S. 852

At the request of Mr. LOTT, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2017

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

S. 2110

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2213

At the request of Mr. FRIST, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2259, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2265

At the request of Mr. TORRICELLI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2265, a bill to amend the Social Security Act to waive the 24-month waiting period for medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS.

S. 2267

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans.

S. 2291

At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2323

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 103, A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as ''National Children's Memorial Day.''

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as ''National Youth Fitness Week.''

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENT NO. 3266

At the request of Mr. KYL the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 109—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO EXECUTIVE DEPARTMENTS AND AGENCIES, NATIONAL POLICIES, AND FEDERALISM

Mr. COVERDELL (for himself, Mr. CRAIG, and Mr. ENZI) submitted the following concurrent resolution; which

was referred to the Committee on Governmental Affairs:

S. CON. RES. 109

Whereas federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government;

Whereas the people of the States created the national government when they delegated to it those enumerated governmental powers relating to matters beyond the competence of the individual States;

Whereas all other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people as the tenth amendment to the Constitution requires;

Whereas the people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives;

Whereas in most areas of governmental concern, the States uniquely possess the constitutional authority, resources, and the competence to discern the sentiments of the people and to govern accordingly;

Whereas the nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires;

Whereas acts of the national government, whether executive, legislative, or judicial in nature, that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the framers;

Whereas policies of the national government should recognize the responsibility of, and should encourage opportunities for, individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort; and

Whereas in the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That executive departments and agencies should adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(1) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action. To the extent practicable, the States should be consulted before any such action is implemented.

(2) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.

(3) It is important to recognize the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively manage such issues).

(4) Constitutional authority for Federal action is clear and certain only when authority for the action may be found in a specific provision of the Constitution, when there is no provision in the Constitution prohibiting Federal action, and when the action does not encroach upon authority reserved to the States.

(5) With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable.

(6) When undertaking to formulate and implement policies that have federalism implications, executive departments and agencies should—

(A) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(B) refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards; and

(C) when national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

(7) The following special requirements for preemption of State law should be observed:

(A) To the extent permitted by law, executive departments and agencies should construe, in regulations and otherwise, a Federal statute to preempt a State law only when the statute contains an express preemption provision, when there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

(B) If a Federal statute does not preempt State law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations or when there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(C) Any regulatory preemption of State law should be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

(D) When an executive department or agency foresees the possibility of a conflict between State law and federally protected interests within its area of regulatory responsibility, the department or agency should consult, to the extent practicable, with appropriate officials and organizations representing the States in an effort to avoid such a conflict.

(E) When an executive department or agency proposes to act through adjudication or rulemaking to preempt State law, the department or agency should provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Mr. COVERDELL. Mr. President, I rise today to speak on a concurrent resolution I have submitted, the subject of which is important not only to my constituents, but to anyone who stands by the Constitution of the United States. Ironically, while in England last May President Clinton, with little fanfare or media attention, issued Executive Order (EO) 13083. EO 13083 in both its letter and intent seeks to give executive departments and agencies greater preemptive authority over State and local law in the administration of Executive Branch policies. Ultimately this action is an attempt by the President to promote an agenda by circumventing Congress while subverting the Constitution and the principles of a limited federal government that the Framers were so careful to express in writing this document.

Mr. President, as members of Congress we have each taken an oath to uphold the Constitution. The President has done the same. And as we all know, the Constitution is our nation's most important document. It establishes the way our government works; it establishes the freedoms American citizens enjoy; and it provides for protections of those freedoms.

The Framers understood that individual freedom and centralized power are incompatible. Thus they set out not only to decentralize our federal government, but also to balance the power held at the national level with the power held by individual states. The Tenth Amendment to the Constitution explicitly expresses this intent. It states ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'' I believe that sentence is perfectly clear, yet our Federal Government continues to grow in size and scope. All three branches of the government are to blame.

