit fee, the Secretary shall take into consideration—

(i) the extent of any inconvenience to the public that production of the commercial visual depiction may cause; and

(ii) an estimate of the amount that an owner of private property would charge for use of property that is comparable to the area in which the commercial visual depiction is to be produced.

(e) CIVIL PENALTY.—A person that produces a commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System without first obtaining a permit and paying a permit fee or that fails to comply with any condition stated in a permit shall be subject to imposition by the Secretary, after notice and opportunity for a hearing on the record, of a civil penalty in an amount not exceeding 200 percent of the amount of the permit fee.

(f) USE OF PROCEEDS.—Each amount collected by the Secretary as a permit fee or civil penalty under this section shall be retained by the Secretary and shall be available, without further Act of appropriation, for capital improvement and restoration activities in the unit in which the commercial visual depiction was produced.

NATIONAL PARKS AND CONSERVATION ASSOCIATION,
February 3, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR CAMPBELL: I am writing to applaud your efforts to resolve a small but nettlesome issue affecting both the national parks and the American taxpayer.

For years, Hollywood and Madison Avenue production companies have been able to avail themselves of the unique resources of the national parks at well below market prices. In fact, film production companies have been required to cover only the physical cost of monitoring their activities and any remediation necessary after they leave the site. In many cases, this amount has totaled in the hundreds of dollars, compared with production budgets that total in the tens of millions of dollars and more.

At a time when the Congress has directed the National Park Service to do more in collecting entrance and recreation fees from park visitors, the current requirements for film production fees are patently unfair and must be changed. Your legislation represents a step forward in this regard and will contribute substantially to this issue as it is debated in this congress.

Again, I want to thank you for your efforts. With your help, the parks will finally enjoy a more balanced financial relationship with private film production companies.

Sincerely,

THOMAS C. KIERNAN,
President.

By Mr. CLELAND (for himself, Mr. COVERDELL, Mr. HELMS, and Mr. GLENN):

S. 1615. A bill to present a gold medal to Len ''Roy Rogers'' Slye and Octavia ''Dale Evans'' Smith; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL LEGISLATION

• Mr. CLELAND. Mr. President, today we are introducing legislation which would authorize presentation of a Congressional Gold Medal to Len ''Roy Rogers'' Slye and Octavia ''Dale Evans'' Smith. ''Heroes are made every little while,'' Will Rogers once said, ''but only one in a million conduct themselves afterwards so that it makes us proud that we honored them at the time.'' The gold medal we propose would honor two American heroes for the wholesome entertainment they have given the world for six decades and for the shining example they have set as role models for America's youth. I am pleased to be joined by the distinguished cosponsors, Senators COVERDELL, HELMS, and GLENN.

For generations of Americans, Roy Rogers has been the symbol of the Western hero—a man who combines

courage with honesty and impeccable integrity—who always righted wrong through straight talk and square-dealing. When asked about the roles he played on-screen, Roy once answered that he did ''what I was supposed to do. I played myself. * * * When I talk about my image, there isn't anything that isn't really me. I always try to be the best that I can be.'' In all that we have seen or heard or read about Roy Rogers, on screen or off, the persona and the man are indeed one and the same—and in Roy Rogers we see what is best about America.

Dale Evans counts among her highest honors the Cardinal Terrence Cook Humanities Award and the California Mother of the Year. Both are tributes to two of her greatest gifts—her generosity of spirit and her strong family values. Together she and Roy have raised nine children, and they have sixteen grandchildren and 30 great-grandchildren. And the fact that most of them live near Roy and Dale's ranch outside of Victorville, California, is a testament to their devotion and strong family ties. Dale is the author of 25 books. Her most famous, ''Angel Unaware'', chronicles the life and death of Dale and Roy's daughter, Robin, who died from complications of Down's syndrome. The book is about loss, but it is also about the capacity to love—a quality which both Dale and Roy have in abundant measure.

Roy and Dale are an American institution—and their fans span the globe. Together they have achieved the pinnacle of success in the entertainment industry. Their movies were No. 1 at the box office. Their television series was the highest rated of its time. The episodes have been translated into every major language, and they can still be seen here in America and in markets abroad. Between the two of them they have set appearance records in every major arena in the world, including Madison Square Garden, the Los Angeles Coliseum, the Chicago Stadium, the Harringay Arena in London, and Toronto's Canadian National Exhibition. Roy once sold out Madison Square Garden 29 straight nights, and he still holds the record for the largest crowd ever to see an indoor rodeo.

