Abraham I. Ramirez, 0000
Douglas E. Rosander, 0000
Gilbert Seda, 0000
Charles H. Shaw, 0000
Amanda G. Sierra, 0000
Sandra S. Skyles, 0000
John C. Smajdek, 0000
Betsy J. Smith, 0000
Scott A. Smith, 0000
Vanessa D. Smith, 0000
Joseph M. Snowberger, 0000
Dovie S. Soloe, 0000
Amy L. Spearman, 0000
Richard G. Steffey, Jr., 0000
Dana G. Stuartmagda, 0000
Milan S. Sturgis, 0000
Scott C. Swanson, 0000
Atticus T. Taylor, 0000
Benjamin F. Taylor, 0000
Mary W. Tinnea, 0000
Nelida R. Toledo, 0000
Karen D. Torres, 0000
Dick W. Turner, 0000
Barbara J. Votypka, 0000
Christine M. Ward, 0000
Terese M. Warner, 0000
Matthew L. Warnke, 0000
Jan P. Werson, 0000
Michelle S. Williams, 0000
Wayne E. Wiseman, 0000
Stan A. Young,0000

(The above nominations were reported with the recommendation that they be confirmed.)

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. DOMENICI (for himself, Mr. ASHCROFT, Mr. WYDEN, and Mr. CAMPBELL):

S. 718. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 719. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. INOUYE, Mr. FRIST, and Mr. GRAHAM):

S. 720. A bill to amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs; to the Committee on Finance.

By Mr. TORRICELLI:

S. 721. A bill to require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers; to the Committee on Commerce, Science, and Transportation.

By Mr. THOMAS:

S. 722. A bill to benefit consumers by promoting competition in the electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KERRY):

S. 723. A bill to increase the safety of the American people by preventing dangerous military firearms in the control of foreign governments from being imported into the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. ROCKEFELLER, Mr. LOTT, Mr. BREAUX, Mr. HATCH, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. D'AMATO, Mr. GRAMM, Mr. MACK, Mr. LIEBERMAN, Mr. COCHRAN, Mr. BROWNBACK, Mr. ENZI, and Mr. HUTCHINSON):

S. 724. A bill to amend the Internal Revenue Code of 1986 to provide coporate alternative minimum tax reform; to the Committee on Finance.

By Mr. CAMPBELL:

S. 725. A bill to direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself, Mr. GRAHAM, Mrs. BOXER, Ms. SNOWE, Mr. REID, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mrs. MURRAY, and Mr. MACK):

S. 726. A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Ms. MIKULSKI, Mr. WELLSTONE, Mr. JOHNSON, and Mrs. MURRAY):

S. 727. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. MACK, Mr. D'AMATO, Mr. REID, and Mr. JOHNSON):

S. 728. A bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HOLLINGS, Ms. LANDRIEU, Mr. ROBERTS, and Mr. BROWNBACK):

S. 729. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide new portability, participation, solvency, and other health insurance protections and freedoms for workers in a mobile workforce, to increase the purchasing power of employees and employers by removing barriers to the voluntary formation of association health plans, to increase health plan competition providing more affordable choice of coverage, to expand access to health insurance coverage for employees of small employers through open markets, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KEMPTHORNE (for himself, Mr. CRAIG, Mr. TORRICELLI, Mr. THOMAS, and Mr. ENZI):

S. 730. A bill to make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll; to the Committee on Veterans' Affairs.

By Mr. BUMPERS:

S. 731. A bill to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. DEWINE, Ms. SNOWE, Ms. COLLINS, Mr. ROBERTS, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. SANTORUM, Mr. THOMAS, Mr. WARNER, Mr. DODD, Mr. COCHRAN, and Mr. MURKOWSKI):

S. 732. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BROWNBACK:

S. Con. Res. 26. A concurrent resolution to permit the use of the rotunda of the Capitol for a congressional ceremony honoring Mother Teresa; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. ASHCROFT, Mr. WYDEN and Mr. CAMPBELL):

S. 718. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE CRIME CONTROL AND COMMUNITY PROTECTION ACT OF 1997

Mr. DOMENICI. Mr. President, I rise today, with the Senator from Missouri, Senator ASHCROFT, and the Senator from Oregon, Senator WYDEN, to introduce the Juvenile Crime Control and Community Protection Act of 1997. I don't think there is anything that is worrying the American people more than what is happening to the criminal justice system in their cities, their counties, and their States.

Senator ASHCROFT, a former attorney general from Missouri, knows a lot about these matters on a firsthand basis from having been there. I am hopeful he will arrive before the time expires to speak to one aspect of the bill, which we are introducing, and then I will, as soon as I can, yield to Senator WYDEN for some of his observations.

Last year, I had field hearings in New Mexico to hear the concerns and problems faced by all of the people affected by juvenile crime. We heard from the police, prosecutors, judges, social workers and, most important, Mr. President, as you well know, the victims who reside in our communities.

The sentiments expressed at these hearings are the same ones felt by people all over this country: One, some juveniles are out of control and the juvenile justice system cannot cope with them; second, other children do not have enough constructive things to do to keep them from sliding into delinquency; third, the current system does little, if anything, to protect the public from senseless youth violence; and fourth, the current system has failed its victims.

I want to tell my colleagues about an 18-year-old girl from New Mexico named Renee Garcia who was stabbed and left paralyzed by a 15-year old gang member. The stabbing was part of that

gang's initiation ritual. The gang member later received only a sentence of 4 years in a juvenile facility. This is what Renee Garcia had to say about the current justice system as it applied to her and her family:

> The outdated laws which exist in our legal system today are nothing but a joke to juveniles. Our laws were meant for juveniles who were committing [small] crimes like truancy and breaking curfews. They are not designed to deal with violent crimes that juveniles are committing today.

Renee has made quite a recovery from her attack, and we are quite pleased that she is doing reasonably well in our community and in our State.

The time has come, in my opinion, for the U.S. Government to be a better partner in a major American effort to improve the criminal juvenile justice system across this land. For many, it is well known, we have an adult juvenile system that developed over a long period of time, but we have a juvenile justice system that sort of evolved willy-nilly. It has never reached the stature of the adult system. There are vagaries and much has been left to judges who are asked to respond to the young criminals in a way completely different than if they were adults.

Some statutes were passed that made this response mandatory, and those statutes still exist today. Still today, in many States, you do not disclose to the public the name and detailed information about juvenile criminals who are committing adult crimes. Their fingerprints and their records are not part of law enforcement's ability to cope with repeated crime, committed over and over, from one State to another by some of these same teenage criminals.

The Federal Government, in my opinion, should get involved. As we do this, however, we should expect the States to get tough on youth sentencing. We should reward States for enacting law enforcement and prosecutorial policies designed to take violent juvenile criminals off the streets.

This bill makes some fundamental changes to the crime-fighting partnership which exists between the States and the Federal Government. It contains two important ideas: One, strict law enforcement and prosecution policies for the most violent offenders. We cannot tell the States they must do that, but in this bill, we set up a very significant grant program, part of which goes to States that do certain minimal things to improve their system. If they do not, they do not get that money. It goes to States that choose to modernize their system in accordance with a series of options that we have found are clearly necessary today.

This approach is going to help States fight crime as well as prevent juveniles from entering the juvenile justice system in the first place. It makes important fundamental changes to the Federal juvenile justice system, and I am going to leave an explanation of how we change our Federal juvenile justice system and modernize it to the Senator from Missouri. It would be a shame if we tell the States to do things better, but we leave the prosecutions in the Federal juvenile justice system alone.

The bill adopts an approach that I suggested last year as part of a juvenile justice bill. It authorizes—we do not have it appropriated yet—but we authorize $500 million to provide the States with two separate grant programs: One, with virtually no strings attached, based on a current State formula grant program; the second is a new incentive grant for States that enact what we call ''best practices'' to combat and prevent juvenile violence.

This bill authorizes $300 million, divided into two $150 million pots, for a new grant program, the purpose of which is to encourage States to get tough and enact reforms to their juvenile justice systems.

I am not going to proceed with each one, but I will just read off the suggested reforms that will comprise ''getting tough'' and ''best practices'':

Victims' rights, including the right to be notified of the sentencing and release of the offender;

Mandatory victim restitution;

Public access to juvenile records;

Parental responsibility laws for acts committed by juveniles released to their parents' custody;

Zero tolerance for deadbeat juvenile parents, a requirement that juveniles released from custody attend school or vocational training and support their children;

Zero tolerance for truancy;

Character counts training, or similar programs adopted and enacted among the States;

And mentoring.

These programs are a combination of reforms which will positively impact victims, get tough on juvenile offenders, and provide states with resources to implement prevention programs to keep juveniles out of trouble in the first place.

The bill also increases from around $68 million to $200 million the amount available to states under the current OJJDP grant program. It also eliminates many of the strings placed on states as a condition of receiving those grants.

In my home state of New Mexico, juvenile arrests increased 84 percent from 1986 to last year.

In 1996, 36,927 juveniles were referred to the state juvenile parole and probation office. Some 39 percent of those referred have a history of 10 or more referrals to the system.

While the Justice Department has said that the overall juvenile crime rate in the United States dropped last year, states like New Mexico continue to see yearly increases in the number of juveniles arrested, prosecuted and incarcerated.

I mention these numbers because they have led to a growing problem in my home State, a problem which this bill will help fix.

More juvenile arrests create the need for more space to house juvenile criminals. But, because of burdensome federal ''sight and sound separation'' rules, New Mexico has been unable to implement a safe, reasonable solution to alleviate overcrowding at its juvenile facilities.

Instead, the state has been forced to consider sending juvenile prisoners to Iowa and Texas to avoid violating the federal rules and losing their funding. That is unacceptable and this bill will fix that.

Mr. President, I am pleased to work with the Senator from Missouri on this important legislation. I know that many of my colleagues share my concerns about the need to update our juvenile justice system. I hope that they will examine our bill and lend their support.

I am going to stop here. I ask unanimous consent that the entire bill and a summary of the bill be printed in the RECORD, and that it be appropriately referred. It will bear the signatures today of Senator ASHCROFT, Senator WYDEN, and Senator CAMPBELL as cosponsors.

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

S. 718

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 ''Juvenile Crime Control and Community Protection Act of 1997''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—REFORM OF EXISTING PROGRAMS

Sec. 101. Findings and purposes.
Sec. 102. Definitions.
Sec. 103. Office of Juvenile Justice and Delinquency Prevention.
Sec. 104. Annual report.
Sec. 105. Block grants for State and local programs.
Sec. 106. State plans.
Sec. 107. Repeals.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

Sec. 201. Incentive grants for accountability-based reforms.

TITLE III—REFORM OF FEDERAL JUVENILE JUSTICE SYSTEM

Sec. 301. Juvenile adjudications considered in sentencing.
Sec. 302. Access to juvenile records.
Sec. 303. Referral of children with disabilities to juvenile and criminal authorities.
Sec. 304. Limited disclosure of Federal Bureau of Investigation records.
Sec. 305. Amendments to Federal Juvenile Delinquency Act.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Authorization of appropriations.

SEC. 2. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or

circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—REFORM OF EXISTING PROGRAMS

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) FINDINGS.—Congress finds that—

''(1) the Nation's juvenile justice system is in trouble, including dangerously overcrowded facilities, overworked field staff, and a growing number of children who are breaking the law;

''(2) a redesigned juvenile corrections program for the next century should be based on 4 principles, including—

''(A) protecting the community;

''(B) accountability for offenders and their families;

''(C) restitution for victims and the community; and

''(D) community-based prevention;

''(3) existing programs have not adequately responded to the particular problems of juvenile delinquents in the 1990's;

''(4) State and local communities, which experience directly the devastating failure of the juvenile justice system, do not have sufficient resources to deal comprehensively with the problems of juvenile crime and delinquency;

''(5) limited State and local resources are being unnecessarily wasted complying with overly technical Federal requirements for 'sight and sound' separation currently in effect under the 1974 Act, while prohibiting the commingling of adults and juvenile populations would achieve this important purpose without imposing an undue burden on State and local governments;

''(6) limited State and local resources are being unnecessarily wasted complying with the overly restrictive Federal mandate that no juveniles be detained or confined in any jail or lockup for adults, which mandate is particularly burdensome for rural communities;

''(7) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the area of sentencing;

''(8) local school districts lack information necessary to track serious violent juvenile offenders, information that is essential to promoting safety in public schools;

''(9) the term 'prevention' should mean both ensuring that families have a greater chance to raise their children so that those children do not engage in criminal or delinquent activities, and preventing children who have engaged in such activities from becoming permanently entrenched in the juvenile justice system;

''(10) in 1994, there were more than 330,000 juvenile arrests for violent crimes, and between 1985 and 1994, the number of juvenile criminal homicide cases increased by 144 percent, and the number of juvenile weapons cases increased by 156 percent;

''(11) in 1994, males age 14 through 24 constituted only 8 percent of the population, but accounted for more than 25 percent of all homicide victims and nearly half of all convicted murderers;

''(12) in a survey of 250 judges, 93 percent of those judges stated that juvenile offenders should be fingerprinted, 85 percent stated that juvenile criminal records should be made available to adult authorities, and 40 percent stated that the minimum age for facing murder charges should be 14 or 15;

''(13) studies indicate that good parenting skills, including normative development, monitoring, and discipline, clearly affect whether children will become delinquent, and adequate supervision of free-time activities, whereabouts, and peer interaction is critical to ensure that children do not drift into delinquency;

''(14) school officials lack the information necessary to ensure that school environments are safe and conducive to learning;

''(15) in the 1970's, less than half of our Nation's cities reported gang activity, while 2 decades later, a nationwide survey reported a total of 23,388 gangs and 664,906 gang members on the streets of United States cities in 1995;

''(16) the high incidence of delinquency in the United States results in an enormous annual cost and an immeasurable loss of human life, personal security, and wasted human resources; and

''(17) juvenile delinquency constitutes a growing threat to the national welfare, requiring immediate and comprehensive action by the Federal Government to reduce and eliminate the threat.''; and

(2) in subsection (b)—

(A) by striking ''further''; and

(B) by striking ''Federal Government'' and inserting ''Federal, State, and local governments''.

(b) PURPOSES.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title and title II are—

''(1) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(2) to give greater flexibility to schools to design academic programs and educational services for juvenile delinquents expelled or suspended for disciplinary reasons;

''(3) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(4) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability, and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system to the public;

''(5) to assist teachers and school officials in ensuring school safety by improving their access to information concerning juvenile offenders attending or intending to enroll in their schools or school-related activities;

''(6) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and in transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(7) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(8) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(9) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by inserting ''punishment,'' after ''control,'';

(2) in paragraph (22)(iii), by striking ''and'' at the end;

(3) in paragraph (23), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(24) the term 'serious violent crime' means—

''(A) murder or nonnegligent manslaughter, or robbery;

''(B) aggravated assault committed with the use of a dangerous or deadly weapon, forcible rape, kidnaping, felony aggravated battery, assault with intent to commit a serious violent crime, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance; or

''(C) a serious drug offense;

''(25) the term 'serious drug offense' means an act or acts which, if committed by an adult subject to Federal criminal jurisdiction, would be punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); and

''(26) the term 'serious habitual offender' means a juvenile who—

''(A) has been adjudicated delinquent and subsequently arrested for a capital offense, life offense, first degree aggravated sexual offense, or serious drug offense;

''(B) has had not fewer than 5 arrests, with 3 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period;

''(C) has had not fewer than 10 arrests, with 2 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period; or

''(D) has had not fewer than 10 arrests, with 8 or more arrests for misdemeanor crimes involving theft, assault, battery, narcotics possession or distribution, or possession of weapons, and not fewer than 3 arrests occurring within the most recent 12-month period.''.

SEC. 103. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1)—

(A) by striking ''shall develop'' and inserting the following: ''shall—

''(A) develop'';

(B) by inserting ''punishment,'' before ''diversion''; and

(C) in the first sentence, by striking ''States'' and all that follows through the end of the paragraph and inserting the following: ''States; and

''(B) annually submit the plan required by subparagraph (A) to the Congress.'';

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' at the end; and

(B) by striking paragraphs (2) through (7) and inserting the following:

''(2) reduce duplication among Federal juvenile delinquency programs and activities conducted by Federal departments and agencies.'';

(3) by redesignating subsection (h) as subsection (f); and

(4) by striking subsection (i).

SEC. 104. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended to read as follows:

''SEC. 207. ANNUAL REPORT.

''Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of

Representatives, the President pro tempore of the Senate, and the Governor of each State, a report that contains the following with respect to such fiscal year:

''(1) SUMMARY AND ANALYSIS.—A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the number of repeat juvenile offenders, the number of juveniles using weapons, the number of juvenile and adult victims of juvenile crime and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

''(A) the types of offenses with which the juveniles are charged, data on serious violent crimes committed by juveniles, and data on serious habitual offenders;

''(B) the race and gender of the juveniles and their victims;

''(C) the ages of the juveniles and their victims;

''(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

''(E) the number of juveniles who died while in custody and the circumstances under which they died;

''(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school;

''(G) the number of juveniles who are substance abusers; and

''(H) information on juveniles fathering or giving birth to children out of wedlock, and whether such juveniles have assumed financial responsibility for their children.

''(2) ACTIVITIES FUNDED.—A description of the activities for which funds are expended under this part.

''(3) STATE COMPLIANCE.—A description based on the most recent data available of the extent to which each State complies with section 223 and with the plan submitted under that section by the State for that fiscal year.

''(4) SUMMARY AND EXPLANATION.—A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

''(5) EXEMPLARY PROGRAMS AND PRACTICES.—A description of selected exemplary delinquency prevention programs and accountability-based youth violence reduction practices.''.

SEC. 105. BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.

(a) SECTION 221.—Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''The Administrator'';

(B) by inserting '', including charitable and religious organizations,'' after ''and private agencies'';

(C) by inserting before the period at the end the following: '', including—

''(A) initiatives for holding juveniles accountable for any act for which they are adjudicated delinquent;

''(B) increasing public awareness of juvenile proceedings;

''(C) improving the content, accuracy, availability, and usefulness of juvenile court and law enforcement records (including fingerprints and photographs); and

''(D) education programs such as funding for extended hours for libraries and recreational programs which benefit all juveniles''; and

(D) by adding at the end the following:

''(2)(A) State and local governments receiving grants under paragraph (1) may contract with religious organizations or allow religious organizations to accept grants under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

''(B) A State or local government exercising its authority to contract with private agencies or to allow private agencies to accept grants under paragraph (1) shall ensure that religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept grants under any program described in this title so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Neither the Federal Government nor a State or local government receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts grants, on the basis that the organization has a religious character.

''(C)(i) A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

''(ii) Neither the Federal Government nor a State or local government shall require a religious organization—

''(I) to alter its form of internal governance; or

''(II) to remove religious art, icons, scripture, or other symbols,

in order to be eligible to contract to provide assistance, or to accept grants funded under a program described in this title.

''(D) A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

''(E) If a juvenile has an objection to the religious character of the organization or institution from which the juvenile receives, or would receive, assistance funded under any program described in this title, the State in which the juvenile resides shall provide such juvenile (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the juvenile and the value of which is not less than the value of assistance which the juvenile would have received from such organization.

''(F) Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

''(G)(i) Except as provided in clause (ii), any religious organization contracting to provide assistance funded under any program described in this title shall be subject to the same regulations as other contractors to account in accord with generally accepted accounting principles for the use of such funds provided under such programs.

''(ii) If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

''(H) Any party that seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate Federal district court against the official or government agency that allegedly commits such violation.

''(I) No State or local government may use funds provided under this title to fund sectarian worship, proselytization, or prayer, or for any purpose other than the provision of social services under this title.''; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) Of amounts made available to carry out this part in any fiscal year, $10,000,000 or 1 percent (whichever is greater) may be used by the Administrator—

''(A) to establish and maintain a clearinghouse to disseminate to the States information on juvenile delinquency prevention, treatment, and control; and

''(B) to provide training and technical assistance to States to improve the administration of the juvenile justice system.''.

(b) SECTION 223.—Section 223(a)(10) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)) is amended—

(1) by striking ''or through'' and inserting ''through''; and

(2) by inserting ''or through grants and contracts with religious organizations in accordance with section 221(b)(2)(B)'' after ''agencies,''.