Is this a reason, however, to allow continued federal infringement into state matters? Must we not at some point ask ourselves where we draw the line? I believe we must if we hope to preserve the meaning of the Constitution.

EO 13083 sacrifice states rights and Constitutional principles to empower further the Federal Government. It does so by broadly defining ''matters of national or multi-state scope that justify Federal action.'' These loosely defined ''matters'' include any matter of concern that is not confined by a single state's boundaries; any matter involving a ''need for national standards;'' any matter in which ''decentralization increases the costs of government;'' any matter in which ''States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other states;'' and any matter related to ''Federally owned or managed property or natural resources, trust obligation or international organizations.'' Such ambiguous terms give this Administration tremendous leeway to implement policies through executive order that might meet resistance in Congress—policies that deserve full consideration by Congress before becoming law. Indeed, a number of recent newspaper articles demonstrate the President's desires to move an agenda without Congressional approval. The President's EO would allow circumvention of Congress while trampling the Tenth Amendment. Mr. President, we should be wary of this.

This is why I submit today a concurrent resolution expressing the sense of

Congress that the intent of the Framers must guide federal executive departments and agencies when carrying out policies with federalism implications. Through this concurrent resolution Congress would reaffirm the principles of federalism the Framers used in writing the Constitution and express its sense regarding the criteria federal agencies should use in formulating and implementing policies that have federalism implications. Mr. President, I find it difficult when one looks at this resolution in a constitutional context, which is the context in which we must evaluate this issue, to disagree with its findings and the criteria it establishes. I believe this Congress must make a statement on where it stands with the Executive Branch's attempts to encroach, through executive order, on states rights. This resolution is an opportunity for Congress to do so.

Mr. President, I ask through this resolution that each of us reaffirm the pledges we made when we first entered office. I ask that we recognize the importance of local and state governments, their abilities to solve their problems on their own terms and the powers given the states by the Constitution. I ask that we honor the Framers' intent to limit the power of the Federal government.

A number of organizations representing elected officials in all levels of local government have voiced objections to EO 13083. These include the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities and the International City/County Management Association. These groups are opposed to this order not only because of its content but because no official from state or local government was consulted in the drafting of the order. Mr. President, I submit for the RECORD a July 16, 1998, Washington Post article that describes the frustration these groups have with the Administration's lack of consultation. I find it strange that the Administration did not consult with the very groups this Executive Order would most affect.

This is not a political issue. This resolution seeks to address an executive action that strikes at the very foundation of our government and of our Constitutional values. The means by which the Clinton Administration hopes to achieve its objectives are an affront to the Constitution, the Congress, and the American people at large. It is the intent of this Executive Order issued by the President to subvert the will of Congress and the will of the people through executive decree. I cannot imagine this is how the Framers intended our Federal democracy to work and I urge Congress to remind the executive branch that it is more important to return to the principles established in our Constitution than to continue the trend of increasing federal authority.

Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the RECORD.

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

[From the Los Angeles Times, Sat., July 4, 1998]

CLINTON TO BYPASS CONGRESS IN BLITZ OF EXECUTIVE ORDERS

(By Elizabeth Shogren)

Policy: President will use strategy to move his domestic agenda past GOP resistance. He starts today with announcement of warning labels for unpasteurized juices

WASHINGTON.—Frustrated by a GOP—controlled Congress that lately has rebuffed him on almost every front, President Clinton plans a blitz of executive orders during the next few weeks, part of a White House strategy to make progress on Clinton's domestic agenda with or without congressional help.

His first unilateral strike will come today. According to a draft of Clinton's weekly radio address obtained by The Times, he plans to announce a few federal regulation requiring warning labels on containers of fruit and vegetable juices that have not been pasteurized. Congress has not fully funded Clinton's $101-million food safety initiative, which among other things would pay for inspectors to ensure that tainted foods from other countries do not reach American consumers.

After that initiative, Clinton will take executive actions later in the week that are intended to improve health care and cut juvenile crime, according to a senior White House official. While not far-reaching, Clinton's proposals are intended to make gradual progress on largely popular social reforms until Republicans in Congress start to cooperate—or lose power after the November elections.

