accompanying papers, reports, and documents, which were referred as indicated:

EC–1793. A communication from the Attorney General, transmitting, pursuant to law, a report relative to electronic surveillance; to the Committee on the Judiciary.

EC–1794. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of an addendum to the Treasury audit plan; to the Committee on the Judiciary.

EC–1795. A communication from the Assistant General Counsel of the U.S. Information Agency, transmitting, pursuant to law, a rule entitled ''Reinstatement of Exchange Visitors'' received on April 5, 1997; to the Committee on the Judiciary.

EC–1796. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, a report on cocaine and federal sentencing policy; to the Committee on the Judiciary.

EC–1797. A communication from the Secretary of the Judicial Conference of the United States, transmitting, pursuant to law, a report relative to bankruptcy judgeships; to the Committee on the Judiciary.

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. REID:

S. 697. A bill to amend the Public Health Service Act to establish a program of providing information and education to the public on the prevention and treatment of eating disorders; to the Committee on Labor and Human Resources.

By Mr. AKAKA (for himself, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 698. A bill to amend the Energy Policy and Conservation Act to authorize the Secretary of Energy, by lease or otherwise, to store in underutilized Strategic Petroleum Reserve facilities petroleum products owned by foreign governments or their representatives, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 699. A bill to suspend temporarily the duty on Diiodomethyl-p-tolylsulfone; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 700. A bill to provide States with greater flexibility in setting provider reimbursement rates under the medicaid program; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. HELMS, Mr. D'AMATO, and Mr. DURBIN):

S. 701. A bill to amend title XVIII of the Social Security Act to provide protections for medicare beneficiaries who enroll in medicare managed care plans, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 702. A bill to amend the Individuals with Disabilities Education Act to clarify that a State is not required to provide special education and related services to a person with a disability who is convicted of a felony and incarcerated in a secure correctional facility with adult offenders; to the Committee on Labor and Human Resources.

By Mr. ALLARD:

S. 703. A bill to amend the Internal Revenue Code of 1986 to clarify the deductibility of expenses by a taxpayer in connection with the business use of the home; to the Committee on Finance.

By Mr. KOHL:

S. 704. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to the separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

Mr. MCCAIN:

S. 705. A bill to amend the Communications Act of 1934 to establish statutory rules for the conversion of television broadcast station from analog to digital transmission consistent with the Federal Communications Commission's Fifth Order and Report, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND:

S. 706. A bill to amend the Individuals with Disabilities Education Act to permit the use of long-term disciplinary measures against students who are children with disabilities, to provide for a limitation on the provision of educational services to children with disabilities who engage in behaviors that are unrelated to their disabilities, and to require educational entities to include in the educational records of students who are children without disabilities documentation with regard to disciplinary measures taken against such students, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG:

S. 707. A bill to prohibit the public carrying of a handgun, with appropriate exceptions for law enforcement officials and others; to the Committee on the Judiciary.

S. 708. A bill to amend title 23, United States Code, to provide for a national minimum penalty for an individual who operates a motor vehicle while under the influence of alcohol; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself, Mr. INOUYE, Mr. THURMOND, and Mrs. FEINSTEIN):

S.J. Res. 30. Joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day,'' and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. REID (for himself, Mrs. MURRAY, Mr. WELLSTONE, and Mr. COVERDELL):

S. Res. 83. A resolution recognizing suicide as a national problem, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. REID (for himself, Mrs. MURRAY, Mr. WELLSTONE, Mr. COVERDELL, Mr. BREAUX, and Ms. LANDRIEU):

S. Res. 84. A resolution recognizing suicide as a national problem, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 697. A bill to amend the Public Health Service Act to establish a program of providing information and education to the public on the prevention and treatment of eating disorders; to the Committee on Labor and Human Resources.

THE EATING DISORDERS INFORMATION AND EDUCATION ACT OF 1997

Mr. REID. Mr. President, today I am introducing the Eating Disorders Information and Education Act of 1997. This legislation would establish a program, as part of the Public Health Service Act, to provide information and education to the public on the prevention and treatment of eating disorders. Eating disorders include anorexia nervosa, bulimia nervosa, and binge eating disorders. Further, my bill would provide for the operation of toll-free telephone communications to provide information to the public on eating disorders. Such communications shall be available on a 24-hour, 7-day basis.