It has been said that we make a living by what we get, but we make a life by what we give. Both Roy and Dale's careers have been an unqualified success, as their world-wide appeal attests. But this tells only half the story. Their appeal—which reaches to all four corners of the globe—is also the result of the values, the ethics, and the uncompromising principles by which they have lived their lives. It is our hope that we honor their worthy contributions with the Congressional Gold Medal. Should we do so, we will have honored in their time true American heroes, and our choice—to use Will Rogers' yardstick—will be validated by the ages to come.

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. 1615

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

SECTION 1. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Len ''Roy Rogers'' Slye and Octavia ''Dale Evans'' Smith in recognition of their accomplishments as entertainers and humanitarians, which include—

(1) careers in the entertainment industry that spanned 6 decades and covered such industries as music, film, television, writing, sports, and radio;

(2) acting in and producing more than 100 films, as well as their popular 10-year television show ''The Roy Rogers Show'', which is still seen in American and foreign markets;

(3) setting appearance records in virtually every major arena in the world, including Madison Square Garden in New York City, the Houston Fat Stock Show, the Los Angeles Coliseum, the Chicago Stadium, the Harringay Arena in London, Toronto's Canadian National Exhibition, and many State fairs and rodeos;

(4) on the part of Len Slye, once selling out Madison Square Garden 29 straight nights, holding the record for the largest crowd to ever see an indoor rodeo, and twice attracting more than 100,000 people to rodeos in the Los Angeles Coliseum;

(5) selfless service as role models through their strong faith in Christianity as well as their devotion to their 9 children (5 by adoption and 4 by birth), 16 grandchildren, and 30 great-grandchildren;

(6) Octavia Smith's classic book ''Angel Unaware'', which dealt with the death from complications associated with Down's syndrome of Robin, the one child Len Slye and Octavia Smith had together; and

(7) creating the Roy Rogers-Dale Evans Museum in Victorville, California, that vividly chronicles their lives and the values and ethics that represent the basis of their worldwide appeal.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 2. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs of the medals, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 3. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 4. FUNDING AND PROCEEDS OF SALE.

(a) AUTHORIZATION.—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.●

By Mr. BAUCUS:

S. 1616. A bill to authorize the exchange of existing Federal oil and gas leases in the State of Montana, located in the Lewis and Clark National Forest and the Flathead National Forest, for credits in future Federal oil and gas lease sales in the Gulf of Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

EXCHANGE LEGISLATION

Mr. BAUCUS. Mr. President, I am pleased today to introduce a Bill that would provide the Secretary of the Interior with the authority to exchange oil and gas leases in the Badger Two-Medicine area, in the State of Montana, for credits that could be applied toward bidding or royalty payments in Montana and the Gulf of Mexico.

The area involved in this legislation is located along the Rocky Mountain Front, an area whose rich natural beauty I care deeply about. It lies south of one of the ''Crown Jewels'' of the National Park system, Glacier National Park. Also adjoining this area is the Blackfeet Indian Reservation and the uniquely wild and pristine Bob Marshall Wilderness Area. The Badger Two-Medicine area is undeveloped wilderness and contains many sites sacred to the Blackfeet Nation. The location of this area, its cultural value, and its undeveloped natural condition has been the focus of the decade-long debate over whether or not the oil and gas resources of the area should be developed. I myself believe that we should protect this special place for our children and grandchildren, and I have fought to do just that.

We are no closer today to resolving the question of development of the resources of this area than we were a decade ago and it is time to resolve these conflicts. During this time the ten leaseholders in the area have made investments in anticipation of being able to exercise the option of developing wells under their leases. The time has come to break this stalemate that only costs the leaseholders, the citizens concerned with protecting the area, and the government time and money without resolution. The bill that I am introducing today is fair for the landowners, the citizens of Montana and the Nation, and fair for the leaseholders.

Chevron, the largest leaseholder in the area, stated ''While we would have liked to have developed our well in the Badger Two-Medicine area, we understand that the public had concerns about our proposal. Senator BAUCUS' bill breaks the deadlock and allows everyone to get on with their business''.

Today I am introducing this legislation, a common sense solution to a long-standing controversy, to allow all the parties to leave this dispute as winners. The Secretary of the Interior would work with leaseholders, who have made investments over the years, to determine credits for their expenses. These credits, allowing for reinvestment in Montana, can be applied to lease bids or royalty payments in other locations where they already have active wells or where development is

more likely to occur. The citizens who are concerned about the cultural and resource effects of development would see the integrity of this area maintained. The government would be able to refocus the use of its limited financial resources on management activities that have a more direct positive result than continuation of the current disputes.