SEC. 106. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) by striking the second sentence;

(B) by striking paragraph (3) and inserting the following:

''(3) provide for an advisory group, which—

''(A) shall—

''(i)(I) consist of such number of members deemed necessary to carry out the responsibilities of the group and appointed by the chief executive officer of the State; and

''(II) consist of a majority of members (including the chairperson) who are not full-time employees of the Federal Government, or a State or local government;

''(ii) include members who have training, experience, or special knowledge concerning—

''(I) the prevention and treatment of juvenile delinquency;

''(II) the administration of juvenile justice, including law enforcement; and

''(III) the representation of the interests of the victims of violent juvenile crime and their families; and

''(iii) include as members at least 1 locally elected official representing general purpose local government;

''(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

''(C) shall be afforded an opportunity to review and comment, not later than 30 days after the submission to the advisory group, on all juvenile justice and delinquency prevention grants submitted to the State agency designated under paragraph (1);

''(D) shall, consistent with this title—

''(i) advise the State agency designated under paragraph (1) and its supervisory board; and

''(ii) submit to the chief executive officer and the legislature of the State not less frequently than annually recommendations regarding State compliance with this subsection; and

''(E) may, consistent with this title—

''(i) advise on State supervisory board and local criminal justice advisory board composition;

''(ii) review progress and accomplishments of projects funded under the State plan; and

''(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;'';

(C) in paragraph (10)—

(i) in subparagraph (N), by striking ''and'' at the end;

(ii) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(P) programs implementing the practices described in paragraphs (6) through (12) and (17) and (18) of section 242(b);'';

(D) by striking paragraph (13) and inserting the following:

''(13) provide assurances that, in each secure facility located in the State (including any jail or lockup for adults), there is no commingling in the same cell or community room of, or any other regular, sustained, physical contact between—

''(A) any juvenile detained or confined for any period of time in that facility; and

''(B) any adult offender detained or confined for any period of time in that facility.'';

(E) by striking paragraphs (8), (9), (12), (14), (15), (17), (18), (19), (24), and (25);

(F) by redesignating paragraphs (10), (11), (13), (16), (20), (21), (22), and (23) as paragraphs (8) through (15), respectively;

(G) in paragraph (14), as redesignated, by adding ''and'' at the end; and

(H) in paragraph (15), as redesignated, by striking the semicolon at the end and inserting a period; and

(2) by striking subsections (c) and (d).

SEC. 107. REPEALS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in title II—

(A) by striking parts C, E, F, G, and H;

(B) by striking part I, as added by section 2(i)(1)(C) of Public Law 102–586; and

(C) by amending the heading of part I, as redesignated by section 2(i)(1)(A) of Public Law 102–586, to read as follows:

''PART E—GENERAL AND ADMINISTRATIVE PROVISIONS''; and

(2) by striking title V, as added by section 5(a) of Public Law 102–586.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

SEC. 201. INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part B the following:

''PART C—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

''SEC. 241. AUTHORIZATION OF GRANTS.

''The Administrator shall provide juvenile delinquent accountability grants under section 242 to eligible States to carry out this title.

''SEC. 242. ACCOUNTABILITY-BASED INCENTIVE GRANTS.

''(a) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application at such time, in such form, and containing such assurances and information as the Administrator may require by rule, including assurances that the State has in effect (or will have in effect not later than 1 year after the date on which the State submits such application) laws, or has implemented (or will implement not later than 1 year after the date on which the State submits such application)—

''(1) policies and programs that ensure that all juveniles who commit an act after attaining 14 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution, unless on a case-by-case basis, as a matter of law or prosecutorial discretion, the transfer of such juveniles for disposition in the juvenile system is determined to be in the interest of justice, except that the age of the juvenile alone shall not be determinative of whether such transfer is in the interest of justice;

''(2) graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, ensuring that the sanction is of increasing severity based on the nature of the act, and escalating the sanction with each subsequent delinquent or criminal act; and

''(3) a system of records relating to any adjudication of juveniles less than 15 years of age who are adjudicated delinquent for conduct that if committed by an adult would constitute a serious violent crime, which records are—

''(A) equivalent to the records that would be kept of adults arrested for such conduct, including fingerprints and photographs;

''(B) submitted to the Federal Bureau of Investigation in the same manner in which adult records are submitted;

''(C) retained for a period of time that is equal to the period of time that records are retained for adults; and

''(D) available to law enforcement agencies, prosecutors, the courts, and school officials.

''(b) STANDARDS FOR HANDLING AND DISCLOSING INFORMATION.—School officials referred to in subsection (a)(3)(D) shall be subject to the same standards and penalties to which law enforcement and juvenile justice system employees are subject under Federal and State law for handling and disclosing information referred to in that paragraph.

''(c) ADDITIONAL AMOUNT BASED ON ACCOUNTABILITY-BASED YOUTH VIOLENCE REDUCTION PRACTICES.—A State that receives a grant under subsection (a) is eligible to receive an additional amount of funds added to such grant if such State demonstrates that the State has in effect, or will have in effect, not later than 1 year after the deadline established by the Administrator for the submission of applications under subsection (a) for the fiscal year at issue, not fewer than 5 of the following practices:

''(1) VICTIMS' RIGHTS.—Increased victims' rights, including—

''(A) the right to be treated with fairness and with respect for the dignity and privacy of the victim;

''(B) the right to be reasonably protected from the accused offender;

''(C) the right to be notified of court proceedings; and

''(D) the right to information about the conviction, sentencing, imprisonment, and release of the offender.

''(2) RESTITUTION.—Mandatory victim and community restitution, including statewide programs to reach restitution collection levels of not less than 80 percent.

''(3) ACCESS TO PROCEEDINGS.—Public access to juvenile court delinquency proceedings.

''(4) PARENTAL RESPONSIBILITY.—Juvenile nighttime curfews and parental civil liability for serious acts committed by juveniles released to the custody of their parents by the court.

''(5) ZERO TOLERANCE FOR DEADBEAT JUVENILE PARENTS.—A requirement as conditions of parole that—

''(A) any juvenile offender who is a parent demonstrates parental responsibility by working and paying child support; and

''(B) the juvenile attends and successfully completes school or pursues vocational training.

''(6) SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP).—

''(A) IN GENERAL.—Implementation of a serious habitual offender comprehensive action program which is a multidisciplinary interagency case management and information sharing system that enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts.

''(B) MULTIDISCIPLINARY AGENCIES.—Establishment by units of local government in the State under a program referred to in subparagraph (A), of a multidisciplinary agency comprised of representatives from—

''(i) law enforcement organizations;

''(ii) school districts;

''(iii) State's attorneys offices;

''(iv) court services;

''(v) State and county children and family services; and

''(vi) any additional organizations, groups, or agencies deemed appropriate to accomplish the purposes described in subparagraph (A), including—

''(I) juvenile detention centers;

''(II) mental and medical health agencies; and

''(III) the community at large.

''(C) IDENTIFICATION OF SERIOUS HABITUAL OFFENDERS.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, criteria to identify individuals who are serious habitual offenders.

''(D) INTERAGENCY INFORMATION SHARING AGREEMENT.—

''(i) IN GENERAL.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, an interagency information sharing agreement to be signed by the chief executive officer of each organization and agency represented in the multidisciplinary agency.

''(ii) DISCLOSURE OF INFORMATION.—The interagency information sharing agreement shall require that—

''(I) all records pertaining to serious habitual offenders shall be kept confidential to the extent required by State law;

''(II) information in the records may be made available to other staff from member organizations and agencies as authorized by the multidisciplinary agency for the purposes of promoting case management, community supervision, conduct control, and tracking of the serious habitual offender for the application and coordination of appropriate services; and

''(III) access to the information in the records shall be limited to individuals who provide direct services to the serious habitual offender or who provide community conduct control and supervision to the serious habitual offender.

''(7) COMMUNITY-WIDE PARTNERSHIPS.—Community-wide partnerships involving county, municipal government, school districts, appropriate State agencies, and nonprofit organizations to administer a unified approach to juvenile delinquency.

''(8) ZERO TOLERANCE FOR TRUANCY.—Implementation by school districts of programs to curb truancy and implement certain and

swift punishments for truancy, including parental notification of every absence, mandatory Saturday school makeup sessions for truants or weekends in jail for truants and denial of participation or attendance at extracurricular activities by truants.

''(9) ALTERNATIVE SCHOOLING.—A requirement that, as a condition of receiving any State funding provided to school districts in accordance with a formula allocation based on the number of children enrolled in school in the school district, each school district shall establish one or more alternative schools or classrooms for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons and shall require that such juveniles attend the alternative schools or classrooms. Any juvenile who refuses to attend such alternative school or classroom shall be immediately detained pending a hearing. If a student is transferred from a regular school to an alternative school for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons such State funding shall also be transferred to the alternative school.

''(10) JUDICIAL JURISDICTION.—A system under which municipal and magistrate courts have—

''(A) jurisdiction over minor delinquency offenses such as truancy, curfew violations, and vandalism; and

''(B) short term detention authority for habitual minor delinquent behavior.

''(11) ELIMINATION OF CERTAIN INEFFECTIVE PENALTIES.—Elimination of 'counsel and release' or 'refer and release' as a penalty for juveniles with respect to the second or subsequent offense for which the juvenile is referred to a juvenile probation officer.

''(12) REPORT BACK ORDERS.—A system of 'report back' orders when juveniles are placed on probation, so that after a period of time (not to exceed 2 months) the juvenile appears before and advises the judge of the progress of the juvenile in meeting certain goals.

''(13) PENALTIES FOR USE OF FIREARM.—Mandatory penalties for the use of a firearm during a violent crime or a drug felony.

''(14) STREET GANGS.—A prohibition on engaging in criminal conduct as a member of a street gang and imposition of severe penalties for terrorism by criminal street gangs.

''(15) CHARACTER COUNTS.—Establishment of character education and training for juvenile offenders.

''(16) MENTORING.—Establishment of mentoring programs for at-risk youth.

''(17) DRUG COURTS AND COMMUNITY-ORIENTED POLICING STRATEGIES.—Establishment of courts for juveniles charged with drug offenses and community-oriented policing strategies.

''(18) RECORDKEEPING AND FINGERPRINTING.—Programs that provide that, whenever a juvenile who has not achieved his or her 14th birthday is adjudicated delinquent (as defined by Federal or State law in a juvenile delinquency proceeding) for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

''(A) equivalent to the record that would be kept of an adult conviction for such an offense;

''(B) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(C) made available to prosecutors, courts, and law enforcement agencies of any jurisdiction upon request; and

''(D) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, for handling and disclosing such information.

''(19) EVALUATION.—Establishment of a comprehensive process for monitoring and evaluating the effectiveness of State juvenile justice and delinquency prevention programs in reducing juvenile crime and recidivism.

''(20) BOOT CAMPS.—Establishment of State boot camps with an intensive restitution or work and community service requirement as part of a system of graduated sanctions.

''SEC. 243. GRANT AMOUNTS.

''(a) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) ELIGIBILITY.—Of the total amount made available to carry out Part C of this title for each fiscal year, subject to subsection (b), each State shall be eligible to receive the sum of—

''(A) an amount that bears the same relation to one-third of such total as the number of juveniles in the State bears to the number of juveniles in all States;

''(B) an amount that bears the same relation to one-third of such total as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

''(C) an amount that bears the same relation to one-third of such total as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

''(2) MINIMUM REQUIREMENT.—Each State shall be eligible to receive not less than 3.5 percent of one-third of the total amount appropriated to carry out Part C for each fiscal year, except that the amount for which the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eligible shall be not less than $100,000 and the amount for which Palau is eligible shall be not less than $15,000.

''(3) UNAVAILABILITY OF INFORMATION.—For purposes of this subsection, if data regarding the measures governing allocation of funds under paragraphs (1) and (2) in any State are unavailable or substantially inaccurate, the Administrator and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this section.

''(b) ALLOCATED AMOUNT.—The amount made available to carry out Part C of this title for any fiscal year shall be allocated among the States as follows:

''(1) 50 percent of the amount for which a State is eligible under subsection (a) shall be allocated to that State if it meets the requirements of section 242(a).

''(2) 50 percent of the amount for which a State is eligible under subsection (a) shall be allocated to that State if it meets the requirements of subsections (a) and (c) of section 242.

''(c) AVAILABILITY.—Any amounts made available under this section to carry out Part C of this title shall remain available until expended.''.

''SEC. 244. ACCOUNTABILITY.

''A State that receives a grant under section 241 shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Administrator, and shall ensure that any funds used to carry out section 241 shall represent the best value for the State at the lowest possible cost and employ the best available technology.

''SEC. 245. LIMITATION ON USE OF FUNDS.

''(a) NONSUPPLANTING REQUIREMENT.—Funds made available under section 241 shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(b) ADMINISTRATIVE AND RELATED COSTS.—Not more than 2 percent of the funds appropriated under section 299(a) for a fiscal year shall be available to the Administrator for such fiscal year for purposes of—

''(1) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this part; and

''(2) technical assistance relating to the use of grants made under section 241, and development and implementation of policies, programs, and practices described in section 242.

''(c) CARRYOVER OF APPROPRIATIONS.—Funds appropriated under section 299(a) shall remain available until expended.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a proposal, as described in an application approved under this part.''.

TITLE III—REFORM OF FEDERAL JUVENILE JUSTICE SYSTEM

SEC. 301. JUVENILE ADJUDICATIONS CONSIDERED IN SENTENCING.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that offenses contained in the juvenile record of an adult defendant shall be considered as adult offenses in sentencing determinations if such juvenile offenses would have constituted a felony had they been committed by the defendant as an adult.

SEC. 302. ACCESS TO JUVENILE RECORDS.

Section 5038(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) inquiries from officials of a school, school district, or any postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed or ordered to enroll.''.

SEC. 303. REFERRAL OF CHILDREN WITH DISABILITIES TO JUVENILE AND CRIMINAL AUTHORITIES.

Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by adding at the end the following:

''(g) REFERRALS TO JUVENILE AND CRIMINAL AUTHORITIES.—

''(1) REPORTING.—Nothing in this part shall be construed to prohibit an agency from reporting a criminal act committed by a child with a disability to the police or a juvenile authority, or to prohibit a State juvenile or judicial authority from exercising the responsibility of the authority with regard to the application of a juvenile or criminal law to a criminal activity committed by a child with a disability.

''(2) FILING PETITIONS.—Nothing in this part shall be construed to require a State educational agency or local educational agency to exhaust the due process procedures under this section or any other part of this Act prior to filing a petition in a juvenile or criminal court with regard to a child with a disability who commits a criminal act at school or a school-related event under the jurisdiction of the State educational agency or local educational agency.''.

SEC. 304. LIMITED DISCLOSURE OF FEDERAL BUREAU OF INVESTIGATION RECORDS.

Section 534(e) of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3)(A) The Director of the Federal Bureau of Investigation, Identification Division, shall provide, upon request, the information received under paragraph (3) of section 242(a) of the Juvenile Justice Delinquency and Prevention Act of 1974, to officials of a school, school district, or postsecondary school where the individual who is the subject of such information seeks, intends, or is instructed or ordered to enroll.

''(B) School officials receiving information under subparagraph (A) shall be subject to the same standards and penalties to which law enforcement and juvenile justice system employees are subject under Federal and State law for handling and disclosing information referred to in subparagraph (A).''.

SEC. 305. AMENDMENTS TO FEDERAL JUVENILE DELINQUENCY ACT.

(a) PROSECUTION OF JUVENILES AS ADULTS.—Section 5032 of title 18, United States Code, is amended by inserting before the first undesignated paragraph the following:

''Notwithstanding any other provision of law, a juvenile defendant 14 years of age or older shall be prosecuted as an adult, and this chapter shall not apply, if such juvenile is charged with an offense that constitutes—

''(A) murder or attempted murder;

''(B) robbery while armed with a dangerous or deadly weapon;

''(C) battery or assault while armed with a dangerous or deadly weapon;

''(D) forcible rape;

''(E) any serious drug offense which, if committed by an adult, would be punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); and

''(F) the third or subsequent occasion, unrelated to any previous occasion, on which such juvenile engages in conduct for which an adult could be imprisoned for a term exceeding 1 year, unless, on a case-by-case basis—

''(i) a court determines that trying such a juvenile as an adult is not in the interest of justice, except that the age of the juvenile alone shall not be determinative of whether or not such action is in the interest of justice;

''(ii) the court records its reasons for making such a determination in writing and makes such record available for inspection by the public; and

''(iii) the court makes a record in writing of the disposition of the juvenile in the juvenile justice system available to the public, notwithstanding any other law requiring such information to be withheld or limited in any way from access by the public.''.

(b) AMENDMENTS CONCERNING RECORDS.—Section 5038 of title 18, United States Code, is amended—

(1) by striking subsections (d) and (f);

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end the following:

''(e)(1) The court shall comply with the requirements of paragraph (2) if—

''(A) a juvenile under 14 years of age has been found guilty of committing an act which, if committed by an adult, would be an offense described in the first undesignated paragraph of section 5032; or

''(B) a juvenile, age 14 or older, is adjudicated delinquent in a juvenile delinquency proceeding for conduct which, if committed by an adult, would constitute a felony.

''(2) The requirements of this paragraph are that—

''(A) a record shall be kept relating to the adjudication that is—

''(i) equivalent to the record that would be kept of an adult conviction for such an offense;

''(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(iii) made available to law enforcement agencies of any jurisdiction;

''(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll; and

''(v) made available, once the juvenile becomes an adult or is tried as an adult, to any court having criminal jurisdiction over such an individual for the purpose of allowing such court to consider the individual's prior juvenile history as a relevant factor in determining appropriate punishment for the individual at the sentencing hearing;

''(B) officials referred to in clause (iv) of subparagraph (A) shall be held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to under Federal and State law for handling and disclosing such information;

''(C) the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division, and shall otherwise be made available to the same extent that fingerprints and photographs of adults are made available; and

''(D) the court in which the adjudication takes place shall transmit to the Federal Bureau of Investigation, Identification Division, information concerning the adjudication, including the name, date of adjudication, court, offenses, and disposition, along with a prominent notation that the matter concerns a juvenile adjudication.

''(3) If a juvenile has been adjudicated to be delinquent on 2 or more separate occasions based on conduct that would be a felony if committed by an adult, the record of the second and all subsequent adjudications shall be kept and made available to the public to the same extent that a record of an adult conviction is open to the public.''.

TITLE IV—GENERAL PROVISIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended by striking subsections (a) through (e) and inserting the following:

''(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—There are authorized to be appropriated for each of fiscal years 1998, 1999, 2000, 2001, and 2002, such sums as may be necessary to carry out part A.

''(b) BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.—There is authorized to be appropriated $200,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, to carry out part B.

''(c) INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.—There is authorized to be appropriated $300,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, to carry out part C.

''(d) SOURCE OF APPROPRIATIONS.—Funds authorized to be appropriated by this section may be appropriated from the Violent Crime Reduction Trust Fund.''.

SUMMARY OF DOMENICI-ASHCROFT-WYDEN ''JUVENILE CRIME CONTROL AND COMMUNITY PROTECTION ACT OF 1997''

Funding—$500 million authorization for juvenile justice grants: $200 million for current OJJDP state formula grants (increase of $113 million from $86.5 million in FY 1997); $300 million for new incentive grants.

To qualify for the first $150 million, states must enact three reforms: (1) mandatory adult prosecution for juveniles age 14 and over who commit serious violent crimes or serious drug felonies; (2) graduated sanctions, so that every bad act receives punishment; and (3) adult recordkeeping, including fingerprints and photographs for juveniles under age 15 who commit serious violent crimes.

To qualify for the next $150 million, states must enact 5 of 20 suggested reforms.

They include:

1) Increased victims' rights, including notification of release or escape of the offender who committed a crime against a particular victim.

2) Victim and community restitution.

3) Public access to juvenile court delinquency proceedings.

4) Nighttime curfews and parental responsibility laws, holding parents civilly liable for the delinquent acts of their children.

5) Zero tolerance for deadbeat juvenile parents—require as a condition of parole that juvenile parents pay child support and attend school or vocational training.

6) SHOCAP—interagency information sharing and monitoring of the most serious juvenile offenders across the state.

7) Zero tolerance for truancy—parental notification of every absence, mandatory make-up sessions, and denial of participation in extra-curriculars for habitual truants.

8) Alternative schools and classrooms for expelled or suspended students.

9) Judicial jurisdiction for local magistrates over minor delinquency offenses and short-term detention authority for habitual delinquent behavior.

10) Elimination of 'counsel and release' as a penalty for second or subsequent offenses.

11) Report-back orders for juveniles on probation—must appear before the sentencing judge and apprise the judge of the juvenile's progress in meeting certain goals.

12) Mandatory penalties for the use of a firearm during a violent crime.

13) Anti-gang legislation.

14) Character Counts—character education and training.

15) Mentoring.

16) Drug courts, special courts or court sessions for juveniles charged with drug offenses.

17) Community-wide partnerships involving all levels of state and local government to administer a unified approach to juvenile justice.

18) Adult recordkeeping for juveniles age 14 and under who commit any felony under state law.

19) Boot camps, which include an intensive restitution and/or community service component.

20) Evaluation and monitoring of the effectiveness of State juvenile justice and delinquency prevention programs reducing crime and recidivism.

Mandates—reforms or eliminates 3 of the most burdensome federal mandates found in the 1974 Juvenile Justice and Delinquency Prevention Act.

Modifies mandatory sight and sound separation of juveniles and adults in secure facilities by prohibiting ''regular, sustained physical contact'' between juveniles and adults in the same facility. States would provide assurances that there will be no commingling or regular physical contact between juveniles and adults in the same cell

or community room. This will reduce costs for rural communities, which often do not have a separate space to house juveniles which meets the current strict sight and sound requirement.