Anorexia nervosa, bulimia nervosa, and compulsive overeating are all serious emotional problems that can have life-threatening consequences. An eating disorder refers to a set of distorted eating habits, weight management practices, and attitudes about weight and body shape. Further, it is these distorted eating related attitudes and behaviors that result in loss of self-control, obsession, anxiety, guilt, and other forms of misery, alienation from self and others, and physiological imbalances which are potentially life threatening.

Anorexia nervosa is an intense and irrational fear of body fat and weight gain, a determination to become thinner and thinner, and a misperception of body weight and shape to the extent that the person may feel or see themselves as fat, even when emaciation is clear to others. These psychological characteristics contribute to drastic weight loss and defiant refusal to maintain a healthy weight for height and age. Food, calories, weight, and weight management dominate the person's life.

Bulimia nervosa is characterized by self-perpetuating and self-defeating cycles of binge eating and purging. During a binge, the person consumes a large amount of food in a rapid, automatic, and helpless fashion. This may anesthetize hunger, anger, and other feelings, but it eventually creates physical discomfort and anxiety about weight gain. Thus, the person purges the food eaten, usually by inducing vomiting and by resorting to some combination of restrictive dieting, excessive exercising, laxatives, and diuretics.

Eating disorders arise from a combination of longstanding psychological, interpersonal, and social conditions. Feelings of inadequacy, depression, anxiety, and loneliness, as well as troubled family and personal relationships may contribute to the development of an eating disorder. Our culture, with its unrelenting idealization of thinness and the perfect body, is often a contributing factor. Once started, eating disorders become self-perpetuating.

The Federal Government has taken a role in research into eating disorders. The National Institutes of Health [NIH] is sponsoring research to determine the causes of anorexia, the best methods of treatment, and ways to identify who might have a high risk of developing the disorder. Further, NIH, through its Division of Researcher Resources, supports 10 general clinical research centers throughout the country

in which anorexia research is underway.

Researchers at the National Institute of Mental Health are studying the biological aspects and changes in brain chemistry which may control appetite. Although psychological or environmental factors may precipitate the onset of the illness, the study indicates that it may be prolonged by starvation-induced changes in body processes.

Althouth research into eating disorders is established and continuing, we need to provide help for those already trapped in the cycle of an eating disorder. That is why I offer my legislation today, to provide a resource to people who need help.

By Mr. AKAKA (for himself, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 698. A bill to amend the Energy Policy and Conservation Act to authorize the Secretary of Energy, by lease or otherwise, to store in underutilized strategic petroleum reserve facilities petroleum products owned by foreign governments or their representatives, and for other purposes; to the Committee on Energy and Natural Resources.

THE STRATEGIC PETROLEUM RESERVE REPLENISHMENT ACT

Mr. AKAKA. Madam President, today I am introducing the Strategic Petroleum Reserve Replenishment Act, a bill to purchase oil for the strategic petroleum reserve using revenue obtained from leasing SPR storage capacity. Senators BINGAMAN and LANDRIEU join me in sponsoring this measure.

The strategic petroleum reserve is the cornerstone of U.S. energy security. During an oil emergency, the SPR is America's insurance policy against oil price shocks and economic disruption.

However, our insurance policy is not providing the level of coverage we need. Because of declining U.S. oil production our dependence on imports is dangerously high, and the situation will grow worse in the coming decade. According to the Energy Information Administration, U.S. dependence on oil imports will rise from the current level of 50 percent to 60 percent in the year 2010. As oil imports increase, the strategic petroleum reserve will provide less and less energy security.

The logical response should be to stockpile more oil. Yet, exactly the opposite is occurring. Some $315 million in revenue from the Operation Desert Storm drawdown was diverted to pay operating expenses rather than purchase replacement oil. Annual purchases of crude for the SPR have been halted, and we have begun to sell oil from the reserve as a deficit reduction measure. During fiscal years 1996 and 1997, the Department of Energy sold $450 million barrels of oil for this purpose. Congress and the administration share the blame for the sale of these strategic assets.