''He's ready to work with Congress if they will work with him. But if they choose partisanship, he will choose progress,'' said Rahm Emanuel, senior policy advisor to the president. The power to issue executive orders originally was intended to give presidents rule-making authority over the executive branch. But many have used it instead for sweeping public policy decisions.

Fresh from what aides view as a triumphant trip to China, Clinton is reportedly eager to exercise his executive powers to the hilt.

''He always comes back from these trips with a big head of steam, and this trip has been especially remarkable,'' said Paul Begala, another senior advisor. ''This president has a very strong sense of the powers of the presidency, and is willing to use all of them.''

Mindful of the recent Supreme Court decision striking down the line-item veto authority Clinton won last term, the president also hopes his executive-order offensive will pressure Congress to enact his legislative priorities, Emanuel said. ''I am doing what I can to protect our families from contaminated food,'' Clinton says in the draft of today's radio address. ''But Congress must do its part.''

The latest series of executive orders is illustrative of a president who has used his unilateral authority more robustly and frequently than most of his predecessors.

Just last month, after the Senate rejected sweeping anti-smoking legislation, Clinton announced a survey on what cigarette brands teenagers smoke—in hopes of shaming the tobacco companies into getting serious about cutting teen smoking.

On the same day, eager to make health care fixes that Congress has not, he announced new coverage under the Medicare health insurance program for the elderly and charged federal agencies with signing up millions more poor children for Medicaid.

Some in Congress have argued that Clinton's use of executive authority has gone too far, and several outside critics agree. ''Clinton is pushing the envelope,'' says David Schoenbrod, a professor at New York Law School who is an expert in the field. ''He's consistently trying to take more power than Congress gives him.''.

With most of his executive orders, no matter how incremental, Clinton hopes to prod Congress to pass more ambitious versions. For instance, last year he extended broader family leave provisions for federal employees while pushing Congress to pass legislation to provide similar opportunities for all other workers.

Clinton forewarned the country about his zeal for exercising executive powers in his 1992 acceptance speech at the Democratic National Convention, saying: ''President Bush: If you won't use your power to help people, step aside, I will.'' Of course, other presidents have used executive authority to meet their policy goals. Abraham Lincoln used it to declare the slaves free. Franklin D. Roosevelt used it to help set up the New Deal. Harry S. Truman used it to integrate the armed forces. But Clinton has rewritten the manual on how to use executive powers with gusto, some professors and analysts argue. His formula includes pressing the limits of his regulatory authority, signing executive orders and using other unilateral means to obtain his policy priorities when Congress fails to embrace them.

Clearly, the growing antagonism between the president and Congress makes it likely that Clinton will continue to govern by fiat.

''It depends on the political environment whether presidents push their limits or not,'' said Marci Hamilton, professor of constitutional law at Cardozo Law School in New York. ''Clinton has more incentive to do it because he's stuck with a Congress that is not politically aligned with him.'' This is all the more true this year, since Congress feels empowered to ignore the president as a result of the legal crisis he faces because of independent counsel Kenneth W. Starr's investigation.

''This president has extraordinary lame-duck status,'' Hamilton added. ''There is very little incentive for Congress to go along with him. A president who has a strong working relationship and looks powerful to Congress is less likely to push the limits.'' But analysts charge that Congress continues to create the problem by ceding so much authority to the president. In one recent example, Congress directed the Federal Communications Commission to subsidize the wiring of schools, libraries and rural health care facilities for high-speed Internet access, but did not provide the money to do so. Now it blames the FCC for passing on costs to telephone companies, which are in turn passing on costs to consumers.

''The bottom line is the Congress gave the administration power to do this. But they'd like to have it both ways,'' said Jeremy Taylor, ''They want to say: 'I voted for universal Internet service, but I did not vote for a tax hike to pay for it.' It's this lack of responsibility on the part of Congress that has transformed American politics.''