Eliminates two other mandates: (1) prohibition on placing juveniles in any adult jail or lock-up; and (2) prohibition on placing ''status offenders'' in secure facilities.

FEDERAL REFORMS

Adult prosecution. Requires mandatory adult prosecution for juveniles age 14 or over for serious violent crimes and major drug offenses. Also requires mandatory ''three strikes'' adult prosecution for juveniles age 14 and over when a juvenile commits a third offense chargeable as a felony. Judge has discretion under the ''three strikes'' provision to refuse to prosecute the juvenile as a adult if the ''interests of justice'' determine that adult prosecution is inappropriate.

Adult records. Requires equivalent of an adult record for juveniles under age 14 who commit serious violent crimes and for juveniles over age 14 who commit acts chargeable as felonies. Includes fingerprints and photographs.

Access to juvenile records. Allows courts to consider juvenile offenses when making adult sentencing decisions, if juvenile offenses would have been felonies if committed by adults. Gives school officials access to federal juvenile records and FBI files, as long as confidentiality is maintained.

IDEA amendment. Overturns court decision prohibiting school officials from unilaterally reporting to authorities or filing petitions in juvenile or criminal courts with regard to criminal acts at school committed by children covered by the IDEA.

Mr. DOMENICI. Mr. President, I yield to Senator WYDEN at this time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank the Senator from New Mexico, and want him to know I very much appreciate the chance to join him and Senator ASHCROFT on this bipartisan bill.

Mr. President, I say to my colleagues, it is very clear that the juvenile justice system today in our country is very much like a revolving door. A young person can commit a violent crime, a series of violent crimes, be apprehended, visit the juvenile justice system—and that is really an appropriate characterization—and be back on the street virtually immediately. In fact, in our newspaper, the Oregonian, it was recently reported that a child committed 52 crimes, 32 of which were felonies, before the juvenile justice system took action to protect the community.

I felt—and I think this is the focus of the legislation that the Senator from New Mexico, the Senator from Missouri and I bring to the floor today—that there should be three principles for the new juvenile justice system for the 21st century.

The first ought to be community protection; the second should be accountability; and the third should be restitution. The principle of accountability is especially important with young people. I even see it with my own small kids, a 7-year-old and a 13-year-old. If they act up, there needs to be some consequences.

I am particularly pleased that the legislation the Senator from New Mexico brings to the floor today puts a special focus on trying to deal with offenses perpetrated by young people that have not yet risen to that level of violent crime and, in effect, try to send a message to young people that there will be consequences.

The last point that I will make, because I know time is short and we have much to do today, is that this legislation is particularly important in such areas as recordkeeping. We have found across the country that it has not even been possible to keep tabs on the violent juveniles, because there are so many gaps in the recordkeeping in the States. Both the Senator from New Mexico and the Senator from Missouri have done yeoman work in this regard.

This is a balanced bill; it is a bipartisan bill. It moves to update the laws dealing with juveniles for the 21st century.

I thank my friend from New Mexico and the Senator from Missouri for allowing me to be part of this bipartisan coalition. They included a number of provisions that are important to our State in the drafting that went on in the last week. I thank the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator CAMPBELL be added as an original cosponsor.

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

Mr. ASHCROFT. Mr. President, I am proud to join with the Senators DOMENICI and WYDEN in introducing the Juvenile Crime Control and Community Protection Act of 1997 to reform the juvenile justice system in order to protect the public and hold juvenile offenders accountable for their actions.

In 1994, juvenile courts handled an estimated 120,200 drug offense cases, a jump of 82 percent from 1991. Violent crime arrests among juveniles in 1995 was 12 percent higher than the level in 1991 and 67 percent above the level in 1986.

This year, Mr. President, it seems as though incidents of juvenile violence are occurring every day and everywhere.

In Alton, IL, two teens were gunned down—one shot twice in the face and the other shot once in the back of the head when he turned to flee—by a 15-year-old of East St. Louis who had driven 30 miles to carry out the shooting.

In Dayton, KY, a 15-year-old killed her 5-month-old son. She was given the maximum sentence—30 days of detention.

In Montgomery County, MD, a 14-year-old girl along with three adults were arrested for two bank robberies in Silver Spring.

In Boston, MA, three schoolgirls—two 14-year-olds and one 15-year-old—were charged with putting knives to the throat or stomach of classmates and stealing their gold jewelry and lunch money.

As these incidents demonstrate, the perpetrators of violence and their victims are getting younger. Similarly, gang activity is getting worse in our inner cities, suburbs, and rural communities. A 1995 nationwide survey of law enforcement agencies reported a total of 23,388 gangs, and 664,906 gang members in their jurisdiction. In comparison, a 1993 survey showed an estimated 4,881 gangs with 249,324 gang members in the United States.

The need for juvenile justice reform is clear, especially in light of the fact that probation was the sentence handed out for 56 percent of the 1992 juvenile court cases in which the juvenile was adjudicated delinquent whether the offense was a felony or misdemeanor in nature.

Mr. President, this bill takes substantial steps toward addressing the problems of violent juvenile offenders and the prevalence of youth gangs. The Federal Government would assist State and local efforts in dealing with the epidemic of juvenile crime by helping target the most violent and problematic offenders.

Mr. President, the Juvenile Crime Control and Community Protection Act of 1997 would provide $1.5 billion over 5 years in incentive grants to encourage and assist States in reforming their juvenile justice systems.

States are encouraged to revise their laws to reflect three much-needed reforms. First, juveniles age 14 or older who commit serious violent crimes—such as murder, forcible rape, aggravated assault, or serious drug offenses—should be tried as the adult criminals they are. By making sure that the punishment fits the seriousness of the crime, this proposal would deter juveniles who currently believe that the law cannot touch them.

Second, the States are encouraged to ensure that records of juveniles under age 15, who are found to be delinquent regarding serious violent crimes and serious drug offenses, are maintained and made available to law enforcement agencies, including the Federal Bureau of Investigation, prosecutors, adult criminal courts, and appropriate school officials.

Finally, the States are encouraged to establish graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act and that the sanctions increase in severity based on the nature of the act. The sanctions should also escalate with each subsequent delinquent or criminal act, and should include mandatory restitution to victims, longer sentences of confinement, or mandatory participation in community service.

For States that enact such reforms, additional grant funds would be made available to implement at least 5 of 18 accountability-based practices including: record-keeping for juvenile criminals age 14 or older who commit offenses equivalent to an adult felony; increasing victims' rights concerning information about the conviction, sentencing, imprisonment, and release of their juvenile attackers; mandatory

restitution to victims of juvenile crimes; public access to juvenile court proceedings; parental responsibility laws; zero tolerance for deadbeat juvenile parents; implementation of a Serious Habitual Offenders Comprehensive Action Program [SHOCAP]—a comprehensive and cooperative information and case management process for police, prosecutors, schools, probation departments, corrections facilities, and social and community aftercare services; establishment of community-wide partnerships involving county, municipal government, school districts, and others to administrator a unified approach to juvenile delinquency; antitruancy initiatives; alternative schooling for juvenile offenders or juveniles who are expelled or suspended from school for disciplinary reasons; tougher penalties for criminal street gang crimes; and the establishment of penalties for juvenile offenders who use a firearm during a violent crime or a drug felony.

The bill would provide $200 million in formula grants, a $130 million increase over the FY1997 level for each fiscal year, FY1998 through FY2002. Under current law, states and localities must comply with several mandates to be eligible for these funds. For example, states must currently ensure that (1) no status offender may be held in secure detention or confinement; (2) juveniles cannot be held in jails and law enforcement lockup in which adults may be detained or confined for any period of time; and (3) complete sight and sound separation of juvenile offenders from adult offenders in secure facilities.

These mandates are costly and burdensome on state and local law enforcement efforts. For example, in February of this year, I visited with law enforcement and juvenile justice officials in Kirksville, MO, a rural community in Northeast Missouri, who told me about a problem that is all too common for rural communities. A deputy juvenile officer said that local law enforcement officers were able to apprehend four Missouri 15-year-olds who had brutally murdered a Iowa farm wife in October of 1994, and were even able to secure confessions to the murder. However, the Kirksville police could not detain the murderers because the Federal law prohibits juveniles from being held in jails in which adults may be detained and Kirksville did not have secure detention facilities.

As a result, the teens had to be detained in other Missouri facilities. Two of the teen had to be transported to Boone County, MO—100 miles from Kirksville—while the other two teens had to be taken to Union, MO, more than 200 miles away.

The legislation introduced today would eliminate this absolute jail and lockup prohibition. If enacted, the Kirksvilles of our country would no longer have to bear additional costs in trying to find a completely separate facility in order to detain violent juvenile offenders.

A thorough reform of juvenile justice systems must also include participation by our charitable and faith-based organizations. Government needs to rebuild civil society by fostering a partnership with charitable and faith-based organizations to promote civic virtues and individual responsibility.

Govenrment needs to look beyond its bureaucratic, one-size-fits-all programs and give assistance to those groups toiling daily in our communities, often publicly unnoticed and virtually unaided by Government.

For example, Teen challenge, which is headquartered in Missouri, receives little or no local, State, or Federal government financial assistance. Teen Challenge is a nonprofit, faith-based organization that works with youth, adults and families. Teen challenge has 16 adolescent programs in several states, including Florida, Indiana, and New Mexico.

Most of the juveniles in the program has drug or alcohol problems. A large number of the adolescents have been physically or sexually abused. Almost all of them had a major problem with rebelling against authority, according to a 1992 survey of Indianapolis Teen Challenge. Thirteen percent were court-ordered placements. This same study indicated that 70 percent of the graduates were abstaining from illegal drug use.

Mr. President, this bill would amend the Juvenile Justice and Delinquency Prevention Act to allow states to conduct with, or make grants to, private, charitable and faith-based organizations to provide programs for at-risk and delinquent juveniles.

Charitable and faith-based organizations have a proven track record of transforming shattered lives by addressing the deeper needs of people, by instilling hope and values which help change behavior and attitudes. Under this bill states would be allowed to enroll these organizations as full-fledged participants in caring for and supporting juveniles who are less fortunate.

The bill also proposes reforms to the federal criminal justice system consistent with those it encourages those states to adopt. The legislation strengthens the federal law by requiring the adult prosecution of any juvenile age 14 or older who is alleged to have committed murder, attempted murder, robbery while armed with a dangerous or deadly weapon, assault or battery while armed with a dangerous weapon, forcible rape or a serious drug offense. Repeat juvenile offenders would also be subject to transfer to adult court, if they have 2 previous adjudications for offenses that would amount to a felony if committed by an adult.

Juvenile criminals found delinquent in U.S. district courts of violent crimes would be fingerprinted and photographed, and then the fingerprints and photograph are sent to the FBI to be made available to the same extent as that of adult felons to law enforcement agencies, school officials, and courts for sentencing purposes.

In addition, the bill would clearly express the intent of Congress with regard to special education students who commit criminal acts at school or school-related events. Earlier this year, the Sixth Circuit Court of Appeals, in *Morgan* v. *Chris L.*, upheld the ruling of a district court that the Knox County Tennessee Public School violated the procedural requirements of the Individuals with Disabilities Education Act (IDEA) by in essence filing criminal charges against a student with a disability. IDEA provides grants to states and creates special due process procedures for children with disabilities.

In this case, a student diagnosed as suffering from attention deficit hyperactivity disorder kicked a water pipe in the school lavatory until it burst—a crime against property—resulting in about $1,000 water damage. The Knox County School District filed a petition in juvenile court against the child. The disabled student's father filed for a due process hearing under the IDEA to review the filing of the petition in juvenile court by the school. The hearing officer ordered the school district to seek dismissal of its juvenile court petition and that decision by the hearing officer was upheld by the Federal District Court and the Sixth Circuit Court of Appeals.

The Court of Appeals concluded that under ''IDEA's procedural safeguards, the school system must adopt its own plan and institute a [multi-disciplinary] team meeting before initiating a juvenile court petition.'' The problem with the circuit court's holding is that the special due process procedures for disabled students take several months, and sometimes a year, to complete. The practical effect of the ruling is that schools, as a matter of law, cannot unilaterally file charges against disabled students unless students' parents consent to such referrals. Schools must keep a student in school—potentially endangering others—and wait until the completion of the due process procedures required by IDEA.

In addition to Tennessee, other States—such as Georgia, Ohio, Minnesota, Illinois, Michigan, Rhode Island, and New Hampshire—allow individuals, including school officials who witness students committing crimes at school, to file petitions in juvenile courts against the students. School officials should not be required to exhaust the IDEA's significant due process procedures before filing criminal juvenile petitions against students with disabilities.

The ramifications of the sixth circuit's ruling have been immediate and troubling for school districts. Citing the ruling of the Chris L holding as authority, a Knox County, TN chancellor recently set aside the juvenile conviction of a high school special education student—because he is deaf in his right ear—who brought a butterfly knife to

school. The chancellor court based its decision on the fact that the school had failed to convene a multidisciplinary team before referring the student with a disability to the juvenile court. The chancellor, when asked about his ruling, reportedly said, ''There's a serious question to whether or not a student under this IDEA program can be charged at all.''

The bill we are introducing today would make it clear to the Tennessee chancellor and other courts that students with disabilities who commit criminal acts on school property are not shielded from immediate referral to juvenile court or law enforcement authorities under IDEA's special due process procedures. We must restore the capacity of schools to create secure environments where all students can learn and achieve their highest potential.

Mr. President, this bill would assist State and local governments in increasing public safety by holding juvenile criminals accountable for their serious and violent crimes, by encouraging accountability through the imposition of meaningful sanctions for delinquent acts, and by improving the extent, accuracy, availability, and usefulness of juvenile criminal records and public accessibility to juvenile court proceedings.

In short, Mr. President, enactment of the Juvenile Crime Control and Community Protection Act of 1997 would be a significant step in the right direction toward addressing America's juvenile crime problem.

Mr. WYDEN. Mr. President, last month, I talked about the importance of the innovative ''Community Justice'' model for juvenile justice being developed in Deschutes County and Multnomah County, OR. Today, Senators DOMENICI and ASHCROFT and I are introducing legislation that incorporates many important pieces of this Oregon model and also represents an effort to bring some new, bipartisan thinking to the issue of juvenile justice.

Oregon's idea is that the juvenile justice system should weave the community into the very fabric of juvenile justice. This entails treating the victim as a customer of the juvenile justice system and realizing that when a crime is committed the whole community is the victim. There is a reciprocal obligation in communities—first, to give children the values and tools to ensure that youth crime is prevented and second, to look for at-risk children and try to form a net of services to keep these children from getting into trouble. However, once a young person steps over the line and commits a crime, part of the reciprocity involves the youth making the community whole through restitution and community service.

I was pleased to work with Senators DOMENICI and ASHCROFT to include some of these Oregon ideas into this bill. In particular, I think that the second tier of incentive grants will help encourage States to come up with ways to integrate the community into the juvenile justice process. In particular, the bill promotes consideration for victims and restitution for all crimes. It will also ensure that this restitution is collected. The legislation encourages States to look at mentorship programs, parent accountability, and ways to bring together service providers to form a network of information sharing to prevent juvenile crime.

One of the key aspects of the Deschutes County model that is so impressive is the coordination between schools, juvenile justice services, child protection services, police, district attorneys, judges, and others. Not only does this build a broad base of support for the juvenile justice system, but it allows these agencies to identify the most at-risk youth early, to see whether efforts to divert them from delinquency are effective and to concentrate resources on them.

When I began working on this issue in 1995, I laid out three principles for a new juvenile justice system: community protection, accountability, and restitution. We need to keep our streets safe, punish criminals, and make sure victims—including the community itself—are repaid. This legislation will encourage States to develop systems based on these principles and to add to the the important ingredient of community involvement in the juvenile justice system.

I thank the Senators from Missouri and New Mexico for their bipartisan effort to develop juvenile justice legislation that takes a balanced approach to juvenile justice.

By Mr. WELLSTONE:

S. 719. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

THE HMONG VETERANS' NATURALIZATION ACT OF 1997

• Mr. WELLSTONE. Mr. President, today, I have introduced the Hmong Veterans' Naturalization Act of 1997.

The purpose of this bill is to help expedite the naturalization of Hmong veterans who served and fought alongside the United States during the United States secret war in Laos. This legislation acknowledges their service and officially recognizes the service of Hmong and other ethnic Lao veterans who sacrificed and loyally fought for America and its principles of freedom, human rights, and democracy.

This legislation continues the tradition of recognizing the service of those who came to the aid of the United States in times of war. Current law permits aliens or noncitizens who served honorably in the U.S. military forces during wartime to be naturalized, regardless of age, period of U.S. residence, or physical presence in the United States. However, expedited naturalization does not apply to Hmong and Lao veterans and their families because of the covert status of their work. This bill would help expedite this process by eliminating the literacy requirement in the naturalization process.

Classified studies conducted by the defense policy think tank RAND have recently been declassified. They show the unique and important role that the Hmong people played during the Vietnam war. The studies reveal that this group, the ''Secret Army,'' specially created by the United States Government, played a critical role in the clandestine military activities in Laos.

Hmong men, women, and children of all ages fought and died alongside U.S. military personnel in units recruited, organized, trained, funded and paid by the U.S. Government. It is estimated that during the United States involvement in Vietnam, 35,000 to 40,000 Hmong veterans and their families' were killed in conflict. 50,000 to 58,000 were wounded in conflict and an additional 2,500 to 3,000 were declared missing.

During the Vietnam conflict, Hmong forces were responsible for risking their lives by crossing enemy lines to rescue downed American pilots. It is estimated that they saved at least 60 American lives and often lost half their troops rescuing one soldier.

When the United States withdrew from Southeast Asia, thousands of Hmong were evacuated by the U.S. Government. However, many were left behind and experienced mass genocide at the hands of Communists. Many fled to neighboring Thailand. During their journey, many were murdered before they reached the Thai border. Even today, despite official denial by the Lao Government, the Communist regime of Laos continues to persecute and discriminate against the Hmong specifically because of their role in the United States secret army.

Edgar Buell, the senior U.S. CIA official who worked with the Hmong secret army, explained their critical role on national television:

''Everyone of them (Hmong) that died, that was an American back home that didn't die, or one that was injured that wasn't injured. Somebody in nearly every Hmong family was either fighting or died from fighting. They became refugees because we (the United States) encouraged them to fight for us. I promised myself: '''Have no fear, we will take care of you.''''

It is now time to live up to earlier promises and take care of this group that so valiantly fought alongside American forces. We can only make good on our word by passing this legislation.

Currently, many of the 45,000 former soldiers and their refugee family members living in the United States cannot become citizens because they lack the sufficient English language skills to pass the naturalization test. The intense and protracted war in Laos and the subsequent exodus of the Hmong veterans into squalid refugee camps did

not permit these veterans the opportunity to attend school and learn English. Also, many suffer from injuries that occurred during the war that make learning difficult and frustrating.

Because of the welfare and immigration reform bill enacted last Congress, aging, elderly, illiterate (in English), semiliterate and wounded soldiers—usually with large families—will suffer greatly because they are now facing the almost impossible task of immediately learning English and finding gainful employment. People like Chanh Chantalangsy are faced with an uncertain future:

Chanh served in the secret army and was seriously wounded in his head, arm, and legs. After being in the hospital for 7 months, he returned to combat, serving in a CIA sponsored unit. Fleeing Laos, he spent 14 years in a refugee camp in Thailand. Realizing that the conditions in his country would not improve, Chanh left the refugee camp and came to the United States. He studied English for 5 years but it became evident that mental and physical injuries prevented him from learning English. In 1993, he was classified disabled and now receives $561 a month in SSI benefits. As of August, he could lose this small benefit.

Given the unique role that the veterans served on behalf of the U.S. national security interests, we should waive the difficult naturalization requirements for this group. We have a responsibility to these people. This responsibility was supported by former CIA Director William Colby when he said to a House subcommittee:

''The basic burden (of fighting in Laos) was born by the Hmong. We certainly encouraged them to fight. We enabled them to fight in many cases, and I think the spirit that they developed was in part a result of our offering of support and our provision of it.''

Mr. President, it is now time to give our support. These people fought for our country for 15 years and came to the United States with an understanding that they would be cared for. One act of Congress, the welfare reform law, wiped out this understanding and threw the Hmong into a state of despair. They neither have the capacity to care for themselves if benefits are terminated, nor the ability to return to their homeland. I implore my colleagues to support one more act of Congress that would fulfill our pledge and our obligation.

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. 719

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 ''Hmong Veterans' Naturalization Act of 1997''.

SEC. 2. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.

The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the naturalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

SEC. 3. NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.