The most alarming development of all, however, was last week's announcement by the Department of Energy that it is seeking public comment on the future of the strategic petroleum reserve. The first question on the DOE comment notice was ''Should the United States continue to maintain the SPR?'' That's like asking whether the Titanic should carry life boats. The strategic petroleum reserve provides an essential umbrella of energy security and the importance of this asset will increase as we become more dependent on oil imports.

Like many Federal programs, the strategic petroleum reserve has become a victim of the balanced budget process. Congress and the administration are unable to muster the political will, or the scarce Federal dollars, to maintain or expand our emergency reserve.

My colleagues and I on the Energy Committee have proposed a modest initiative to purchase new oil for the reserve. The bill we have introduced today would finance the purchase of oil for the SPR using revenue obtained from the lease of excess SPR storage capacity.

With its current inventory, the SPR has more than 100 million barrels of available, but unused storage. A number of foreign governments have expressed interest in storing oil in the U.S. reserve to meet International Energy Agency responsibilities. Storing oil in our gulf coast facility would be far less expensive for these countries than constructing new storage capacity. The cost of constructing new capacity exceeds $15 per barrel, whereas the annual operating cost at SPR facilities is less than 50 cents per barrel. All of the revenue generated from such leases would be dedicated to the purchase of crude oil for the U.S. reserve.

During consideration of last year's reconciliation bill, the Senate adopted a proposal I offered that was nearly identical to the legislation I have introduced today. The Clinton administration has a mixed response to this proposal. They support legislation giving DOE the authority to lease idle SPR capacity to foreign governments, but they have reservations about dedicating leasing revenue for the purchase of new oil.

The legislation I am introducing today is an essential first step toward a more rational energy security policy. As the Senate Energy Committee considers the reauthorization of the strategic petroleum reserve, I will work with my colleagues on the committee to ensure that this measure is included as an amendment.

Madam 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. 698

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 ''Strategic Petroleum Reserve Replenishment Act''.

SEC. 2. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

''SEC. 168. UNDERUTILIZED FACILITIES.

''(a) IN GENERAL.—Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)) and any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary, may store in an underutilized Strategic Petroleum Reserve facility a petroleum product owned by a foreign government or its representative.

''(b) EXCLUSION FROM RESERVE; EXPORT.—A petroleum product stored under subsection (a)—

''(1) is not part of the Reserve;

''(2) is not subject to part C; and

''(3) may be exported from the United States.

''(c) USE OF FUNDS.—Funds resulting from the leasing or other use of a Reserve facility under subsection (a) shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve.''.

By Mr. BREAUX:

S. 699. A bill to suspend temporarily the duty on Diiodomethly-p-tolylsulfone; to the Committee on Finance.

TEMPORARY DUTY-FREE TREATMENT LEGISLATION

Mr. BREAUX. Mr. President, I rise today to offer legislation that would temporarily suspend, through the year 2000, the rate of duty applicable to imports of Diiodomenthyl-p-tolylsulfone, commonly referred to as ''DMTS.'' Commercially, DMTS is known by the brand name AMICAL 48. It is a fungicide/mildewcide that is used in caulks, adhesives, plastics, textiles, and for other purposes. The preservative is of indisputable benefit to a host of industries engaged in the production, storage, and use of products subject to microbial degradation.

The current rate of duty on DMTS is 10.7 percent ad valorem. Under the Uruguay Round, this rate is scheduled to decrease by 0.6 percent per year until 2004, when it will reach and remain at 6.5 percent. The proposed legislation would provide for duty-free treatment of imports of DMTS from the date of enactment through the last day of the year 2000, and it is estimated that if this legislation is enacted, the reduction in duty collection will be a de minimis amount of about $250,000 to $350,000 per year.

