

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. INOUE:

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. MURKOW-

SKI, 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 and 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. INOUE, 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 principal 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. INOUE:

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. INOUE. 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 im-

position 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 gov-

ernment, 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 than 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 non-exempt 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.";

(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 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. 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 enter-

ing 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 pro-

tecting 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 maintenance 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 set-

ting 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 heroin 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 naloxone) 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 naloxone 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 naloxone 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 re-examined 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 (levoracetyl 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<sup>1</sup> 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

<sup>1</sup>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 as 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.<sup>2</sup>

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

<sup>2</sup> 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 sanc-

tions 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 hard-

ship 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 any 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