(a) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(b) PROOF.—The Immigration and Naturalization Service shall verify an alien's service with a guerrilla unit described in subsection (a) through—

(1) review of refugee processing documentation for the alien,

(2) the affidavit of the alien's superior officer,

(3) original documents,

(4) two affidavits from person who were also serving with such a special guerrilla unit and who personally knew of the alien's service, or

(5) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.●

By Mr. GRASSLEY (for himself, Mr. INOUYE, and Mr. FRIST):

S. 720. A bill to amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs; to the Committee on Finance.

THE PACE PROVIDER ACT OF 1997

● Mr. GRASSLEY. Mr. President, I am pleased to introduce today, along with Senator INOUYE, the distinguished Senator from Hawaii, the PACE Provider Act of 1997. PACE, the Program of All-Inclusive Care for the Elderly, is a unique system of integrated care for the frail elderly. This Act increases the number of PACE sites authorized to provide comprehensive, community-based services to frail, elderly persons.

As our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost effective, but will also improve the quality of life for older Americans.

PACE programs achieve this goal. PACE enables the frail elderly to remain as healthy as possible, at home in their communities. By doing so, elderly individuals maintain their independence, dignity and quality of life.

Each PACE participant receives a comprehensive care package, including all Medicare and Medicaid services, as well as community-based long-term care services. Each individual is cared for by an interdisciplinary team consisting of a primary care physician, nurse, social worker, rehabilitation therapist, home health worker, and others. Because care providers on the PACE team work together, they are able to successfully accommodate the complex medical and social needs of the elderly person in fragile health.

What's more, PACE provides high-quality care at a lower cost to Medicare and Medicaid, relative to their payments in the traditional system. Studies show a 5–15 percent reduction in Medicare and Medicaid spending for individuals in PACE.

The potential savings to Medicare and Medicaid is significant. PACE programs provide services for one of our most vulnerable, and costly, population: frail, elderly adults who are eligible for Medicare and Medicaid. In many cases, these ''dually eligible'' individuals have complex, chronic care needs and require ongoing, long-term care services. The current structure of Medicare and Medicaid does not encourage coordination of these services. The result is fragmented and costly care for our nation's most vulnerable population.

The PACE Provider Act does not alter the criteria for eligibility for PACE participation in any way. Instead, it makes PACE programs more available to individuals already eligible for nursing home care, because of their poor health status. PACE is a preferable, and less costly, alternative. Specifically, this Act increases the number of PACE programs authorized from 15 to 40, with an additional 20 to be added each year, and affords regular ''provider'' status to existing sites.

The PACE Provider Act allows the success of PACE programs to be replicated throughout the country. And, with an emphasis on preventative and supportive services, PACE services can substantially reduce the high-costs associated with emergency room visits and extended nursing home stays often needed by the frail elderly in the traditional Medicare and Medicaid programs.

My sponsorship of this bill grows out of my Aging Committee hearing on April 29, Torn Between Two Systems: Improving Chronic Care in Medicare and Medicaid. The plight of the dual eligibles is unacceptable. This bill is an immediate and positive step in the right direction.

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. 720

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 ''Programs of All-inclusive Care for the Elderly (PACE) Coverage Act of 1997''.

SEC. 2. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

''SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

''(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

''(A) the individual may enroll in the program under this section; and

''(B) so long as the individual is so enrolled and in accordance with regulations—

''(i) the individual shall receive benefits under this title solely through such program, and

''(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

''(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

''(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

''(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

''(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

''(3) PACE PROVIDER DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

''(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

''(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

''(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

''(i) to entities subject to a demonstration project waiver under subsection (h); and

''(ii) after the date the report under section 5(b) of the Programs of All-inclusive Care for the Elderly (PACE) Coverage Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C) or (D) of paragraph (2) of such section are true.

''(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

''(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

''(A) is 55 years of age or older;

''(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

''(C) resides in the service area of the PACE program; and

''(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

''(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995.

''(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

''(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

''(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

''(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

''(9) TRIAL PERIOD DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

''(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

''(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

''(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

''(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

''(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

''(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

''(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

''(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

''(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

''(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

''(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

''(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

''(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

''(c) ELIGIBILITY DETERMINATIONS.—

''(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

''(A) shall be made under and in accordance with the PACE program agreement, and

''(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

''(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

''(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated not more frequently than annually.

''(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree

of impairment of functional capacity of the individual involved.

''(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6–month period.

''(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

''(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

''(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to an eligible organization under a risk-sharing contract under section 1876. Such payments shall be subject to adjustment in the manner described in section 1876(a)(1)(E).

''(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established under section 1876 for risk-sharing contracts and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

''(e) PACE PROGRAM AGREEMENT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

''(B) NUMERICAL LIMITATION.—

''(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

''(I) 40 as of the date of the enactment of this section, or

''(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

''(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

''(I) is operating under a demonstration project waiver under subsection (h), or

''(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

''(2) SERVICE AREA AND ELIGIBILITY.—

''(A) IN GENERAL.—A PACE program agreement for a PACE program—

''(i) shall designate the service area of the program;

''(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

''(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

''(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

''(v) shall have such additional terms and conditions as the parties may agree to consistent with this section and regulations.

''(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

''(3) DATA COLLECTION.—

''(A) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

''(i) collect data,

''(ii) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records, and

''(iii) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this Act.

''(B) REQUIREMENTS DURING TRIAL PERIOD.—During the first three years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

''(4) OVERSIGHT.—

''(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

''(i) an on-site visit to the program site;

''(ii) comprehensive assessment of a provider's fiscal soundness;

''(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

''(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

''(v) any other elements the Secretary or State agency considers necessary or appropriate.

''(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

''(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

''(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

''(A) IN GENERAL.—Under regulations—

''(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

''(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

''(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

''(i) the Secretary or State administering agency determines that—

''(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

''(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

''(ii) the entity has failed to develop and successfully initiate, within 30 days of the receipt of written notice of such a determination, and continue implementation of a plan to correct the deficiencies.

''(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

''(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

''(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

''(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

''(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

''(iii) Terminate such agreement.

''(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1876(i)(6)(B) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1876(i)(6)(A) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

''(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1876(i)(9) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and an eligible organization under section 1876.

''(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall

be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

''(2) USE OF PACE PROTOCOL.—

''(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

''(B) FLEXIBILITY.—The Secretary (in close consultation with State administering agencies) may modify or waive such provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use non-staff physicians accordingly to State licensing law requirements) under this section and section 1932 where such flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the this section, including—

''(i) the focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility;

''(ii) the delivery of comprehensive, integrated acute and long-term care services;

''(iii) the interdisciplinary team approach to care management and service delivery;

''(iv) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals; and

''(v) the assumption by the provider over time of full financial risk.

''(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

''(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of sections 1876 and 1903(m) relating to protection of beneficiaries and program integrity as would apply to eligible organizations under risk-sharing contracts under section 1876 and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

''(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

''(i) take into account the differences between populations served and benefits provided under this section and under sections 1876 and 1903(m);

''(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

''(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

''(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

''(1) Section 1812, insofar as it limits coverage of institutional services.

''(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

''(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

''(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

''(5) Sections 1862(a)(1) and 1862(a)(9), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

''(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

''(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

''(2) SIMILAR TERMS AND CONDITIONS.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

''(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

''(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.''.

SEC. 3. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a))—

(A) by striking ''and'' at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

''(25) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and'';

(2) by redesignating section 1932 as section 1933, and

(3) by inserting after section 1931 the following new section:

''SEC. 1932. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

''(a) OPTION.—

''(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section.

''(2) BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM.—In the case of an individual enrolled with a PACE program pursuant to such an election—

''(A) the individual shall receive benefits under the plan solely through such program, and

''(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

''(3) APPLICATION OF DEFINITIONS.—The definitions of terms under section 1894(a) shall apply under this section in the same manner as they apply under section 1894.

''(b) APPLICATION OF MEDICARE TERMS AND CONDITIONS.—Except as provided in this section, the terms and conditions for the operation and participation of PACE program eligible individuals in PACE programs offered by PACE providers under PACE program agreements under section 1894 shall apply for purposes of this section.

''(c) ADJUSTMENT IN PAYMENT AMOUNTS.—In the case of individuals enrolled in a PACE program under this section, the amount of payment under this section shall not be the amount calculated under section 1894(d), but shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

''(d) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

''(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

''(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

''(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

''(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

''(e) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking ''(25)'' and inserting ''(26)''.

(2) Section 1924(a)(5) of such Act (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking ''FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS'' and inserting ''UNDER PACE PROGRAMS'', and

(B) by striking ''from any organization'' and all that follows and inserting ''under a PACE demonstration waiver program (as defined in subsection (a)(7) of section 1894) or under a PACE program under section 1932.''.

(3) Section 1903(f)(4)(C) of such Act (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting ''or who is a PACE program eligible individual enrolled in a PACE program under section 1932,'' after ''section 1902(a)(10)(A),''.

SEC. 4. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this Act in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus

Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: '', except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk''; and

(ii) in subparagraph (C), by adding at the end the following: ''In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.''.

(3) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(4) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals under subsection (c), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act), and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this Act.

SEC. 5. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this Act

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.— Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers.●

● Mr. FRIST. Mr. President, I join my colleagues in introducing the PACE Provider Act of 1997. I am pleased to support this very worthy program, aimed at increasing community based long term care options for seniors which was initiated and pursued by Senator Dole over the past several years.

This bill amends present law by increasing the number of high quality, comprehensive, community based services available to seniors who would otherwise be forced into nursing homes.

Frail older people, particularly those 85 years and older are the fastest growing population group in this country and have multiple and complex chronic illnesses. More than 50 percent of this population require some assistance with activities of daily living.

At the same time, the cost of caring for the frail elderly is skyrocketing. Many elderly and individuals with disabilities are eligible for both Medicare and Medicaid. These dual eligibles have multidimensional, interdependent, and chronic health care needs. They are at risk for nursing home placement and require acute and long-term care service integration if they are to remain at home. However, as currently structured, the Medicare and Medicaid Programs are not sufficiently coordinated to serve many of these complex health needs. In addition, these programs have traditionally favored institutional care rather than community based or home care. These problems result in duplication and fragmentation of services as well as increased health costs.

In my own State of Tennessee, the home health industry has come under fire because of high Medicare utilization rates. This is partly because there are almost no Medicaid long term care options available to Tennesseans who want to stay at home. Consequently, nursing home care is the only option for frail elders unless they have enough money to pay privately for their care or if family members can afford to be the primary giver. Tennesseans should be able to choose from a broad array of community based long term care services and should not be limited to institutional care.

So, if we are to control costs while providing high quality care to this vulnerable population, we must increase long term care opportunities and provide better coordination between Medicare and Medicaid reimbursement systems.

PACE, Program for All-inclusive Care of the Elderly, is the only program which integrates acute and long term care service delivery and finance. Designed to help the at-risk elderly who need service integration, it represents a fundamental shift in the way needed health services are accessed. By using capitation mechanisms which pool funds from Medicare, Medicaid and private pay sources, this program joins medical services with established long term care services. Care is managed and coordinated by an interdisciplinary team that is responsible for service allocation decisions.

As a result: duplicate services and ineffective treatments are eliminated; participants have access to the entire spectrum of acute and long-term care services, all provided and coordinated by a single organization; and enrollees are relieved of the burden of independently navigating the bewildering health-care maze.

How well has it worked? The accomplishments of PACE include: controlled utilization of both outpatient and inpatient services; controlled utilization of specialist services; high consumer satisfaction; capitation rates which provide significant savings from per capita nursing home costs or community long term care costs; and ethnic and racial distributions of beneficiaries served which reflect the communities from which PACE draws its participants.

Most importantly, PACE has been able to shift location of care from the inpatient acute care setting to the community setting. By integrating social and medical services through adult day health care, PACE has made it possible for frail elders to continue to live at home, not in a nursing care facility.

Are there other alternatives? Medicare HMO's and Social HMO's have also attempted to control costs while providing access to high quality care. However, Medicare HMO's exclude long term care and typically do not serve many frail older persons on an ongoing basis. Social HMO's also limit the long term care benefits available to their members. These programs are important, but simply do not meet the needs of this particular population. PACE, on the other hand, serves frail elders exclusively and provide a continuum of care. It provides all acute and long term care services according to participant needs and without limits on benefits.

Unfortunately, the number of persons enrolled in PACE nationally is minuscule compared with other managed care systems. States such as Tennessee are eager to participate. However, the number of participating sites has been capped under current legislation.

The PACE Provider Act of 1997 increases the number of sites authorized to provide comprehensive, community-based services to frail, older adults from 15 to 40 with an additional 20 to be added each year; and affords regular provider status to existing sites.

Specifically, the bill:

Specifies that PACE sites be lower in cost than the alternative health care services available to PACE enrollees, a goal which has already been accomplished; includes quality of care safeguards; gives States the option of utilizing PACE programs based on their need for alternatives to long-term institutional care and the program's continuing cost-effectiveness; and allows for-profit entities to participate in PACE as a demonstration project.

PACE services frail older people of diverse ethnic heritage and has operated successfully under different state and local environments. This program deserves expansion.

The PACE Provider Act of 1997 does exactly that. It makes the PACE alternative available for the first time to many communities. It also allows more entities in the healthcare marketplace to participate in a new way of providing care for frail elders. PACE gives us a chance to contain costs while providing high quality care to one of our most vulnerable populations.

The PACE program's integration of health and social services, its cost-effective, coordinated system of care delivery and its method of integrated financing have wide applicability and appeal. It is an exciting way to satisfying an urgent need and I wholeheartedly support it.●

● Mr. INOUYE. Mr. President, I introduce the PACE Provider Act of 1997 with my distinguished colleague Senator GRASSLEY.

The Program for All-inclusive Care for the Elderly [PACE] Act of 1997 began in 1983 with the passage of legislation authorizing On Lok, the prototype for the PACE model, as a demonstration program. In 1986 Congress passed legislation to test the replicability of On Lok's success by authorizing Medicare and Medicaid waivers for up to 10 replication sites; and in 1989 the number of authorized sites was increased to 15. The PACE Provider Act of 1997 is the next step in a series of legislative actions taken by Congress to develop PACE as a community-based alternative to nursing home care.

Currently PACE programs provide services to approximately 3,000 individuals in eight States: California, Colorado, Massachusetts, New York, Oregon, South Carolina, Texas, and Wisconsin. There are also 15 PACE programs in development which are operational, although not involved in Medicare capitation. In addition, a number of other organizations are actively working to develop PACE programs in other States including: Florida, Hawaii, Illinois, New Mexico, Michigan, Ohio, Pennsylvania, Virginia, and Washington.

PACE is unique in a variety of ways. First, PACE programs serve only the very frail—older persons who meet their States' eligibility criteria for nursing home care. This high-cost population is of particular concern to policy makers because of the disproportionate share of resources they use relative to their numbers.

Second, PACE programs provide a comprehensive package of primary acute and long-term care services. All services, including primary and specialty medical care, adult day care, home care, nursing, social work services, physical and occupational therapies, prescription drugs, hospital and nursing home care are coordinated and administered by PACE program staff.

Third, PACE programs are cost-effective in that they are reimbursed on a capitated basis, at rates that provide payers savings relative to their expenditures in the traditional Medicare, Medicaid, and private pay systems. Finally, PACE programs are unique in that a mature program assumes total financial risk and responsibility for all acute and long-term care without limitation.

The PACE Provider Act does not expand eligibility criteria for benefits in any way. Rather, it makes available to individuals already eligible for nursing home care, because of their poor health status, a preferable, and less costly alternative.

By expanding the availability of community-based long-term care services, On Lok's success of providing high quality care with an emphasis on preventive and supportive services, can be replicated throughout the country. PACE programs have substantially reduced utilization of high-cost inpatient services. Although all PACE enrollees are eligible for nursing home care, just 6 percent of these individuals are permanently institutionalized. The vast majority are able to remain in the community and PACE enrollees are also hospitalized less frequently. Through PACE, dollars that would have been spent on hospital and nursing home services are used to expand the availability of community-based long-term care.

This bill would expand the number of non-profit entities to become PACE providers to 45 within the first year and allow 20 new such programs each year thereafter. In addition, the PACE Provider Act of 1997 will establish a demonstration project to allow no more than 10 for-profit organizations to establish themselves as PACE providers. The number of for-profit entities will not be counted against the numerical limitation specified for non-profit organizations.

Analyses of costs for individuals enrolled in PACE show a 5- to 15-percent reduction in Medicare and Medicaid spending relative to a comparably frail population in the traditional Medicare and Medicaid systems.

States have voluntarily joined together with community organizations to develop PACE programs out of their commitment to developing viable alternatives to institutionalization. This legislation provides States with the option of pursuing PACE development; and, as under present law, State participation would remain voluntary.

As our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost-effective, but will also improve the quality of life for older Americans.●

By Mr. TORRICELLI:

S. 721. A bill to require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers; to the Committee on Commerce, Science, and Transportation.

THE PERSONAL COMPUTER TRUTH IN ADVERTISING ACT OF 1997

• Mr. TORRICELLI. Mr. President, today I am introducing ''The Personal Computer Truth in Advertising Act of 1997,'' which is designed to ensure that consumers are provided with accurate information about the performance of what is becoming one of the most important consumer products in the Nation, the personal computer.

My bill requires the Federal Trade Commission to investigate and conduct a study of the marketing and advertising practices of personal computer manufacturers and retailers with regard to possibly misleading claims made about the performance of their products.

As we head into the next century, the personal computer is quickly becoming one of the most important consumer products. Indeed, the market for computers in the home has exploded in recent years with the market expected to double by 2000. Still, despite their growing popularity, purchasing a personal computer involves technology and terminology that can be very intimidating and confusing to the average consumer.

Of particular concern to me is a practice by personal computer retailers and manufacturers in how they advertise the speed of the central processing unit (CPU) of the personal computer. Indeed, when marketing and advertising personal computers, the CPU speed is a prominent selling point and consumers are frequently charged hundreds of dollars more for models with faster CPU's.

The CPU is to the personal computer as an engine is to an automobile. Measured in millions of cycles per second [mhz], the faster the CPU, the better the software performs. The CPU's in personal computers, including the popular Pentium chip, operate at two speeds, an external speed and an internal speed. The external speed affects computing activity the user sees in action—the scrolling of a web page or a word processing document, the smoothness of an animated interactive storybook and the complexity and frame rate of a flight simulator. The internal speed of the CPU involves activity invisible to the user—spreadsheet calculations, spell checking and database organization.

Nonetheless, personal computers are commonly marketed according to their internal, and faster, speed. For example, a Pentium computer advertised as a 200 mhz screamer runs at only 66 mhz externally. Still, most advertisements fail to mention this discrepancy and retailers and manufacturers charge hundreds of dollars more for the 200 mhz than they would for a 66 mhz model.

Moreover, driving the sales of personal computers has been the availability of advanced multimedia and interactive entertainment software. This is the very software whose performance depends greatly on the CPU's external clock speed.

My legislation would require the Federal Trade Commission to conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers, with particular emphasis on claims made about the CPU. My bill requires the FTC to perform their study within 180 days of enactment of the bill. I had previously written to the FTC on this issue as a member of the House.

Car manufacturers provide both highway and city mileage performance figures for the performance of their engines and computer manufacturers should follow the same logic with the engines of the personal computer, the CPU.

I urge my colleagues to cosponsor this bill and I will work hard for its enactment into law.

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. 721

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 ''Personal Computer Truth in Advertising Act of 1997''.

SEC. 2. FINDINGS.

(b) FINDINGS.—Congress finds that—

(1) computer manufacturers and retailers commonly refer to the speed of the central processing unit of a personal computer in selling a personal computer;

(2) computer manufacturers and retailers commonly charge hundreds of dollars more for a CPU that has a faster speed;

(3) all CPUs operate at 2 speeds (measured in megahertz (MHz)), an external speed and an internal speed;

(4) the external speed of a personal computer affects computing activities that computer users experience, including the scrolling of a word processing document, the smoothness of an animation, and the complexity and frame rate of a flight simulator;

(5) the internal speed of a personal computer, which is faster than the external speed of the computer, affects activities, such as spreadsheet calculations, spelling checks, and database organizations;

(6) it is common for manufacturers and retailers to mention the internal speed of a CPU without mentioning its external speed for the marketing and advertising of a personal computer; and

(7) a study by the Federal Trade Commission would assist in determining whether any practice of computer retailers and manufacturers in providing CPU speeds in advertising and marketing personal computers is deceptive, for purposes of the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) CENTRAL PROCESSING UNIT; CPU.—The term ''central processing unit'' or ''CPU'' means the central processing unit of a personal computer.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) MANUFACTURER.—The term ''manufacturer'' shall have the meaning provided that term by the Commission.

(4) MEGAHERTZ.—The term ''megahertz'' or ''MHz'', when used as a unit of measurement of the speed of a CPU, means 1,000,000 cycles per second.

(5) RETAILER.—The term ''retailer'' shall have the meaning provided that term by the Commission.

SEC. 4. PERSONAL COMPUTER MARKETING AND ADVERTISING STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall conduct a study of the marketing and advertising practices of manufacturers and retailers of personal computers.