Furthermore, because there is no substitute domestic product currently benefiting from the present rate of duty on DMTS, no adverse impact on the domestic preservatives industry is anticipated. It may also be that such a temporary suspension in the rate of duty will result in savings being passed along to the consumers of AMICAL 48. I therefore urge my colleagues to support the passage of this bill.

By Mrs. HUTCHISON:

S. 700. A bill to provide States with greater flexibility in setting provider

reimbursement rates under the Medicaid Program; to the Committee on Finance.

LEGISLATION TO REPEAL CERTAIN MEDICAID PROVISIONS

Mrs. HUTCHISON. Mr. President, today I am introducing a bill to repeal the provider reimbursement requirements of the Boren amendment. This bill will provide States with greater flexibility in setting provider reimbursement rates under the Medicaid Program.

Under current law, States may set Medicaid payment rates at whatever level they choose for home and community-based services, but they must meet a minimum standard for nursing home and hospital reimbursement. This standard is prescribed by the Boren amendment, which requires that providers be reimbursed under rates the State ''finds and makes assurances satisfactory to the Secretary are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations and quality and safety standards.''

Although the law was designed to relax previous standards and increase flexibility, unfortunately the opposite has resulted. The use of vague and undefined terms in the amendment created problems, compounded by the Federal Government's decision not to issue regulations defining these terms. To add further confusion, the law, while requiring reimbursement rates to be ''determined in accordance with methods and standards developed by the State,'' also requires the Federal Government to be satisfied with the State-determined rates. Implementing this requirement means State Medicaid plans must include both State processes for determining rates and the rates themselves, which are then subject to approval by the Secretary of Health and Human Services.

Moreover, beyond this federally imposed regulatory nightmare we've created for the States, many States, including Texas, have had to deal with substantial litigation resulting from the vagueness of the statutory language and lack of regulatory definitions. Some courts have viewed the Boren amendment as a cost-based payment standard in which all cost incurred by the providers must be reimbursed. In these instances, States may be liable for significant sums to cover the retroactive rate increases ordered by the court for the group of providers involved in the suit, even if their rate schedule was approved by the Federal Government. In some cases, the additional payments made as a result of a court-ordered retroactive rate increase are not eligible for cost-sharing from the Federal Government.

For example, in 1993, the U.S. Court of Appeals for the Fifth Circuit found that the State of Louisiana Medicaid agency's findings on ''reasonable and adequate'' compensation for hospitals were inadequate, despite HCFA's approval of the State plan. In New York, the State's ''minimum utilization adjustment'' decreased reimbursement for psychiatric hospitals that operated at less than 75 percent capacity as a means to encourage ''efficiency and economy.'' In another New York case, however, despite recognizing the many strong policy reasons behind the adjustments, the U.S. District Court for the Southern District of New York determined the State did not meet the procedural requirements of the Boren amendment. The decision not only has resulted in unjustified reimbursement increases for under-used facilities, but has also tied up the State in continuing litigation over retroactive damages.

Returning to the States the flexibility to negotiate Medicaid reimbursement rates would allow them to avoid or mitigate large increases in spending because of such suits, and follow the example of private-sector purchasers of health care services by selectively contracting with hospitals and nursing homes on a competitive basis. California's Selective Provider Contracting Program [SPCP] is a good example of the economic benefits of this type of program. Because of rapid increases in inpatient hospital costs and a budget shortfall, California passed legislation in 1982 allowing its Medicaid Program [Medi-Cal] to negotiate contracts with providers. SPCP contains the overall expenditures for hospital services reimbursed by the Med-Cal Program and assures adequate access to quality services for beneficiaries through a competitive, rather than a regulatory process. The process saves California an estimated $300 million per year. Illinois had a similar program for several years and saved an estimated $100 million annually, but it was discontinued following a change in administrations and a switch to a different system of reimbursement. The average Medicaid cost per day in Illinois has since risen substantially.

Both California and Illinois officials have been pleased with the high quality of care under this type of system. In addition to relying on strict regulations already in place for hospitals, both States independently audit hospitals for quality of care. Illinois contracted for a 2-year period, which meant that hospitals had to compete often to win contracts while maintaining quality standards.