This bill focuses on resolving Montana problems while looking out for the economic and natural resource interests of this State. Creating and maintaining jobs in Montana is very important to me. This bill helps save jobs. As Richard Jackson, owner of an outfitting business in the Badger Two-Medicine recently said, ''This bill isn't just about saving some of our most precious wildlands; it's about saving our wildlands and Montana jobs''. Montana has a unique recreational industry that has sustainable jobs that are dependent on wild untamed lands. We need to care for this wildness. I look forward to continuing work with the Governor and the Montana Delegation on innovative ideas to stimulate appropriate development of the State's rich mineral heritage while protecting its wildness and uncomparable natural beauty.

I encourage my esteemed colleagues to support this bill and look forward to working with them in their consideration.

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. 1616

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

SECTION 1. EXCHANGE OF OIL AND GAS LEASES IN THE LEWIS AND CLARK NATIONAL FOREST AND THE FLATHEAD NATIONAL FOREST, STATE OF MONTANA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior may exchange Federal oil and gas leases that are in existence and in good standing as of the date of enactment of this Act and are located in the exchange area described in subsection (b) for credits that may be used—

(1) for bids in Federal oil and gas lease sales or for royalty and rentals due under Federal leases in the central and western planning areas of the Gulf of Mexico for leases outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)); or

(2) for bid, royalty, or rental payments due under Federal oil and gas leases on Federal land within the State of Montana.

(b) EXCHANGE AREA.—The exchange area referred to in subsection (a) consists of—

(1) the portions of the Lewis and Clark National Forest and the Flathead National Forest in Flathead County, Glacier County, and Pondera County, Montana (including the area known as the ''Badger-Two Medicine''), as delineated on the map entitled ''Exchange Area Map'' and located in T. 27 N., R. 11 W., T. 28 N., R. 10–14 W., T. 29 N., R. 10–16 W., T. 30 N., R. 11–13 W., and T. 31 N., R. 12–13 W.; and

(2) the area covered by Federal oil and gas lease no. MTM–53314, in Teton County, Montana.

(c) AMOUNT.—The amount of the credits shall be based on investments made in the acquisition and development of the leases before the date of enactment of this Act and agreed to by the Secretary of the Interior and the leaseholder.

(d) WITHDRAWAL FROM MINERAL LAWS.—Subject to valid existing rights not relinquished, the exchange area described in subsection (b)(1) is withdrawn from location and entry under the mining laws and from leasing under the mineral leasing laws.

(e) EFFECT OF USE OF CREDITS.—If a person that receives a credit under subsection (a) uses the credit to pay any rental or royalty due under any Federal oil and gas lease on Federal land within the State of Montana, the Secretary of the Interior shall pay the State of Montana, from amounts received from oil and gas leases on Federal land that, but for this subsection, would be deposited in the Treasury of the United States under section 35 of the Act of February 25, 1920 (commonly known as the ''Mineral Lands Leasing Act'') (41 Stat. 450, chapter 85; 30 U.S.C. 191), the amount that the State would have received under applicable law if the amount of the royalty or rental had been paid in cash.

ADDITIONAL COSPONSORS

S. 260

At the request of Mr. ABRAHAM, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 260, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 859

At the request of Mr. KYL, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 859, a bill to repeal the increase in tax on social security benefits.

S. 990

At the request of Mr. KYL, his name was added as a cosponsor of S. 990, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging.

S. 1352

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1352, a bill to amend Rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1605

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1605, a bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. LEAHY, his name was withdrawn as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution condemning Iraq's threat to international peace and security.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of Senate Resolution 155, a resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 170

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of Senate Resolution 170, a resolution expressing the sense of the Senate that the Federal investment in biomedical research should be increased by $2,000,000,000 in fiscal year 1999.

SENATE RESOLUTION 173—RELATIVE TO THE PROTECTION OF REPRODUCTIVE HEALTH SERVICES CLINICS

Mrs. BOXER (for herself, Mr. CHAFEE, Ms. SNOWE, Ms. MIKULSKI, Mr. JEFFORDS, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KERREY, Ms. COLLINS, and Ms. MOSELEY-BRAUN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 173

Whereas there are approximately 1000 reproductive health services clinics in the United States;

Whereas violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the January 29, 1998, bombing outside a reproductive health services clinic in Birmingham, Alabama, in which 1 person was killed and 1 person was critically injured;

Whereas the death that occurred at the Birmingham clinic was the first bombing fatality at a reproductive health services clinic in the history of the United States;

Whereas organizations monitoring clinic violence have reported over 1,800 acts of violence at reproductive health services clinics, including bombings, shootings, arson, death threats, kidnapping, and assaults;

Whereas in 1997, reproductive health services clinics reported an increase in the number of acts of violence over 1996;