(b) CONTENTS OF STUDY.—In conducting the study under this subsection, the Commission shall give particular emphasis to determining—

(1) whether the practice of the advertising of the internal speed of a CPU in megahertz, without mentioning the external speed of a CPU, could be considered to be an unfair or deceptive practice, within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(2) the extent to which the practice referred to in paragraph (1) is used in the marketing and advertising of personal computers.

(c) REPORT.—Upon completion of the study under subsection (a), the Chairman of the Commission shall transmit to Congress a report that contains—

(1) the findings of the study conducted under this section; and

(2) such recommendations as the Commission determines to be appropriate.•

By Mr. THOMAS:

S. 722. A bill to benefit consumers by promoting competition in the electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC UTILITY RESTRUCTURING EMPOWERMENT AND COMPETITIVENESS ACT OF 1997 [EURECA]

Mr. THOMAS. Mr. President, I rise today to introduce the Electric Utility Restructuring Empowerment and Competitiveness Act of 1997. This legislation, which gives states the authority to order the delivery of electric energy to all retail consumers, is based on the idea that less government intervention is the best way to achieve affordable, reliable and competitive options for retail electric energy services.

This is a substantially different approach from other measures that have been introduced in both the House and Senate to restructure the nation's electric utility industry. I do not believe that a federal mandate on the states requiring retail competition by a date certain is in the best interest of all classes of customers. I am concerned that this method could result in increased electricity rates for low-density states or states that have relatively low-cost power. Electricity is an essential commodity critical to everyday life in this country. It is also an industry heavily regulated at the Federal and State levels. If the Congress is going to make fundamental changes to the last major regulated monopoly, its role should be to help implement competitive changes in a positive manner, rather than interject the heavy hand of government with a ''Washington-knows-best'' mentality.

This legislation comes down on the side of States' rights. Having been involved in the electric power industry, I understand the unique characteristics of each State. As most everyone knows, California was the first State to

pass a retail choice law. Since that time, Arizona, Massachusetts, New Jersey, Pennsylvania, New Hampshire, Texas, Montana, Oklahoma and others have followed suit.

According to Bruce Ellsworth, President of the National Association of Regulatory Utility Commissioners [NARUC], ''more than one-third of the Nation's population live in states that have chosen within the last year to move to open-access, customer choice markets.'' All told, every state except one is in the process of either examining or implementing policies for retail consumers of electric energy. States are clearly taking the lead—they should continue to have that role—and this bill confirms their authority by affirming States' ability to implement retail choice policies.

This initiative leaves important functions, including the ability to recover stranded costs, establish and enforce reliability standards, promote renewable energy resources and support public benefit and assistance to low-income and rural consumer programs in the hands of State Public Service Commissions [PUC's]. If a State desires to impose a funding mechanism—such as wires charges—to encourage that a certain percentage of energy production comes from renewable alternatives, they should have that opportunity. However, I do not believe a nationally mandated set-aside is the best way to promote competition. Likewise, individual states would have the authority over retail transactions. This ensures that certain customers could not bypass their local distribution system and avoid responsibility for paying their share of stranded costs.

One of the most important aspects of this debate—assuring that universal service is maintained—is a critical function that each State PUC should have the ability to oversee and enforce. In my legislation, nothing would prohibit a state from requiring all electricity providers that sell electricity to retail customers in that state to provide electricity service to all classes and consumers of electric power.

Mr. President, at the wholesale level, my proposal attempts to create greater competition by prospectively exempting the sale of electricity for resale from rates determined by the Federal Energy Regulatory Commission [FERC]. Although everyone talks about ''deregulating'' the electricity industry, it is really the generation segment that will be deregulated. The FERC will continue to regulate transmission in interstate commerce, and State PUC's will continue to regulate retail distribution services and sales.

When FERC issued Order 888 last year, it allowed utilities to seek market-based rates for new generating capacity. This provision goes a step further and allows utilities to purchase wholesale power from existing generating facilities, after the date of enactment of this Act, at prices solely determined by market forces.

Furthermore, the measure expands FERC authority to require non-public utilities that own, operate or control transmission to open their systems. Currently, the Commission cannot require the Federal Power Marketing Administrations [PMA's], the Tennessee Valley Authority [TVA], municipalities and cooperatives that own transmission, to provide wholesale open access transmission service. According to Elizabeth Moler, Chairwoman of FERC, approximately 22 percent of all transmission is beyond open access authority. Requiring these non-public utilities to provide this service will help ensure that a true wholesale power market exists.

One of the key elements of this measure is streamlining and modernizing the Public Utility Regulatory Policies Act of 1978 [PURPA] and the Public Utility Holding Company Act of 1935 [PUHCA]. While both of these initiatives were enacted with good intentions, and their obligations fulfilled, there is widespread consensus that the Acts have outlived their usefulness.

My bill amends section 210 of PURPA on a prospective basis. Current PURPA contracts would continue to be honored and upheld. However, upon enactment of this legislation, a utility that begins operating would not be required to enter into a new contract or obligation to purchase electricity under section 210 of PURPA.

With regard to PUHCA, I chose to incorporate Senator D'AMATO's recently introduced legislation in my bill. As Chairman of the Senate Banking Committee, which has jurisdiction over the issue, he has crafted a proposal that I believe will successfully reform the statute and I support his efforts. Under his proposal, the provisions of PUHCA would be repealed 18 months after the Act is signed into law. Furthermore, all books and records of each holding company and each associate company would be transferred from the Securities and Exchange Commission [SEC]—which currently has jurisdiction over the 15 registered holding companies—to the FERC. This allows energy regulators, who truly know the industry, to oversee the operations of these companies and review acquisitions and mergers. These consumer protections are an important part of PUHCA reform.

Mr. President, an issue which must be resolved in order for a true competitive environment to exist is that of utilities receiving special ''subsidies'' by the federal government and the U.S. tax code. For years, investor-owned utilities [IOU's] have claimed inequity because of tax-exempt financing and low-interest loans that municipalities and rural cooperatives receive. On the other side of the equation, these public power systems maintain that IOU's are able to receive special tax treatment, not offered to them, which amounts to a ''tax free'' loan. The jury is still out on how best to deal with this thorny and, undoubtedly complex matter, but make no mistake about it, changes will be made.

A viable option the Congress should consider is to ''build a fence'' around governmental utilities. Sales in existing service territories could continue to be financed using current methods. However, for sales outside of their traditional boundaries, these systems should operate on the same basis and play by the same rules as other competitors.

The Congress should also address existing tax structures to determine if the ''benefits'' tax-paying utilities receive results in unfair advantages against their competitors. While tax initiatives, such as accelerated depreciation and investment tax credits, are available to all businesses that pay income tax, if this amounts to ''subsidies'' reforms may have to be made.

My bill would direct the Inspector General of the Department of Treasury to file a report to the Congress detailing whether and how tax code incentives received by all utilities should be reviewed in order to foster a competitive retail electricity market in the future. Furthermore, I am pleased that Senator MURKOWSKI, Chairman of the Senate Energy and Natural Resources Committee, requested a report by the Joint Committee on Taxation to review all subsidies and incentives that investor-owned, publicly-owned and cooperatively-owned utilities receive.

Mr. President, I believe EURECA is a common-sense approach that attempts to build consensus to solve some of the critical questions associated with this important issue. The states are moving and should continue to have the ability to craft electricity restructuring plans that recognize the uniqueness of each state. This legislation is the best solution to foster the debate and allow us to move forward with a better product for all classes of consumers and the industry as a whole.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KERRY):

S. 723. A bill to increase the safety of the American people by preventing dangerous military firearms in the control of foreign governments from being imported into the United States, and for other purposes; to the Committee on Foreign Relations.

THE ANTI-GUN INVASION ACT OF 1997

• Mr. LAUTENBERG. Mr. President, today Senators BOXER and KERRY and I are introducing legislation to ensure that millions of lethal American-manufactured military weapons will not be imported into this country. Representatives PATRICK KENNEDY and MALONEY are introducing companion legislation in the House of Representatives.

The bill we are introducing repeals a loophole in the law that could allow U.S. military weapons that were provided to foreign countries to be sold back to gun dealers in this country. The loophole permits the import of so-called ''curios or relics'' —weapons considered to have historic value or which are more than 50 years old.

About 2.5 million American-manufactured military weapons that the U.S. Government gave away, sold, or were taken as spoils of war by foreign governments are at issue. This includes 1.2 million M–1 carbines, which are easily converted to fully automatic weapons. Though these weapons are older, they are lethal. I don't want them flooding America's streets. And I don't want foreign governments making a windfall by selling them to commercial gun dealers.

As some of my colleagues may know, the term ''curios or relics'' was originally used in the Gun Control Act of 1968 to make it easier for licensed collectors to buy curios or relics weapons from outside his or her State of residence. The Treasury Department came up with a definition and list of ''curios or relics'' for this purpose. At that time, importation of surplus military weapons—whether of United States or foreign origin—was prohibited, and the curios or relics list had nothing to do with importing weapons.

Nearly 20 years later, in 1984, a law was passed that expanded the scope of the curios or relics list in ways never foreseen at the time the list was first created. The modified law said that guns that were on the curios or relics list could not just be sold interstate within this country, but could be imported as well.

However, the Arms Export Control Act still prohibited the importation of U.S. military weapons that had been furnished to foreign governments. Although a 1987 amendment to that Act authorized the importation of U.S.-origin military weapons on the curios or relics list as well, only one import license has been granted under the curios or relics exception. Since that isolated incident, every administration—Reagan, Bush, and Clinton—has adopted a policy established by the Reagan administration and based on the Arms Export Control Act of denying these kinds of import licenses.

Though the Clinton administration and the past two Republican administrations have opposed importing these lethal weapons, the NRA supports importing them and it has allies on the Hill. Last year, an effort was made in the Commerce, Justice, State Appropriations bill to force the State Department to allow these weapons to be imported for any reason. That effort was killed as part of the negotiations on the catchall appropriations bill that was signed into law on September 30.

The provision included in the Senate version of the C, J, S appropriations bill last year, section 621, would have prohibited any agency of the Government—notwithstanding any other provision of law—from using appropriated funds to deny an application for a permit to import previously exported United States-origin military firearms, parts, or ammunition that are considered to be curios or relics. The provision would have forced the State Department to allow large numbers of U.S. military firearms that are currently in the possession of foreign governments to enter the United States commercially. Because so many of those firearms can be easily converted to automatic weapons, it would have undermined efforts to reduce gun violence in this country. In addition, it could have provided a windfall for foreign governments at the expense of the taxpayer.

Certainly the dangers posed by many guns on the curios or relics list—in particular the M–1 carbine, which is easily converted into an automatic weapon—are an important reason for preventing imports of those guns. It is the main reason I am proposing legislation to clarify the law to prevent imports in the future. But the provisions of the Arms Export Control Act that limit the imports are not merely technical. They support a principle, included in the Arms Export Control Act, that is basic to the integrity of our foreign military assistance program: No foreign government should be allowed to do anything with weapons we have given them that we ourselves would not do with them. For example, the Department of Defense does not transfer weapons to a country that is our enemy; no foreign government should be allowed to use U.S.-supplied weapons in that way. The Department of Defense does not sell its excess guns directly to commercial dealers in the United States, and foreign governments should not be able to do so either.

As recently as 1994, the General Services Administration Federal weapons task force reviewed U.S. policy for the disposal of firearms and confirmed a longstanding Government policy against selling or transferring excess weapons out of Government channels. The Federal Government has made a decision that it should not be an arms merchant. The Federal regulations that emerged from that task force review are clear. They say surplus firearms may be sold only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. These are sound regulations. The Department of Defense does not sell its guns to private arms dealers. Under the Arms Export Control Act, we should not allow foreign governments to sell 2.5 million U.S. military weapons to private arms dealers either.

Flooding the market with these curios and relics would only make it harder for law enforcement to do its job. The Bureau of Alcohol, Tobacco, and Firearms has already seen an increase in M–1 carbines that have been converted to fully automatic machine guns due to the availability and relatively low cost of the weapons. The more military weapons there are in this country, the more likely they are to fall into criminal hands. Surplus military weapons are usually cheap, and, if a government sells its whole stockpile, plentiful. A sudden increase in supply of M–1 garands and carbines and M–1911 pistols would drive down the price, making them less attractive to the collector and more attractive to the criminal.

In fact, the administration opposed last year's provision, in part, because of the increased availability of low-cost weapons for criminals that invariably would have resulted. According to the administration, ''The criminal element thrives on low-cost firearms that are concealable, or capable of accepting large-capacity magazines, or capable of being easily converted to fully automatic fire. Thus, such weapons would be particularly enticing to the criminal element. In short, the net effect of the proposal would be to thwart the administration's efforts to deny criminals the availability of inexpensive, but highly-lethal, imported firearms.''

We know that the M–1 carbine has already been used to kill at least 6 police officers. Another 3 were killed with M–1911 pistols. As recently as this January, two sheriff's deputies, James Lehmann, Jr. and Michael P. Haugen, were killed with an M–1 carbine while responding to a domestic violence call in Cabazon, CA. In October 1994, in Gilford, NH, Sgt. James Noyes of the State Police Special Weapons and Tactics Unit was killed in the line of duty with an M–1 carbine. In December 1992, two Richmond, CA police officers were killed with an M–1 carbine. In just one State, Pennsylvania, at least 10 people were killed using U.S.-origin military weapons during a recent 5-year period. To those who would argue that ''curios and relics'' are not used in crimes, I would say talk to the families of these victims.

American-manufactured weapons were sold to foreign governments—often at a discount rate subsidized by the U.S. taxpayer—because we believed it was in our foreign policy interest to strengthen and assist our allies. We did not intend to enable foreign governments to make a profit by turning around and selling them back to commercial gun dealers in the U.S. We certainly did not help our allies so they could turn around and flood America's streets with lethal guns.

We also did not provide weapons to foreign governments so they could reap a financial windfall at the expense of the taxpayer. Although the law could allow the United States Government to receive the net proceeds of any sales made by foreign governments of defense articles it received on a grant basis, the provision in the appropriations bill last year would have forced the administration—notwithstanding any other law —to approve the import license, even if a foreign government would not agree to provide proceeds of the sale. As such, it would undermine our government's ability to require foreign governments to return proceeds to the United States and could result in a windfall for foreign governments.

Even more, some countries like Vietnam, which hold a significant quantity of spoils of war weapons, including ''curios or relics,'' could sell those ''spoils of war'' to U.S. importers at a financial gain. And, the Government of Iran, which received more than 25,000 M–1911 pistols from the United States Government in the early 1970's, could qualify to export weapons to the United States at a financial gain as well.

Allowing more than 2 million U.S.-origin military weapons to enter the United States would profit a limited number of arms importers. But it is not in the interest of the American people. I don't believe private gun dealers should have the ability to import these weapons from foreign governments. These weapons are not designed for hunting or shooting competitions. They are designed for war. Our own Department of Defense does not sell these weapons on the commercial market for profit. Why should we allow foreign countries to do so?

Mr. President, this bill would confirm the policy against importing these lethal weapons by removing the ''curios or relics'' exception from the Arms Export Control Act. Under this legislation, U.S. military weapons that the U.S. Government has provided to foreign countries could not be imported to the United States for sale in the United States by gun dealers. If a foreign government had no use for surplus American military weapons, those weapons could be returned to the Armed Forces of the United States or its allies, transferred to State or local law enforcement agencies in the United States, or destroyed. The legislation also asks the Treasury Department to provide a study on the importation of foreign-manufactured surplus military weapons.

Mr. President, I ask unanimous consent that a copy of this legislation appear in the RECORD, and I urge my colleagues to support this legislation.

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

S. 723

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 ''Anti-Gun Invasion Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since 1950, the United States Government has furnished to foreign governments at least 2,500,000 military firearms that are considered to be ''curios or relics'' under the Gun Control Act of 1968.

(2) These firearms include more than 1,200,000 M–1 Carbine rifles and 250,000 M1911 pistols of United States manufacture that have been furnished to foreign governments under United States foreign military assistance grant, loan, or sales programs.

(4) Criminals tend to use low-cost firearms that are concealable, capable of accepting large-capacity magazines, or are capable of being easily converted to fully automatic fire.

(5) An M–1 Carbine can be converted easily to a fully automatic weapon by disassembling the weapon and reassembling the weapon with a few additional parts.

(6) An M1911 or M1911A pistol is easily concealable.

(7) At least 9 police officers have been murdered in the United States using M–1 Carbines or M1911 pistols in the past 7 years.

(8) The importation of large numbers of ''curio or relic'' weapons would lower their cost, make them more readily available to criminals, and constitute a threat to public safety and to law enforcement officers.

(9) The importation of these ''curios or relics'' weapons could result in a financial windfall for foreign governments.

(10) In order to ensure that these weapons are never permitted to be imported into the United States, a provision of the Arms Export Control Act must be deleted.

SEC. 3. REMOVAL OF EXEMPTION FROM PROHIBITION ON IMPORTS OF CERTAIN FIREARMS AND AMMUNITION.

(a) REMOVAL OF EXEMPTION.—Section 38(b)(1) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)) is amended by striking subparagraph (B), as added by section 8142(a) of the Department of Defense Appropriations Act, 1988 (contained in Public Law 100–202).

(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect any license issued before the date of the enactment of this Act.

SEC. 4. REPORT ON IMPORTS OF FOREIGN-MADE SURPLUS MILITARY FIREARMS THAT ARE CURIOS OR RELICS

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, acting through the Bureau of Alcohol, Tobacco and Firearms, shall submit a report to Congress on the scope and effect of the importation of foreign-made surplus military firearms under section 925(e) of title 18, United States Code. The report shall contain the following:

(1) CURRENT IMPORTATION.—A list of types and models of military firearms currently being imported into the United States as ''curios or relics'' under section 925(e) of title 18, United States Code, which would otherwise be barred from importation as surplus military firearms under section 925(d)(3) of that title.

(2) IMPORTATION DURING PRECEDING 5 YEARS.—A list of the number of each type and model listed under paragraph (1) that has been imported into the United States during the 5 years preceding the date of submission of the report.

(3) EASE OF CONVERSION.—A description of the ease with which each type and model listed under paragraph (1) may be converted to a semi-automatic assault weapon as defined in section 921(a)(30)(B) of that title or to a fully automatic weapon.

(4) INVOLVEMENT IN CRIMINAL ACTIVITIES.—Statistics that may be relevant to the use for criminal activities of each type and model of weapons listed in paragraph (1), including—

(A) statistics involving the use of the weapons in homicides of law enforcement officials; and

(B) the number of firearm traces by the Bureau of Alcohol, Tobacco and Firearms that involved those weapons.

(5) COMPREHENSIVE EVALUATION.—A comprehensive evaluation of the scope of imports under section 925(e) of that title and the use of such weapons in crimes in the United States.●

By Mr. NICKLES (for himself, Mr. ROCKEFELLER, Mr. LOTT, Mr. BREAUX, Mr. HATCH, Ms. MOSLEY-BRAUN, Mr. MURKOWSKI, Mr. D'AMATO, Mr. GRAMM, Mr. MACK, Mr. LIEBERMAN, Mr. COCHRAN, Mr. BROWNBACK, Mr. ENZI and Mr. HUTCHINSON):

S. 724. A bill to amend the Internal Revenue Code of 1986 to provide corporate alternative minimum tax reform; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX REFORM ACT OF 1997

Mr. NICKLES. Mr. President, today I join my colleague from West Virginia, Senator ROCKEFELLER, to introduce legislation to reform the Alternative Minimum Tax, or AMT. We are joined in this effort by 13 of our colleagues, including a total of 10 Finance Committee members.

Congress created the AMT in 1986 to prevent businesses from using tax loopholes, such as the investment tax credit or safe harbor leasing, to pay little or no tax. The use of these tax preferences sometimes resulted in companies reporting healthy ''book'' income to their shareholders but little taxable income to the government.

Therefore, to create a perception of fairness, Congress created the AMT. The AMT requires taxpayers to calculate their taxes once under regular tax rules, and again under AMT rules which deny accelerated depreciation, net operating losses, foreign tax credits, and other deductions and credits. The taxpayer then pays the higher amount, and the difference between their AMT tax and their regular tax is credited to offset future regular tax liability if it eventually falls below their AMT tax liability.

Unfortunately, Mr. President, in the real world the AMT has reached far beyond its original purpose. As it is currently structured, the AMT is a massive, complicated, parallel tax code which places huge burdens on capital intensive companies. Corporations must now plan for and comply with two tax codes instead of one. Further, the elimination of accelerated depreciation increases the cost of investment and makes U.S. businesses uncompetitive with foreign companies.

It makes little sense, Mr. President, to allow a reasonable business deduction under one tax code, and then take it away through another tax code. Perhaps there are some bureaucrats who believe regular tax depreciation is too generous and should be curtailed, but the AMT is an extremely complicated and convoluted way to accomplish that goal.

The legislation I am introducing today would correct this problem by allowing businesses to use the same depreciation system for AMT purposes as they use for regular tax purposes. This one simple reform removes the disincentive to invest in job-producing assets and greatly simplifies compliance and reporting. In fact, this reform was first suggested by President Clinton in 1993.