Mr. President, programs such as those in California and Illinois exemplify the efficiency and innovation offered within our Federal system. It is time to give other States free rein to experiment with similar programs, thus creating a more cost-effective and higher quality Medicaid system for their beneficiaries. I hope all my colleagues will join me in cosponsoring this legislation to take a significant step in the direction of true Medicaid reform.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. HELMS, Mr. D'AMATO, and Mr. DURBIN):

S. 701. A bill to amend title XVIII of the Social Security Act to provide protections for Medicare beneficiaries who enroll in Medicare managed care plans, and for other purposes; to the Committee on Finance.

THE MEDICARE PATIENT CHOICE AND ACCESS ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise today to offer bipartisan legislation to provide Medicare beneficiaries with the necessary tools and protections they need to choose the right health plan under the Medicare program for their individual health care needs. The bill I am introducing today, with my Democratic colleague, Senator CONRAD, whom I have had the pleasure to work with on many issues, is entitled the Medicare Patient Choice and Access Act of 1997. I am also joined by my Republican colleagues, Senator D'AMATO and Senator HELMS, and my Democratic colleague from Illinois, Senator DURBIN. Similar legislation has been introduced in the House by Representatives COBURN and BROWN. Representative COBURN'S bill currently has 91 cosponsors and has strong bipartisan support.

The bill I am sponsoring accomplishes a number of important objectives for Medicare beneficiaries and for the success of the Medicare program. We often talk about providing more choices of health plans for Medicare recipients, but we rarely discuss what they need to make the right choice. As Congress examines ways to encourage more options for Medicare beneficiaries through the growth of managed care, it is critical that there is a trusting relationship between Medicare enrollees and their health plans. Medicare is a Federal program. Therefore, it is our job to ensure that health plans participating in the Medicare program provide quality care to our Nation's elderly. Medicare recipients look to Congress to hold health plans accountable. The legislation I am introducing will encourage plans to compete based on the quality of care they provide and will give beneficiaries the necessary information they need make an informed choice.

The bill includes the following provisions: Provides beneficiaries with standardized consumer-friendly charts to compare health plans in their area (information such as disenrollment rates and appeals denied and reversed by plans are included in these charts); ensures that beneficiaries will receive fair treatment when health plans deny care by establishing a uniform and timely appeals process for managed care plans participating in Medicare; creates an atmosphere of trust between beneficiaries and their providers by prohibiting the use of gag clauses which restrict communications between providers and their patients; provides beneficiaries with the assurance that their health care provider

will refer to specialists, when medically necessary, by expanding Medicare's restriction on the use of financial incentives in managed care to include not just physicians but all providers; given patients, especially those individuals who require specialized care, the assurance they will be able to see a specialist, as medically necessary, when they are enrolled in a managed care plan; and offers beneficiaries more choices by guaranteeing they will have the option, at the time of enrollment, to select a plan with coverage for out-of-network services (point-of-service plans are the fastest growing health plans in the private sector).

Many of the provisions in this bill are supported by research conducted by the General Accounting Office [GAO] and the Institute of Medicine [IOM]. In the Senate Special Committee on Aging, which I chair, we recently held a hearing on the importance of detailed health plan information in holding health plans accountable and improving the quality of care delivered. We heard from large health care purchasers such as the California Public Employees Retirement System [CalPERS] and Xerox Corp. on ways Congress could improve the Medicare program by providing comparative, standardized, information on participating health plans. We heard from the GAO and the IOM about ways the Health Care Financing Administration could be more cost-efficient by requiring that health plans standardize their information. These witnesses highlighted the costliness of high disenrollment rates among health plans and how rates are significantly reduced when beneficiaries are given accurate and detailed comparative information on available health plans.

Most importantly, we heard from a recent Medicare beneficiary and a representative of a Medicare Insurance Counseling Assistance program on the lack of reliable, comparative information under the current Medicare program. The consistent theme from all these witnesses was the importance of trust between Medicare beneficiaries and their health plans. This trust in the program does not exist today, particularly in areas experiencing a rapid growth in managed care. However, by enacting the bill I am offering today which includes several incremental changes to the Medicare program, Congress can help to establish trust and rebuild confidence among our Nation's seniors in the Medicare program.