Further, my bill helps AMT taxpayers recover their AMT credits in a more reasonable timeframe than under current law. Many capital-intensive businesses have become chronic AMT taxpayers, a situation that was not contemplated when the AMT was created. These companies continue to pay AMT year after year with no relief in

sight, and as a matter of function they accumulate millions in unused AMT credits. These credits are a tax on future, unearned revenues which may never materialize, and because of the time-value of money their value to the taxpayer decreases every year.

Since Congress did not intend for the AMT to become a permanent tax system for certain taxpayers, my bill would allow chronic AMT taxpayers to use AMT credits which are 5-years-old or older to offset up to 50 percent of their current-year tentative minimum tax. This provision will help chronic AMT taxpayers dig their way out of the AMT and allow them to recoup at least a portion of these accelerated tax payments in a reasonable manner and time-frame.

Mr. President, as the Senate begins working out the details of the recent bipartisan budget accord and the resulting tax bill, I hope we will not forget the importance of savings and investment. In that regard, there are few tax code changes we could make which are more important than eliminating the investment disincentives created by the AMT.

Does my legislation fix all of the AMT's problems? No, it does not. This bill specifically addresses the depreciation adjustment, but there are many other AMT adjustments, preferences, and limitations which are unchanged. Some of these, such as the 90-percent net operating loss limitation and the foreign tax credit limitation, are very damaging to business profitability and competitiveness. I hope all these issues will be examined when the Senate Finance Committee considers AMT reform.

Mr. President, I ask unanimous consent that there appear in the RECORD a list of the original cosponsors of this legislation, as well as statements of support by the U.S. Chamber of Commerce and the National Association of Manufacturers. I encourage my colleagues to join Senator ROCKEFELLER and me in this important initiative.

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

ALTERNATIVE MINIMUM TAX REFORM ACT COSPONSORS, 105TH CONGRESS

(15 total, 10 from Committee on Finance)

Sponsor: NICKLES.

Cosponsors: ROCKEFELLER, LOTT, BREAUX, HATCH, MOSELEY-BRAUN, MURKOWSKI, D'AMATO, GRAMM, MACK, LIEBERMAN, COCHRAN, BROWNBACK, ENZI, and HUTCHINSON.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, May 8, 1997.

Hon. DON NICKLES,
Assistant Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The U.S. Chamber of Commerce—the world's largest business federation representing an underlying membership of more than three million businesses and organizations of every size, sector, and region—supports your legislation to reform the Alternative Minimum Tax (AMT).

The current AMT system unfairly penalizes businesses that invest heavily in plant, machinery, equipment and other assets. The AMT significantly increases the cost of capital and discourages investment in productivity-enhancing assets by negating many of the capital formation incentives provided under the regular tax system, most notably accelerated depreciation. To make matters worse, many capital-intensive businesses have been perpetually trapped in the AMT system, and unable to utilize their suspended AMT credits. Furthermore, the AMT is extremely complex, burdensome and expensive to comply with.

Your legislation addresses many of the problems of the current AMT and its passage will spur capital investment, help businesses to sustain long-term grown and create jobs. Recent analysis by Data Resources, Inc. demonstrates that your reform bill will result in an increase in GDP of 1.6 percent, the creation of 100,000 new jobs each year, and an increase in worker productivity of about 1.6 percent.

Thank you for introducing this important legislation, and we look forward to working with you for its passage.

Sincerely,

R. BRUCE JOSTEN.

STATEMENT OF NATIONAL ASSOCIATION OF MANUFACTURERS

NAM CALLS THE ALTERNATIVE MINIMUM TAX THE ''ANTI-MANFACTURING TAX''

Urges Support of AMT Reform Legislation

WASHINGTON, DC., MAY 8, 1997.—Calling the alternative minimum tax (AMT) a disincentive for capital investment and job creation, the National Association of Manufacturers urged lawmakers to support AMT reform legislation introduced today by Senators DON NICKLES (R-OK) and JOHN D. ROCKFELLER (D-WV).

''The alternative minimum tax is a fundamentally flawed, counter-productive tax that stifles the creation of high-skilled, high-paying manufacturing jobs,'' said Gil Thurm, vice president taxation and economic policy, in support of the reform bill. ''It's little wonder that many believe that AMT really stands for 'Anti-Manufacturing Tax.' ''

The legislation substantially reforms the AMT to allow businesses to use the same depreciation rules for AMT purposes as they use for their regular tax depreciation rules. It also allows AMT taxpayers to recover their existing tax credits quicker than under current law.

''No other industrialized country imposes such a penalty tax on investment made by capital intensive companies. Furthermore, when businesses report little or no profit, they are still frequently required to pay the AMT,'' said Thurm.

''Substantially reforming the alternative minimum tax will result in greater economic growth by creating thousands of new jobs, stronger growth in GDP, increased productivity and improved cash flow, especially for those companies that have been penalized the most under the AMT,'' according to Thurm.

The NAM continues to lead a coalition of more than 100 companies and associations in support of complete repeal of the AMT. However, absent complete repeal, the AMT Coalition for Economic Growth supports substantive AMT reform.

• Mr. ROCKEFELLER. Mr. President, I am pleased to join my Senate Finance Committee colleague, Senator NICKLES, in introducing an Alternative Minimum Tax [AMT] reform bill. Our bill will: first, allow businesses to use the same depreciation system for AMT as they do under regular tax, and second, permit businesses to use their AMT credits more easily than under current law. It will help make it easier for U.S. businesses to compete and reduce the unintended inequity of current law.

For several years, I have looked for an opportunity to fix the problems that AMT creates especially for capital intensive industries. Two years ago, I introduced my own bill to reform the aspects of AMT that I believe are most detrimental to businesses for which AMT is frequently their method of tax payment. Unfortunately, with the controversies and difficulties that made it impossible to enact a budget plan in the last Congress, there was no ability to move that effort forward.

This year, I am pleased to work with Senator NICKLES to make the AMT fairer. I hope this means we have a real chance of working together in a bipartisan manner to compel Congress, the Finance Committee in particular, to figure out a way to deal with some of the unintended consequences of AMT as part of this year's budget deal. I think previous efforts at AMT reform have failed in the part because it is very tough to focus on the merits of certain corporate tax changes. That remains true today in the context of a larger budget agreement, but if we keep our perspective, I think AMT reform will win support on its merits and Congress can responsibly find a way to finance it.

I am well aware of the fact that as we introduce this legislation, there is no specific provision for AMT relief in the budget deal which the President and Congressional leadership have struck in outline form. As I have noted, the constraints of balancing the budget will require us to carefully examine how much AMT relief is practical this year, as part of an agreement to balance the budget over the next 5 years. I understand that very well, as does Senator NICKLES. I think that means we will have to zero in on the aspects of AMT relief that are most doable this year—and which can be financed without harming other priorities. I am prepared to do that and recognize that it also means the scope of the AMT bill we submit today will have to be tailored accordingly. That does not mean that we should put off AMT relief for another day, it just means we will have to be honest about what is critical to do and what portions of this bill will have to remain on the to-do list. I say all this because it is important to understand the context for our introducing this relief bill now, and as the budget agreement places some high hurdles on what can realistically be accomplished.

I also would like to say that it is my strong belief that the excruciating specifics of the budget agreement which relate to matters under the jurisdiction of the Finance Committee are best left to the expertise on that Committee. The Finance Committee serves an extremely important role in the legislative process. That role cannot and

should not be supplanted by private negotiations between the administration and congressional leadership—however worthwhile the overall purpose. Reaching consensus on the approach to balancing the budget and protecting priorities of the administration and both sides of the aisle in congressional leadership provides the Finance Committee with the framework for its detailed work. The Finance Committee will soon have to work its will within the appropriate parameters of its reconciliation instructions. When that happens, I think the committee must address AMT relief, and I intend to work to build support for it as we wend our way through the committee process.

Let me return to the substance of the bill we submit for our colleagues' consideration today. First, I want to make it absolutely clear—this bill does not repeal AMT. AMT has created during the 1986 Tax Reform Act in response to the problem raised when companies would report profits to stockholders and yet claim losses to the IRS. However, in an effort to simplify the code depreciation under AMT was treated as an adjustment—which amounts to an increase in income. This penalizes low-profit, capital intensive companies, like steel companies. Compared to other countries, after 5 years, a U.S. steelmaker under AMT recovers only 37 percent of its investment in a new plant and equipment. The recovery of investment in other countries is much higher—for example, in Japan it's 58 percent, in Germany companies recover 81 percent, Korea is 90 percent, and in Brazil it's 100 percent.

The problem is not unique to the steel industry though. Other capital-intensive industries that also have long-lived assets lose under the current AMT. The chemical industry has 9½ years to depreciate under the AMT, as opposed to 5 years under the regular tax. And for paper, they have 13 years to depreciate under the AMT, as opposed to 7 years under the regular tax. We need to fix the AMT so that industries with very high capital costs which they cannot recover for years are not put at such a disadvantage.

Today's AMT discourages investment in new plants and equipment, while under our regular tax system depreciation investments are encouraged. The need to improve our tax system to make it fairer to capital intensive industries is clear—fixing the AMT is one way to do that.

U.S. companies have to be able to compete in an increasingly competitive global market—that's almost an adage. It's what our trade laws and agreements seek to ensure. We'll never be able to sufficiently promote U.S. exports if we don't being to equalize the effects of our tax laws on American companies as well.

This bill would eliminate depreciation as an adjustment under AMT—treating AMT taxpayers the same as those companies that pay under our regular tax system. It would also allow tax payers who have not used their accumulated minimum tax credits which are at least 5 years old to use those credits to offset up to 50 percent of their current year AMT liability—with a provision to ensure that taxpayers could not reduce their current payment below their regular tax liability for that year.

AMT has become the standard method of tax payment for many of our Nation's capital intensive industries and it is not working the way Congress initially intended. It's time to fix it.

The bill Senator NICKLES and I submit for your consideration today will fix the AMT so it works the way I believe Congress originally intended. It will have the consequence of improving the competitiveness of American business. It is time to stop talking about AMT and do something that figures out how to address this real problem. I urge my colleagues to cosponsor this legislation and work with me and my Finance Committee colleagues to find a way to act on this important issue in this year's budget bill.●

By Mr. CAMPBELL:

S. 725. A bill to direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District; to the Committee on Energy and Natural Resources.

THE COLLBRAN PROJECT UNIT CONVEYANCE ACT

● Mr. CAMPBELL. Mr. President, today I reintroduce legislation to transfer the Collbran project from the Federal Government back to the people it serves. The bill is designed with only one goal in mind, to guarantee the growing population in the Grand Valley of Colorado a supply of water that they have relied on for the last 30 years.

At the same time, this legislation will be a model for transitioning the Federal Government out of the daily operations of facilities where its useful participation has ceased. This transfer will also be an important and symbolic step in downsizing the Federal Government, returning power to the States and localities, while contributing to our continuing efforts to balance the Federal budget.

The Western slope of Colorado, like the rest of the Colorado Plateau, has a unique blend of rich natural resources and beautiful scenery. This fortunate combination attracts and sustains a strong economy of both industry and tourism. Much of this booming economic development and recreational opportunities would not exist if not for the water and electricity provided by the various Federal reclamation projects in the West. These projects were authorized in the Federal Reclamation Act in 1902 by a visionary Congress which saw the need and importance of water projects to the development of the West. Without such projects, there would be virtually no farming, mining, or ranching and little tourism.

It is appropriate for the Federal Government to shed the Collbran project at this time because the goals of the project have been met. The project, completed in 1964, provides a reliable supply of irrigation water to the users on the arid west slope of Colorado. This project is the main water supplier for a growing population in the Grand Valley, currently serving over 55,000 people. It also provides electric power to the grid that serves several Western States.

It is also time now to transfer the Collbran project because, as the Bureau of Reclamation has acknowledged, due to unanticipated circumstances this project has been a net-cash drain on the Treasury. The Ute Water Conservancy District, the public entity that will purchase the project, will pay the remaining debt on the project, reimbursing the Government completely, returning over $12 million to the Federal Treasury. It is time for the Government to stand aside.

Let me stress that this transfer will not in any way jeopardize any of the recreation opportunities available in Vega Reservoir and related Collbran project reservoirs. In fact, this legislation will transfer the Vega Reservoir from the Federal Government to the State of Colorado, ensuring continued recreation opportunities there. This bill also preserves all water and power operations of the existing Collbran project.

I also want to emphasize that we have striven to accommodate environmental groups' concerns. Although there is no reason to think that a mere transfer of ownership, without affecting the operations, should require the water district to perform an environmental impact statement under the National Environmental Policy Act, I have accommodated the environmental community's requests and eliminated any reference to NEPA. In this way, I have ensured that the transfer will fully comply with all environmental laws.

Finally, as a symbol of the Ute Water Conservancy's good faith, this bill explicitly requires that the conservancy district contributes $600,000 to the Colorado River Endangered Fish Recovery Program and that the project itself will remain subject to future ESA-related obligations that could be imposed on similar projects.

Again, the object of this legislation is merely to ensure a reliable supply of quality water for the residents of the Grand Valley who have depended upon this supply for the last 30 years. This bill proposes a fiscally and environmentally sound and sensible transfer of an existing Federal project to the people it serves.

I look forward to working with all interested parties as this bill proceeds. I urge my colleagues to join me and support this bill.

Thank you, Mr. President. 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. 725

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 ''Collbran Project Unit Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term ''District'' means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.

(2) FEDERAL RECLAMATION LAWS.—The term ''Federal reclamation laws'' means the Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted under those Acts).

(3) PROJECT.—The term ''project'' means the Collbran Reclamation project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including the Vega Recreation Facilities);

(B) Leon-Park dams and feeder canal;

(C) Southside Canal;

(D) East Fork diversion dam and feeder canal;

(E) Bonham-Cottonwood pipeline;

(F) Snowcat shed and diesel storage;

(G) Upper Molina penstock and power plant;

(H) Lower Molina penstock and power plant;

(I) the diversion structure in the tailrace of the Lower Molina power plant;

(J) all substations and switchyards;

(K) a nonexclusive easement for the use of existing easements or rights-of-way owned by the United States on or across non-Federal land that are necessary for access to project facilities;

(L) title to land reasonably necessary for all project facilities (except land described in subparagraph (K) or paragraph (1) or (2) of section 3(a));

(M) all permits and contract rights held by the Bureau of Reclamation, including contract or other rights relating to the operation, use, maintenance, repair, or replacement of the water storage reservoirs located on the Grand Mesa that are operated as part of the project;

(N) all equipment, parts inventories, and tools;

(O) all additions, replacements, betterments, and appurtenances to any of the land, interests in land, or facilities described in subparagraphs (A) through (N); and

(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage, relating specifically to the project.

(4) VEGA RECREATION FACILITIES.—The term ''Vega Recreation Facilities'' includes—

(A) buildings, campgrounds, picnic areas, parking lots, fences, boat docks and ramps, electrical lines, water and sewer systems, trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes (such as recreation, maintenance, and daily and overnight visitor use), at and near Vega Reservoir;

(B) lands above the high water level of Vega Reservoir within the area previously defined by the Secretary as the ''Reservoir Area Boundary'' that have not historically been utilized for Collbran project water storage and delivery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface of Vega Reservoir and for construction, operation, maintenance, and replacement of facilities for recreational purposes below the high water line; and

(C) improvements constructed or added under the agreements referred to in section 3(f).

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

SEC. 3. CONVEYANCE.

(a) IN GENERAL.—

(1) CONVEYANCE TO DISTRICTS.—

(A) IN GENERAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary shall convey to the Districts all right, title, and interest of the United States in and to the project by quitclaim deed and bill of sale, without warranties, subject only to the requirements of this Act.

(B) ACTION PENDING CONVEYANCE.—Until the conveyance under subparagraph (A) occurs, the Director of the Bureau of Reclamation shall continue to exercise the responsibility to provide for the operation, maintenance, repair, and replacement of project facilities and the storage reservoirs on the Grand Mesa to the extent that the responsibility is the responsibility of the Bureau of Reclamation and has not been delegated to the Districts before the date of enactment of this Act or is delegated or transferred to the Districts by agreement after that date, so that at the time of the conveyance the facilities are in the same condition as, or better condition than, the condition of the facilities on the date of enactment of this Act.

(2) EASEMENTS ON NATIONAL FOREST SYSTEM LANDS.—

(A) IN GENERAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary of Agriculture shall grant, subject only to the requirements of this section—

(i) a nonexclusive easement on and across National Forest System land to the Districts for ingress and egress on access routes in existence on the date of enactment of this Act to each component of the project and storage reservoir on the Grand Mesa in existence on the date of enactment of this Act that is operated as part of the project;

(ii) a nonexclusive easement on National Forest System land for the operation, use, maintenance, repair, and replacement (but not enlargement) of the storage reservoirs on the Grand Mesa in existence on the date of enactment of this Act to the owners and operators of the reservoirs that are operated as a part of the project; and

(iii) a nonexclusive easement to the Districts for the operation, use, maintenance, repair, and replacement (but not enlargement) of the components of project facilities that are located on National Forest System land, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of Agriculture for nonroutine, nonemergency activities that occur on the easements.

(B) EXERCISE OF EASEMENT.—The easement under subparagraph (A)(ii) may be exercised if the land use authorizations for the storage reservoirs described in subparagraph (A)(ii) are restricted, terminated, relinquished, or abandoned, and the easement shall not be subject to conditions or requirements that interfere with or limit the use of the reservoirs for water supply or power purposes.

(3) EASEMENTS TO DISTRICTS FOR SOUTHSIDE CANAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary shall grant to the Districts, subject only to the requirements of this section—

(A) a nonexclusive easement on and across land administered by agencies within the Department of the Interior for ingress and egress on access routes to and along the Southside Canal in existence on the date of enactment of this Act; and

(B) a nonexclusive easement for the operation, use, maintenance, repair, and replacement of the Southside Canal, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary for nonroutine, nonemergency activities that occur on the easements.

(b) RESERVATION.—

(1) IN GENERAL.—The conveyance of easements under subsection (a) shall reserve to the United States all minerals (including hydrocarbons) and a perpetual right of public access over, across, under, and to the portions of the project that on the date of enactment of this Act were open to public use for fishing, boating, hunting, and other outdoor recreation purposes and other public uses such as grazing, mineral development, and logging.

(2) RECREATIONAL ACTIVITIES.—The United States may allow for continued public use and enjoyment of such portions of the project for recreational activities and other public uses as are conducted as of the date of enactment of this Act.

(c) CONVEYANCE TO STATE OF COLORADO.—All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in subsection (f) have been fulfilled by the United States, at which time all right, title, and interest in the Vega Recreation Facilities shall be conveyed by the Secretary to the State of Colorado, Division of Parks and Outdoor Recreation.

(d) PAYMENT.—

(1) IN GENERAL.—At the time of the conveyance under subsection (a)(1), the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations for the project), of which—

(A) $12,300,000 shall be deposited in the general fund of the Treasury of the United States; and

(B) $600,000 shall be deposited in a special account in the Treasury of the United States and shall be available to the United States Fish and Wildlife Service, Region 6, without further Act of appropriation, for use in funding Colorado operations and capital expenditures associated with the Grand Valley Water Management Project for the purpose of recovering endangered fish in the Upper Colorado River Basin, as identified in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, or such other component of the Recovery Implementation Program within Colorado as may be selected with the concurrence of the Governor of the State of Colorado.

(2) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in paragraph (1) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986.

(e) OPERATION OF PROJECT.—

(1) IN GENERAL.—

(A) DECLARATION.—The project was authorized and constructed under the Act of July 3, 1952 (66 Stat. 325, chapter 565) for the purpose of placing water to beneficial use for authorized purposes within the State of Colorado.

(B) OPERATION.—The project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this Act for the purpose for which the project was authorized.

(C) CHANGES IN OPERATION.—The Districts shall attempt, to the extent practicable, taking into consideration historic project operations, to notify the State of Colorado of changes in historic project operations which may adversely affect State park operations.

(2) REQUIREMENTS.—During the 40-year period described in paragraph (1)(B)—

(A) the Districts shall annually submit to the Secretary of Agriculture and the Colorado Department of Natural Resources a plan for operation of the project, which plan shall—

(i) report on project operations for the previous year;

(ii) provide a description of the manner of project operations anticipated for the forthcoming year, which shall be prepared after consultation with the designated representatives of the Secretary of Agriculture, the Board of County Commissioners of Mesa County, Colorado, and the Colorado Department of Natural Resources; and

(iii) certify that the Districts have operated and will operate and maintain the project facilities in accordance with sound engineering practices; and

(B) subject to section 4, all electric power generated by operation of the project shall be made available to and be marketed by the Western Area Power Administration.

(f) AGREEMENTS.—Conveyance of the project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties to the agreements according to the terms of the agreements.

SEC. 4. OPERATION OF THE POWER COMPONENT.

(a) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(b) POWER MARKETING.—

(1) EXISTING MARKETING ARRANGEMENT.—The post-1989 marketing criteria, which provide for the marketing of power generated by the power component of the project as part of the output of the Salt Lake City area integrated projects, shall no longer be binding on the project upon conveyance of the project under section 3(a).

(2) AFTER TERMINATION OF EXISTING MARKETING ARRANGEMENT.—

(A) IN GENERAL.—

(i) FIRST OFFER.—After the conveyance under section 3(a), the Districts shall offer all power produced by the power component of the project to the Western Area Power Administration or its successors or assigns (referred to in this paragraph as ''Western''), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established under subparagraph (B).

(ii) SECOND OFFER.—If Western declines to purchase the power after consultation with its affected preference customers, the power shall be offered at the same rates first to Western's preference customers located in the Salt Lake City area integrated projects marketing area (referred to in this paragraph as the ''SLCAIP preference customers'').

(iii) OTHER OFFERS.—After offers have been made under clauses (i) and (ii), power may be sold to any other party, but no such sale may occur at a rate less than a rate established under subparagraph (B) unless the power is offered at the lesser rate first to Western and second to the SLCAIP preference customers.

(B) RATE.—The rate for power initially offered to Western and the SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for—

(i) annual debt service or recoupment of the cost of capital for the amount specified in section 3(d)(1)(A) less the sum of $310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District); and

(ii) the cost of operation, maintenance, and replacement of the power component of the project.

(C) DETERMINATION OF COSTS AND RATE.—Costs and a rate under subparagraph (B) shall be determined in a manner that is consistent with the principles followed, as of the date of enactment of this Act, by the Secretary and by Western in its annual power and repayment study.

SEC. 5. LICENSE.

(a) IN GENERAL.—Before conveyance of the project to the Districts, the Federal Energy Regulatory Commission shall issue to the Districts a license or licenses as appropriate under part I of the Federal Power Act (16 U.S.C. 791 et seq.) authorizing for a term of 40 years the continued operation and maintenance of the power component of the project.

(b) TERMS OF LICENSE.—

(1) IN GENERAL.—The license under subsection (a)—

(A) shall be for the purpose of operating, using, maintaining, repairing, and replacing the power component of the project as authorized by the Act of July 3, 1952 (66 Stat. 325, chapter 565);

(B) shall be subject to the condition that the power component of the project continue to be operated and maintained in accordance with the authorized purposes of the project; and

(C) shall be subject to part I of the Federal Power Act (16 U.S.C. 791 et seq.) except as stated in paragraph (2).

(2) LAWS NOT APPLICABLE.—

(A) FEDERAL POWER ACT.—

(i) IN GENERAL.—The license under subsection (a) shall not be subject to the following provisions of the Federal Power Act: the 4 provisos of section 4(e) (16 U.S.C. 797(e)); section 6 (16 U.S.C. 799) to the extent that the section requires acceptance by a licensee of terms and conditions of the Act that this subsection waives; subsection (e) (insofar as the subsection concerns annual charges for the use and occupancy of Federal lands and facilities), (f), or (j) of section 10 (16 U.S.C. 803); section 18 (16 U.S.C. 811); section 19 (16 U.S.C. 812); section 20 (16 U.S.C. 813); or section 22 (16 U.S.C. 815).

(ii) NOT A GOVERNMENT DAM.—Notwithstanding that any dam under the license under subsection (a) may have been constructed by the United States for Government purposes, the dam shall not be considered to be a Government dam, as that term is defined in section 3 of the Federal Power Act (16 U.S.C. 796).

(iii) STANDARD FORM LICENSE CONDITIONS.—The license under subsection (a) shall not be subject to the standard ''L-Form'' license conditions published at 54 FPC 1792–1928 (1975).

(B) OTHER LAWS.—The license under subsection (a) shall not be subject to—

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

(ii) section 2402 of the Energy Policy Act of 1992 (16 U.S.C. 797c);

(iii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iv) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(v) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(vi) the Federal Water Pollution Control Act (commonly known as the ''Clean Water Act'') (33 U.S.C. 1251 et seq.);

(vii) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(viii) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(ix) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.); or

(x) any other Act otherwise applicable to the licensing of the project.

(3) LAWS ENACTED AFTER ISSUANCE OF LICENSE.—The operation of the project shall be subject to all applicable State and Federal laws enacted after the date of issuance of the license under subsection (a).

(c) LICENSING STANDARDS.—The license under subsection (a) is deemed to meet all licensing standards of the Federal Power Act (16 U.S.C. 791 et seq.).

(d) POWER SITE RESERVATION.—Any power site reservation established under section 24 of the Federal Power Act (16 U.S.C. 818) or any other law that exists on any land, whether federally or privately owned, that is included within the boundaries of the project shall be vacated by operation of law on issuance of the license for the project.

(e) EXPIRATION OF LICENSE.—All requirements of part I of the Federal Power Act (16 U.S.C. 791 et seq.) and of any other Act applicable to the licensing of a hydroelectric project shall apply to the project on expiration of the license issued under this section.

SEC. 6. INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.

On conveyance of the project to the Districts—

(1) the repayment contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the contract for use of project facilities for diversion of water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the project shall no longer be subject to or governed by the Federal reclamation laws.

SEC. 7. LIABILITY OF THE DISTRICTS.

The Districts shall be liable, to the extent allowed under State law, for all acts or omissions relating to the operation and use of the project by the Districts that occur subsequent to the conveyance under section 3(a), including damage to any Federal land or facility that results from the failure of a project facility.

SEC. 8. EFFECT ON STATE LAW.

Nothing in this Act impairs the effectiveness of any State or local law (including a regulation) relating to land use.

SEC. 9. TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.

The sales of assets under this subchapter shall not be considered to be a disposal of Federal surplus property under—

(1) section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484); or

(2) section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).●

By Mrs. FEINSTEIN (for herself, Mr. GRAHAM, Mrs. BOXER, Ms. SNOWE, Mr. REID, Mr. JOHNSON, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Mr. HARKIN, Mr. D'AMATO, Mr. SPECTER, Mrs. MURRAY, and Mr. MACK):

S. 726. A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary

purchase of certain specially issued United States postage stamps; to the Committee on Governmental Affairs.

THE BREAST CANCER RESEARCH STAMP ACT

• Mrs. FEINSTEIN. Mr. President, I, along with Senators BOXER, GRAHAM, SNOWE, MOSELEY-BRAUN, LANDRIEU, HARKIN, SPECTER, D'AMATO, MACK, JOHNSON, REID, and MURRAY would like to introduce the Breast Cancer Research Stamp Act.

In a time of shrinking budgets and resources for breast cancer research, this legislation would provide an innovative way to provide additional funding for breast cancer research.

This bill would: authorize the U.S. Postal Service to issue an optional special first class stamp to be priced at 1 cent above the cost of normal first-class postage; earmark a penny of every stamp for breast cancer research; provide administrative costs from the revenues for post office expenses; allow 100 percent of the proceeds from the stamp to fund HHS breast cancer research projects; clarify current law, in that any similar stamp would require an act of Congress to be issued in the future.

If only 10 percent of all first class mail used this optional 33 cent stamp, $60 million could be raised for breast cancer research annually.

There is wide support for this legislation. Congressman FAZIO, along with over 100 cosponsors have already introduced the companion bill (H.R. 407) in the House.

The breast cancer epidemic has been called this Nation's best kept secret. There are 2.6 million women in America today with breast cancer, one million of whom have yet to be diagnosed with the disease.

In 1996, an estimated 184,000 were diagnosed with breast cancer. It is the number one killer of women ages 40 to 44 and the leading cause of cancer death in women ages 15 to 54, claiming a woman's life every 12 minutes in this country (source: National Breast Cancer Coalition).

For California, 17,100 women were diagnosed with breast cancer and 4,100 women will die from the disease (source: American Cancer Society cancer facts and figures, 1996).

In addition to the cost of women's lives, the annual cost of treatment of breast cancer in the United States is approximately $10 billion.

Over the last 25 years, the National Institutes of Health has spent over $31.5 billion on cancer research—$2 billion of that on breast cancer. In the last 6 years alone, appropriations for breast cancer research have risen from $90 million in 1990 to $600 million today. That's the good news.

But, the bad news is that the national commitment to cancer research overall has been hamstrung since 1980. Currently, NIH is able to fund only 23 percent of applications received by all the institutes. For the Cancer Institute, only 23 percent can be funded—a significant drop from the 60 percent of applications funded in the 1970's.

Most alarming is the rapidly diminishing grant funding available for new researcher applicants.

In real numbers, the National Cancer Institute will fund approximately 3,600 research projects, of which about 1,000 are new, previously unfunded activities. For investigator-initiated research, only 600 out of 1,900 research projects will be new.

The United States is privileged to have some of the most talented scientists and many of the leading cancer research centers in the world such as UCLA, UC San Francisco, Memorial Sloan-Kettering, and the M.D. Anderson.

This lack of increase in funding is starving some of the most important research, because scientists will have to look elsewhere for their livelihood.

The U.S. must increase the research funds if these scientists and institutions are to continue to contribute their vast talents to the war on cancer and finding a cure.

What is clear is that there is a direct correlation between increase in research funding and the likelihood of finding a cure.

Cancer mortality has declined by 15 percent from 1950 to 1992 due to increases in cancer research funding. In fact, federally-funded cancer research has yielded vast amounts of knowledge about the disease—information which is guiding our efforts to improve treatment and search for a cure. We have more knowledge and improvements in prevention through: identification of a ''cancer gene'', use of mammographies, clinical exams, and encouragement of self breast exams. Yet there is still no cure.

The Bay Area has one of the highest rates of breast cancer incidence and mortality in the world. According to data given to my staff by the Northern California Cancer Center, Bay Area white women have the highest reported breast cancer rate in the world, 104 per 100,000 population. Bay Area African-American women have the fourth highest reported rate in the world at 82 per 100,000 (source: Northern California Cancer Center).

I want to recognize Dr. Balazs (Ernie) Bodai who suggested this innovative funding approach. Dr. Bodai is the Chief of the Surgery Department at the Kaiser Permanente Medical Group in Sacramento, California. He is the founder of Cure Cancer Now, which is a nonprofit organization committed to developing a funding source for breast cancer research.

This legislation is supported by the American Cancer Society, American Medical Association, American Hospital Association, Association of Operating Room Nurses, California Health Collaborative Foundations, YWCA-Encore Plus, the Sacramento City Council and Mayor Joe Serna, Siskiyou County Board of Supervisors, Sutter County Board of Supervisors, Nevada County Board of Supervisors, Yuba City Council, California State Senator Diane Watson and California State Assemblywoman Dede Alpert as well as the Public Employees Union, San Joaquin Public Employees Association, and Sutter and Yuba County Employees Association and many more on the attached list.

Given the intense competition for Federal research funds in a climate of shrinking budgets, the Breast Cancer Research Stamp Act would allow anyone who uses the postal service to contribute in finding a cure for the breast cancer epidemic.

In a sense, this particular proposal is a pilot. I recognize that the postal service may oppose this since it hasn't been done before. I also recognize that in a day of diminishing federal resources, this innovation is an idea whose time has come.

It will make money for the post office and for breast cancer research. No one is forced to buy it, but women's organizations may even wish to sell the stamps in a fundraising effort.

The administrative costs can be handled with the 1 cent added on to the cost of a first class stamp and conservatively it can make from $60 million per year for breast cancer research.

We need to find a cure for breast cancer and I believe the Breast Cancer Research Stamp Act is an innovative response to the hidden epidemic among women. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 726

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

SECITON 1. SHORT TITLE.

This Act may be cited as the ''Breast-Cancer Research Stamp Act''.

SEC. 2. SPECIAL POSTAGE STAMPS.

(a) IN GENERAL.—In order to afford the public a convenient way to contribute to funding for breast-cancer research, the United States Postal Service shall establish a special rate of postage for first-class mail under this section.

(b) HIGHER RATE.—The rate of postage established under this section—

(1) shall be 1 cent higher than the rate that would otherwise apply;

(2) may be established without regard to any procedures under chapter 36 of title 39, United States Code, and notwithstanding any other provision of law; and

(3) shall be offered as an alternative to the rate that would otherwise apply.

The use of the rate of postage established under this section shall be voluntary on the part of postal patrons.

(c) USE OF FUNDS.—

(1) IN GENERAL.—

(A) PAYMENTS.—The amounts attributable to the 1-cent differential established under this Act shall be paid by the United States Postal Service to the Department of Health and Human Services.

(B) USE.—Amounts paid under subparagraph (A) shall be used for breast-cancer research and related activities to carry out the purposes of this Act.

(C) FREQUENCY OF PAYMENTS.—Payments under subparagraph (A) shall be paid to the Department of Health and Human Services no less than twice in each calendar year.

(2) AMOUNTS ATTRIBUTABLE TO THE 1-CENT DIFFERENTIAL.—For purposes of this subsection, the term ''amounts attributable to the 1-cent differential established under this Act'' means, as determined by the United States Postal Service under regulations that it shall prescribe—

(A) the total amount of revenues received by the United States Postal Service that it would not have received but for the enactment of this Act, reduced by

(B) an amount sufficient to cover reasonable administrative and other costs of the United States Postal Service attributable to carrying out this Act.

(d) SPECIAL POSTAGE STAMPS.—The United States Postal Service may provide for the design and sale of special postage stamps to carry out this Act.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) nothing in this Act should directly or indirectly cause a net decrease in total funds received by the Department of Health and Human Services or any other agency or instrumentality of the Government (or any component or other aspect thereof) below the level that would otherwise have been anticipated absent this Act; and

(2) nothing in this Act should affect regular first-class rates or any other regular rate of postage.

SEC. 3. ANNUAL REPORTS.

The Postmaster General shall include in each annual report rendered under section 2402 of title 39, United States Code, information concerning the operation of this Act.

ORIGINAL COSPONSORS

Tony Hall (OH)—original.
Charles Norwood (GA)—original.
Lynn Woolsey (CA)—original.
George Brown (CA).
Tom Barrett (WI).
Carrie Meek (FL).
Nancy Pelosi (CA).
Bernie Sanders (VT).
Robert Matsui (CA).
Corrine Brown (FL).
Eni Faleomavaega (AS).
Barney Frank (MA).
Tom Lantos (CA).
Gene Green (TX).
Lynn Rivers (MI).
Sheila Jackson-Lee (TX).
Gary Condit (CA).
Jose Serrano (NY).
Zoe Lofgren (CA).
Sam Farr (CA).
Carolyn Maloney (NY).
Bob Filner (CA).
Connie Morella (MD).
Martin Frost (TX).
Mike McNulty (NY).
Loretta Sanchez (CA).
Tom Coburn (OK).
John Dingell (MI).
Mel Watt (NC).
Sherrod Brown (OH).
Pete Stark (CA).
Anna Eshoo (CA).
John Olver (MA).
Paul McHale (PA).
Susan Molinari (NY).
Eleanor Holmes-Norton (DC).
Gary Ackerman (NY).
Jerry Lewis (CA).
Louise Slaughter (NY).
Frank Lobiando (NJ).
Kay Granger (TX).
Sam Gejdenson (CT).
Henry Gonzalez (TX).
Floyd Flake (NY).
Danny K. Davis (IL).
Elizabeth Furse (OR).
Eddie Bernice Johnson (TX).
Major Owens (NY).
William Jefferson (LA).
Thomas Foglietta (PA).
Ed Pastor (AZ).
John Ensign (NV).
John Tierney (MA).
Ron Packard (CA).
Ellen Tauscher (CA).
Rosa DeLauro (CT).
Brian Bilbray (CA).
Barbara Kennelly (CT).
Scott Klug (WI).
James McGovern (MA).
John Conyers (MI).
Carolyn Kilpatrick (MI).
J.D. Hayworth (AZ).
Gerald Kleczka (WI).
Robert Wexler (FL).
Richard Neal (MA).
Sue Kelly (NY).
John Doolittle (CA).
George Miller (CA).
Donna Christian-Green (Virgin Islands).
David Camp (MI).
Martin Meehan (MA).
Carlos Romero-Barcello (PR).
David Minge (MN).
Sonny Callahan (AL).
Peter Deutsch (FL).
John Baldacci (ME).
Harold Ford (TN).
Cynthia McKinney (GA).
Charlie Rangel (NY).
Nick Lampson (TX).
Richard Burr (NC).
Jim McDermott (WA).
Earl Hilliard (AL).
David Bonior (MI).
Frank Pallone (NJ).
88 as of 4/23/97.

SUPPORTERS OF H.R. 407

American Association of Health Education.
American Association of Critical-Care Nurses.
American Cancer Society—National.
American College of Surgeons.
American Medical Association.
American Medical Student Association.
American Society of Anesthesiologists.
American Society of Clinical Pathologists.
American Society of Internal Medicine.
American Society of Plastic and Reconstructive Surgeons.
Association of Operating Room Nurses.
California Health Collaboration Foundations.
California Medical Association.
California Nurses Association.
California Schools Employees Association.
California State.
Committee for Freedom of Choice in Medicine, Inc.
Emergency Nurses Association.
Health Education Council.
Kaiser Permanente—Sacramento.
Louisiana Breast Cancer Task Force.
Merced County Board of Supervisors.
National Cancer Registrars Association.
National Lymphedema Network.
National Osteoporosis Foundation.
Nevada County Board of Supervisors.
ONE-California, organization of nurse leaders.
Public Employees Union—Local One.
Sacramento Area Mammography Society.
Sacramento City Council.
Sacramento-El Dorado Medical Society.
San Joaquin Public Employees Association.
Santa Cruz County Board of Supervisors.
Save Ourselves-Y-Me.
Sonoma County Board of Supervisors.
Sutter County Board of Supervisors.
The Breast Cancer Fund.
United Farm Workers of America AFL–CIO.
Vital Options TeleSupport Cancer Network.
WIN Against Breast Cancer.
YWCA–ENCORE.
Hadassah The Women's Zionist Organization of America, Inc.
Foundation Health Corporation.
American Association of Health Plans.
American College of Osteopathic Surgeons.
Association of Reproductive Health Professionals.●

By Mrs. FEINSTEIN (for herself, Ms. MIKULSKI, Mr. WELLSTONE, Mr. JOHNSON, and Mrs. MURRAY):

S. 727. A bil to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography; to the Committee on Finance.

PRIVATE INSURANCE UNIFORM COVERAGE OF MAMMOGRAPHY LEGISLATION

● Mrs. FEINSTEIN. Mr. President, I am introducing a bill today to try to bring some uniform coverage of mammography to private insurance, Medicare and Medicaid, consistent with the American Cancer Society and the National Cancer Institute guidelines. Joining me as cosponsors are Senators MIKULSKI, WELLSTONE and JOHNSON.

I am introducing this bill because I believe mammography is our best tool for finding breast cancer early and women will not get mammograms without good insurance coverage. We now have the two leading organizations, the American Cancer Society and the National Cancer Institute, agreeing on screening guidelines and we cannot assume that insurance companies will rush to follow those guidelines. In the current highly competitive climate of managed care, with plans and providers reducing services and benefits, with employers cutting back on coverage, only congressional action will guarantee women the health care they need, especially preventive services like this.

BREAST CANCER'S TOLL

Breast cancer is the most common cancer among women, after skin cancer. In 1996, 184,300 new cases were diagnosed and 44,300 women died. Breast cancer is the second leading cause of cancer deaths among women, after lung cancer. Breast cancer is the leading cause of cancer death in women between ages 40 and 55.

Most women diagnosed with breast cancer are over age 50. For women age 40 to 44, the incidence rate is 125.4 per 100,000 women; for women ages 50 to 54, it jumps to 232.7 per 100,000.

EARLY DETECTION SAVES LIVES

The sooner breast cancer is detected, the better the survival rate. If breast cancer is diagnosed when it is local—

confined to the breast—the 5-year survival rate is 96 percent. If diagnosed later, when cancer has metastasized, the survival rate is 20 percent.

Regularly scheduled mammography screening offers the single best method of finding breast cancer early. Mammograms, while never absolutely certain, can detect cancer several years before physical symptoms are obvious to a women or her doctor. Mammography has a sensitivity that is 76–94 percent higher than that of a clinical breast exam. Its ability to find an absence of cancer is greater than 90 percent. For women over 50, mammography can reduce breast cancer mortality by at least 30 percent.

Earlier this year, the National Cancer Institute recommended that asymtomatic women in their 40s have a screening mammogram every one to two years. The American Cancer Society recommends that all women over age 40 should have annual screening mammograms.

A February 1997 CBS poll found that 71 percent of women think early detection of breast cancer significantly increases a woman's chances of surviving. 85 percent believe mammograms are safe and 88 percent trust the accuracy of mamograms. Between 1987 and 1992, the National Health Interview survey found that there was at least a two-fold increase in the percentage of women of all ages who had a recent mammogram.

COMPLIANCE WITH GUIDELINES LOW

So women by and large understand the need for mammograms. However, a study by the Centers for Disease Control found that only 41 percent of women age 40 to 49 reported having a recent mammogram. Only half of women aged 50 to 64 had a recent mammogram. And only 39 percent of women over age 65 reported a recent mammogram.