Many of the provisions in this bill are strengthening current law or providing beneficiaries protection in statute in addition to regulation. I believe it is the responsibility of Congress and administration to ensure that our Nation's elderly are getting quality, cost-effective care under the Medicare program. I urge my colleagues on both sides of the aisle to join me and Senator CONRAD in cosponsoring this very important bipartisan legislation.

Mr. President, I ask that a summary and full text of the bill be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 701

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 ''Medicare Patient Choice and Access Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There should be no unreasonable barriers or impediments to the ability of individuals enrolled in health care plans to obtain appropriate specialized medical services.

(2) The patient's first point of contact in a health care plan must be encouraged to make all appropriate medical referrals and should not be constrained financially from making such referrals.

(3) Some health care plans may impede timely access to specialty care.

(4) Some contracts between health care plans and providers may contain provisions which impede the provider in informing the patient of the full range of treatment options.

(5) Patients cannot make appropriate health care decisions without access to all relevant information relating to those decisions.

(6) Restrictions on the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and the ethical standards of the health care professions. Contractual clauses and other policies that interfere with communications between health care providers and patients can impact the quality of care received by those patients.

(7) Patients should have the opportunity to access out-of-network items, treatment, and services at an additional cost to the patient which is not so prohibitive that they are deterred from seeing the health care provider of their own choice.

(8) Specialty care must be available for the full duration of the patient's medical needs when medically necessary and not limited by time or number of visits.

(9) Direct access to specialty care is essential for patients in emergency and non-emergency situations and for patients with chronic and temporary conditions.

SEC. 3. PROTECTION FOR MEDICARE HMO ENROLLEES.

(a) IN GENERAL.—Section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended—

(1) in subsection (c)(1), by striking ''subsection (e)'' and inserting ''subsections (e) and (k)''; and

(2) by adding at the end the following:

''(k) BENEFICIARY PROTECTION.—

''(1) ASSURING ADEQUATE IN-NETWORK ACCESS.—

''(A) TIMELY ACCESS.—An eligible organization that restricts the providers from whom benefits may be obtained must guarantee to enrollees under this section timely access to primary and specialty health care providers who are appropriate for the enrollee's condition.

''(B) ACCESS TO SPECIALIZED CARE.—Enrollees must have access to specialized treatment when medically necessary. This access may be satisfied through contractual arrangements with specialized health care providers outside of the network.

''(C) CONTINUITY OF CARE.—An eligible organization's use of case management may not create an undue burden for enrollees under this section. An eligible organization must ensure direct access to specialists for ongoing care as so determined by the case manager in consultation with the specialty health care provider. This continuity of care may be satisfied for enrollees with chronic conditions through the use of a specialist serving as case manager.

''(2) OUT-OF-NETWORK ACCESS.—If an eligible organization offers to members enrolled under this section a plan which provides for coverage of items and services covered under parts A and B only if such items and services are furnished through health care providers and other persons who are members of a network of health care providers and other persons who have entered into a contract with the organization to provide such services, the contract with the organization under this section shall provide that the organization shall also offer to members enrolled under this section (at the time of enrollment) a plan which provides for coverage of such items and services which are not furnished through health care providers and other persons who are members of such a network.

''(3) GRIEVANCE PROCESS.—

''(A) IN GENERAL.—An eligible organization must provide a meaningful and expedited procedure, which includes notice and hearing requirements, for resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this section. Under that procedure, any member enrolled with the eligible organization may, at any time, file a complaint to resolve grievances between the member and the organization before a board of appeals established under subparagraph (C).

''(B) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The eligible organization must provide, in a timely manner, to an enrollee a notice of any denial of services in-network or denial of payment for out-of-network care.

''(ii) INFORMATION REQUIRED.—Such notice shall include the following:

''(I) A clear statement of the reason for the denial.

''(II) An explanation of the complaint process under subparagraph (A) which is available to the enrollee upon request.

''(III) An explanation of all other appeal rights available to all enrollees.