LACK OF INSURANCE A DETERRENT

So the question is, if women understand the importance of mammograms, why is adherence to the guidelines so low? The CDC study said, ''Health insurance coverage and educational attainment were both strongly associated with [mammograms] for women 40–49 years of age.''

A survey by the Jacob Institute of Women's Health likewise found that 56 percent of women in their 40's and 47 percent of women in the 50's were meeting the ACS screening guideline. After lack of a family history, the cost of a mammogram was the principal reason for not having a mammogram.

The lack of insurance coverage, the CDC study found, is an important factor in determining which women follow the recommended guidelines. Among commercially insured women, more than half were following the guidelines. However, for women in government insurance programs, between 58 percent and 66 percent were not following the guidelines. For women with no insurance of any kind, 84 percent were not in compliance with the guidelines.

The cost of a mammogram also varies widely, depending on the radiologist's technique, the location, the interpretation needed. One unofficial estimate of cost is that a mammogram ranges from $75.00 to $200.00 per visit. A $200 medical charge is not something most Americans want to bear out of pocket. They expect their insurance plan to cover medically necessary services.

COVERAGE VARIES WIDELY

Commercial insurance coverage for mammograms varies widely, differing in terms of the age of the covered person and frequency of the service. Many plans follow the American Cancer Society's guidelines, but this is not documented. At least 38 states have mandated some type of coverage for commercial plans, but again the details vary. Medicare covers mammograms every other year. Federal law does not require Medicaid to have specific coverage. A 1993 Alan Guttmacher study attempting to describe coverages of commercial health insurance coverage of reproductive services is aptly titled ''Uneven & Unequal.'' So in summary, insurance coverage is ''all over the map.''

THE BILL

The bill addresses private commercial group and individual insurance plans, Medicare and Medicaid. It would—

Require private plans that cover diagnostic mammograms for women under 40 to also cover annual screening mammography.

Require Medicare and Medicaid to cover annual screening mammography for women over age 40. (Medicare now covers biannual screening. Federal law does not require State Medicaid programs to cover mammography for any age and State approaches vary widely.)

Prohibits plans from denying coverage for annual screening mammography because it is not medically necessary or not pursuant to a referral or recommendation by any health care provider;

Deny a woman eligibility or renewal to avoid these requirements;

Provide monetary payments or rebates to women to encourage women to accept less than the minimum protections of the bill;

Financially reward or punish providers for withholding mammographies.

SUPPORT FOR THE BILL

The bill is supported by the American Cancer Society, the National Breast Cancer Coalition, the Susan B. Komen Breast Cancer Foundation, the Breast Cancer Resource Committee, the Association of Women's Health, Obstetrics, and Neonatal Nurses.

I believe this bill will put some important principles into insurance coverage for this very necessary service. I hope my colleagues will join me in promptly moving this bill to enactment.●

By Mrs. FEINSTEIN (for herself, Mr. MACK, Mr. D'AMATO, Mr. REID, and Mr. JOHNSON):

S. 728. A bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research; to the Committee on Finance.

THE CANCER RESEARCH FUND ACT OF 1997

● Mrs. FEINSTEIN. Mr. President, today Senators MACK, D'AMATO, REID, and I are introducing a bill to give citizens two ways to contribute to the Nation's cancer research program. In connection with their annual tax return, taxpayers could make a tax deductible contribution for cancer research of not less than $1 and could check off or designate a contribution of not less than $1 from their tax refund owed them by the Government.

The bill establishes a Cancer Research Trust Fund and directs the National Institutes of Health to use the funds for research on cancer. It prohibits expenditures from the fund if appropriations in any year for the NIH are less than the previous year so that these funds do not supplant appropriated funds.

In fiscal 1997, the National Cancer Institute could only fund 26 percent of grants received with appropriated funds. This approval rate dropped from 29 percent in 1996 and 32 percent in 1992. Under the President's budget request for fiscal 1998, the success rate is estimated to drop again, to 25 percent.

While we do not have a specific estimate for how much our bill for cancer research would raise, a Federal tax checkoff for health research could raise $35 million in revenues for health research, if the average contribution were $2, according to Research America. If taxpayers gave $10, it would raise $410 million. Their study shows that the average contribution would be $23 and at that rate, $1.1 billion could be raised. In 1994, U.S. taxpayers contributed $25.7 million through State checkoffs.

I believe Americans would be very willing to make a contribution to health research and using the tax return is a very easy way. Sixty percent of Americans say they would check off a box on the tax return for medical research. The median amount people are willing to designate is $23.

Virtually everyone is touched by disease and has had some experience with incurable diseases. We all fear dreaded diseases. A May 1996 California poll found that 59 percent of my constituents would pay an extra dollar a week in taxes to support medical research. An overwhelming 94 percent of Americans believe it is important that the United States maintains its role as a world leader in medical research and medical research takes second place only to national defense for tax dollar value.

Cancer mortality has risen in the past half-century. By the year 2000, cancer will overtake heart disease as the leading cause of death of Americans. Over 40 percent of Americans will develop cancer and over 20 percent of us will die from cancers. Cancer is

causing twice as many deaths as in 1971. Cancer's total economic costs in 1995, according to the National Institutes of Health, came to $104 billion.

In my own State of California, in 1996, 125,800 new cases of cancer were diagnosed and 51,200 people died. The incidence of certain cancers, specifically cervical, stomach, and liver, is higher than national rates. The San Francisco area has some of the highest rates of breast cancer in the world. There are areas in my State, such as Alameda County, where prostate cancer incidence exceeds the national rate. In my State, African-American women have a 60-percent higher risk of developing cervical cancer than white women. Hispanic women have the highest risk of cervical cancer in my State. Asian-Americans in California are twice as likely to develop stomach cancer and five times more likely to develop liver cancer than whites.

We have made great strides in understanding cancer, particularly the genetics of cancer and what makes a normal cell become a cancer cell. Because of research, cancer survival rates have increased for some cancers. But we cannot rest until we find a cure.

The National Cancer Institute's bypass budget identifies five promising areas of research and with 74 percent of grants going unapproved, the scientific talent is there. As the National Cancer Advisory Board said in its 1994 report to Congress, ''Current investment is insufficient to capitalize on unprecedented opportunities in basic science research.'' Clearly additional funds can be well used by some of the world's leading cancer researchers.

By introducing this bill, I do not believe giving taxpayers an opportunity to contribute to cancer research will or should be the mainstay of funding for our national war on cancer. Congress needs to continue increasing appropriations and I am disappointed that the President's fiscal year 1998 budget for the National Cancer Institute represents only a 2.5-percent increase over fiscal 1997. I hope we can do better and I pledge my help in doing that. To insure that these taxpayer contributions generated by this bill do not supplant Congressionally appropriated funds, the bill includes a provision that prohibits expenditures from the cancer research fund if appropriations in any year for the NIH are less than the previous year.

Twenty-six years of research since the 1971 passage of the National Cancer Act has brought great progress, but some say that the war on cancer has really only been a skirmish. We must escalate that war, we must launch an armada of scientists, we must push vigorously ahead, we must find a cure for cancer. I hope this bill will help to escalate that battle.●

By Mr. KEMPTHORNE (for himself, Mr. CRAIG, Mr. TORRICELLI, Mr. THOMAS, and Mr. ENZI):

S. 730. A bill to make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll; to the Committee on Veterans' Affairs.

MEDAL OF HONOR ROLL LEGISLATION

Mr. KEMPTHORNE. Mr. President, I rise today to introduce legislation that is the final step toward correcting a wrong—a wrong which lingered for more than 50 years.

In January of this year, I attended a moving ceremony at the White House where the Congressional Medal of Honor was presented to seven African-Americans who had been denied the award during World War II. I can tell you, it was a solemn and dignified ceremony in the East Room of the White House last January, when the medals were awarded. Unfortunately, only one of the soldiers—Lt. Vernon Baker—was able to receive the medal in person. The other six died, unaware their heroism would one day be acknowledged.

Like the medal itself, the financial rewards that normally accompany the honor are also past due. My bill offers the stipend that would have been earned by the three heroes who survived the heroic act which earned them the Congressional Medal of Honor.

This bill, co-sponsored by Senators CRAIG, TORRICELLI, THOMAS, and ENZI, provides Lt. Vernon Baker and the surviving spouse or children of S. Sgt. Edward A. Carter, Jr., and Maj. Charles L. Thomas with the financial benefits normally given to recipients of the Congressional Medal of Honor. The other Medal of Honor recipients, S. Sgt. Ruben Rivers, 1st Lt. John R. Fox, Pfc. Willy F. James, Jr., and Pvt. George Watson were all killed in action performing acts of heroism, and have no surviving family members.

Mr. Vernon Baker, the only living survivor, now makes his home in the quiet north Idaho community of St. Maries. He is a soft spoken, humble man, almost embarrassed by all the national and international attention given him as a result of heroism. In April 1945, on a hill in Italy, Lt. Vernon Baker performed acts of bravery above and beyond the normal call of duty, risking his life to save the lives of others and taking a strategically important position, which saved countless other American lives.

Following the battle, Lieutenant Baker's commander recommended this hero for our Nation's top military honors. But during World War II, no African-American soldier received the Medal of Honor, and so Lieutenant Baker never received the commendation due him—until 50 years after the fact.

An Army review board studied thousands of service records and reports, and determined that seven African-Americans should have been awarded the Congressional Medal of Honor. I am proud the last Congress finally stepped up to the challenge and overturned this stain on the Nation's history, when it authorized the President to award the Congressional Medal of Honor to Vernon Baker.

My bill will provide Mr. Baker and the surviving spouse or children of S. Sgt. Edward A. Carter, Jr., and Maj. Charles L. Thomas with the Congressional Medal of Honor pension that they would have received had they been rightly given the award in 1945. My bill does not adjust the pension for inflation nor does it offer interest. Instead, the bill I am introducing today offers three American heroes only what they rightly earned in combat defending our Nation and the free world.

The people of Idaho have embraced Vernon Baker as a true American hero. The State's Governor has awarded Mr. Baker Idaho's top civilian honor. The Nation has bestowed upon him its highest military honor.

This is a fair bill that will help provide three American heroes with the reward they rightly earned. I urge my colleagues to take a look at this important bill and I urge its adoption.

Mr. President, in closing, I will just say that as an Idahoan and as an American, I am so proud to have been able to get to know Vernon Baker, a truly great American, and his wife Heidi. I wish them all the best success and joy as they continue a wonderful life in the State of Idaho.

Again, as an American, I salute him and the other six African Americans who are true American heroes.

Mr. President, I send to the desk the bill. I know that Senator CRAIG wishes to now address this issue as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me first thank my colleague, Senator KEMPTHORNE, for his action and the work in developing this legislation that appropriately recognizes Vernon Baker, Edward A. Carter, Jr., and Charles L. Thomas in what I think can best be called retroactivity, certainly recognizing that there is a special pension tied to the Medal of Honor.

The Medal of Honor was given to these African American soldiers and citizens and wonderful people in the appropriate fashion, finally, after a long, long wait. We had the opportunity to be at the White House for the ceremonies, and it was truly moving.

Recognition of their outstanding courage and daring leadership during their service to their country in World War II was far too long coming, as I mentioned. However, their rewards should not be based upon the delay in their recognition, but based on the moment of their heroism.

In the case of Vernon Baker, one of my fellow Idahoans—as Senator KEMPTHORNE said, we had the privilege of getting to know he and his wife—more than 50 years have passed before the Nation did the appropriate thing in recognizing their courageous actions and bestowing them with the Congressional Medal of Honor. Now fairness demands that we couple this honor with

the benefits entitled to them and the next of kin in the case of the deceased, effective to the dates corresponding to their actions.

Mr. President, on behalf of a grateful Nation, I once more thank Vernon Baker for his gallant actions on that April day so long ago and encourage the support of my colleague's legislation to resolve this issue for America for all time.

Mr. TORRICELLI. Mr. President, I rise today in strong support of Senator KEMPTHORNE's effort to provide Medal of Honor recipient Vernon Joseph Baker, and the heirs of Medal of Honor recipients Edward Carter and Charles Thomas, with retroactive compensation for their awards.

During World War II, Mr. Baker was an Army 2d lieutenant serving with the 92d Infantry Division in Europe. During a 2-day action near Viareggio, Italy, he single handedly wiped out two German machinegun nets, led successful attacks on two others, drew fire on himself to permit the evacuation of his wounded comrades, and then led a battalion advance through enemy minefields. Mr. Baker is the only one of these three men still alive today, and he currently resides in St. Maries, ID.

Edward Carter, of Los Angles, was staff sergeant with the 12th Armored Division when his tank was destroyed in action near Speyer, Germany, in March 1945. Mr. Carter led three men through extraordinary gunfire that left two of them dead, the third wounded and himself wounded five times. When eight enemy riflemen attempted to capture him, he killed six of them, captured the remaining two and, using his prisoners as a shield, recrossed an exposed field to safety. The prisoners yielded valuable information. Mr. Carter died in 1963.

Charles Thomas, of Detroit, was a major with the 103d Infantry Division serving near Climbach, France, in December 1944. When his scout car was hit by intense artillery fire, Mr. Thomas assisted the crew to cover and, despite severe wounds, managed to signal the column some distance behind him to halt. Despite additional multiple wounds in the chest, legs, and left arm, he ordered and directed the dispersion and emplacement of two antitank guns that effectively returned enemy fire. He refused evacuation until certain his junior officer was in control of the situation. Mr. Thomas died in 1980.

I commend Mr. Baker, Mr. Carter, and Mr. Thomas for their bravery and Senator KEMPTHORNE for leading this effort.

As a result of their heroics these men had clearly met the criteria for being awarded a Medal of Honor, the Nation's highest award for valor. This medal is only awarded to a member of the U.S. armed services who ''distinguishes themselves conspicuously by gallantry and intrepidity at the risk of their life and beyond the call of duty,'' with an act ''so conspicuous as to clearly distinguish the individual above their comrades.'' However, because of the racial climate of the time and the segregated nature of the Army in 1945, African-Americans were denied the Medal of Honor. It is a sad testament to America's legacy of discrimination that although 1.2 million African-Americans served in the military during the Second World War, including Mr. Baker, Mr. Carter, and Mr. Thomas, none received 1 of the 433 Medals of Honor awarded during the conflict.

This past January our Nation took an important step in correcting this injustice by awarding Mr. Vernon Joseph Baker, and six of his dead comrades, the Medal of Honor during a long-overdue ceremony at the White House. This recognition of these men's extraordinary courage was a vindication for all African-American heroes of World War II. In order to further demonstrate our profound thanks to these brave men, I support Senator KEMPTHORNE's effort to retroactively compensate Mr. Baker, and the heirs of Mr. Carter and Mr. Thomas for the money that they would have received from the Army for receiving the Medal of Honor. The other three heroes died as a result of the brave deeds which qualified them to receive the Medal, and thus would not have received any compensation by the military.

Each recipient of this Medal is entitled to receive a token monthly stipend from their respective branch of the military after they leave active duty service. In 1945 the stipend was $10 and today it has risen to $400. Since he was denied the Medal more than a half century ago, Mr. Baker and the survivors of Mr. Carter and Mr. Thomas, deserve to receive the same amount of money that they would have received had they been awarded the Medal at the close of World War II. American is profoundly thankful for the patriotism of these men, and awarding retroactive compensation to them is a simple way to express our gratitude for their service. For these reasons I stand today to recognize Mr. Baker, Mr. Carter, and Mr. Thomas, and support retroactively compensating them for their accomplishments.

By Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. DEWINE, Ms. SNOWE, Ms. COLLINS, Mr. ROBERTS, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. SANTORUM, Mr. THOMAS, Mr. WARNER, Mr. DODD, Mr. COCHRAN, and Mr. MURKOWSKI):

S. 732. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903; to the Committee on Banking, Housing, and Urban Affairs.

THE FIRST FLIGHT COMMEMORATIVE COIN ACT

Mr. FAIRCLOTH. Mr. President, I rise today, joined by my colleague from North Carolina, Senator HELMS, and 12 other Senators to introduce the First Flight Commemorative Coin Act. This revenue-neutral legislation instructs the Treasury Secretary to mint coins in commemoration of the Wright Brothers' historic 1903 flight on the North Carolina coast.

Mr. President, in the cold morning hours of December 17, 1903, a small crown watched the Wright Flyer lift off the flat landscape of Kitty Hawk. Orville Wright traveled just 120 feet—less than the wingspan of a Boeing 747—in his 12-second flight. It was, however, the first time that a manned machine sailed into the air under its own power. The residents of Kitty Hawk, then an isolated fishing village, thus bore witness to the realization of the centuries-old dream of flight.

The significance of the Wright Brothers' flight reaches far beyond its status as the first flight. Their flight represented the birth of aviation. On that morning, aeronautics moved from untested theory to nascent science, and it triggered a remarkable technological evolution. In fact, just 24 years after their fragile craft rose unsteadily and took to the air, Charles Lindbergh crossed the Atlantic Ocean. In 1947, less than half a century after the pioneer 31 m.p.h. flight over Kitty Hawk, Chuck Yeager shattered the sound barrier over the Mojave Desert.

The rapid aeronautical progression, which the Wright Brothers initiated on that December morning in Kitty Hawk, is, of course, remarkable. Mr. President, it was just 66 years after the Wright Brothers' 120-foot flight—a timespan equivalent to the age of many Members of this body—that Neil Armstrong traveled 240,000 miles to plant the American flag on the moon. Today, some 86,000 planes lift off from American airports on a daily basis, and air travel is routine. It was with a sprinkling of onlookers, however, that the Wright Brothers ushered in the age of flight on that cold winter morning in Kitty Hawk.

The site of the first flight, at the foot of Kill Devil Hill, was initially designated as a national memorial in 1927 and is visited by close to a half-million people each year.

I think that First Flight Commemorative Coin Act is a most appropriate tribute to the Wright Brothers as the centennial anniversary of the first flight approaches. The coin will be minted in $10, $1, and 50¢ denominations, and its sales will fund educational programs and improvements to the visitor center at the memorial. These commemorative coins are struck to celebrate important historical events, and, of course, the proceeds are an important revenue source to the custodians of these legacies. The centennial anniversary of the Wright Brothers' flight merits our observance.

Mr. President, because all of the funds raised under this legislation will be used to, build, repair or refurbish structures all within a national park, I have added an exemption to the mintage levels as required by coin reform

legislation last year. Nevertheless, so that coin collectors can enjoy some certainty that the coin will be of value in the future, the Mint can reduce the mintage levels as it deems necessary.

Mr. President, I ask my colleagues for their support, and 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. 732

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 ''First Flight Commemorative Coin Act of 1997''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $10 GOLD COINS.—Not more than 500,000 $10 coins, each of which shall—

(A) weigh 16.718 grams;

(B) have a diameter of 1.06 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 3,000,000 $1 coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 10,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) REDUCED AMOUNTS.—If the Secretary determines that there is clear evidence of insufficient public demand for coins minted under this Act, the Secretary of the Treasury may reduce the maximum amounts specified in paragraphs (1), (2), and (3) of subsection (a).

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain gold and silver for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law, including authority relating to the use of silver stockpiles established under the Strategic and Critical Materials Stockpiling Act, as applicable.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the first flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2003''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Board of Directors of the First Flight Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. PERIOD FOR ISSUANCE OF COINS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may issue coins minted under this Act only during the period beginning on August 1, 2003, and ending on July 31, 2004.

(b) EXCEPTION.—If the Secretary determines that there is sufficient public demand for the coins minted under section 2(a)(3), the Secretary may extend the period of issuance under subsection (a) for a period of 5 years with respect to those coins.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $35 per coin for the $10 coin;

(2) $10 per coin for the $1 coin; and

(3) $1 per coin for the half dollar coin.

(e) MARKETING EXPENSES.—The Secretary shall ensure that—

(1) a plan is established for marketing the coins minted under this Act; and

(2) adequate funds are made available to cover the costs of carrying out that marketing plan.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the First Flight Foundation for the purposes of—

(1) repairing, refurbishing, and maintaining the Wright Brothers Monument on the Outer Banks of North Carolina; and

(2) expanding (or, if necessary, replacing) and maintaining the visitor center and other facilities at the Wright Brothers National Memorial Park on the Outer Banks of North Carolina, including providing educational programs and exhibits for visitors.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the First Flight Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

SEC. 10. WAIVER OF COIN PROGRAM RESTRICTIONS.

The provisions of section 5112(m) of title 31, United States Code, do not apply to the coins minted and issued under this Act.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 67

At the request of Ms. SNOWE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 67, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

S. 98

At the request of Mr. HUTCHINSON, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 98, a bill to amend the Internal Revenue Code of 1986 to provide a family tax credit.

S. 143

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 191

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 191, a bill to throttle criminal use of guns.

S. 253

At the request of Mr. LUGAR, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 253, a bill to establish the negotiating objectives and fast track procedures for future trade agreements.

S. 263

At the request of Mr. MCCONNELL, the names of the Senator from Florida [Mr. MACK] and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and