''(IV) A description of how to obtain supporting evidence for the hearing described in subparagraph (C), including the patient's medical records from the organization, as well as supporting affidavits from the attending health care providers.

''(C) HEARING BOARD.—

''(i) IN GENERAL.—Each eligible organization shall establish a board of appeals to hear and make determinations on complaints by enrollees concerning denials of coverage or payment for services (whether in-network or out-of-network) and the medical necessity and appropriateness of covered items and services.

''(ii) COMPOSITION.—A board of appeals of an eligible organization shall consist of—

''(I) representatives of the organization, including physicians, nonphysicians, administrators, and enrollees;

''(II) consumers who are not enrolled with an eligible organization under this section; and

''(III) health care providers who are not under contract with the eligible organization and who are experts in the field of medicine which necessitates treatment.

Members of the board of appeals described in subclauses (II) and (III) shall have no interest in the eligible organization.

''(iii) DEADLINE FOR DECISION.—

''(I) IN GENERAL.—Except as provided in subclause (II), a board of appeals shall hear and resolve complaints within 30 days after the date the complaint is filed with the board.

''(II) EXPEDITED PROCEDURE.—A board of appeals shall have an expedited procedure in order to hear and resolve complaints regarding urgent care (as determined by the Secretary in regulations).

''(D) OTHER REMEDIES.—Nothing in this paragraph may be construed to replace or supersede any appeals mechanism otherwise provided for an individual entitled to benefits under this title.

''(4) NOTICE OF ENROLLEE RIGHTS AND COMPARATIVE REPORT.—

''(A) IN GENERAL.—Each eligible organization shall provide in any marketing materials distributed to individuals eligible to enroll under this section and to each enrollee at the time of enrollment and not less frequently than annually thereafter, an explanation of the individual's rights under this section and a copy of the most recent comparative report (as established by the Secretary under subparagraph (C)) for that organization.

''(B) RIGHTS DESCRIBED.—The explanation of rights under subparagraph (A) shall be in a standardized format (as established by the Secretary in regulations) and shall include an explanation of—

''(i) the enrollee's rights to benefits from the organization;

''(ii) the restrictions (if any) on payments under this title for services furnished other than by or through the organization;

''(iii) out-of-area coverage provided by the organization;

''(iv) the organization's coverage of emergency services and urgently needed care;

''(v) the organization's coverage of out-of-network services, including services that are additional to the items and services covered under parts A and B;

''(vi) appeal rights of and grievance procedures available to enrollees; and

''(vii) any other rights that the Secretary determines would be helpful to beneficiaries in understanding their rights under the plan.

''(C) COMPARATIVE REPORT.—

''(i) IN GENERAL.—The Secretary shall develop an understandable standardized comparative report on the plans offered by eligible organizations, that will assist beneficiaries under this title in their decision-making regarding medical care and treatment by allowing the beneficiaries to compare the organizations that the beneficiaries are eligible to enroll with. In developing such report the Secretary shall consult with outside organizations, including groups representing the elderly and health insurers, in order to assist the Secretary in developing the report.

''(ii) CONTENTS OF REPORT.—The report described in clause (i) shall include a comparison for each plan of—

''(I) the premium for the plan;

''(II) the benefits offered by the plan, including any benefits that are additional to the benefits offered under parts A and B;

''(III) the amount of any deductibles, coinsurance, or any monetary limits on benefits;

''(IV) the identity, location, qualifications, and availability of health care providers in any health care provider networks of the plan;

''(V) the number of individuals who disenrolled from the plan within 3 months of enrollment and during the previous fiscal year, stated as percentages of the total number of individuals in the plan;

''(VI) the procedures used by the plan to control utilization of services and expenditures, including any financial incentives;

''(VII) the procedures used by the plan to ensure quality of care;

''(VIII) the rights and responsibilities of enrollees;

''(IX) the number of applications during the previous fiscal year requesting that the plan cover certain medical services that were denied by the plan (and the number of such denials that were subsequently reversed by the plan), stated as a percentage of the total number of applications during such period requesting that the plan cover such services;

''(X) the number of times during the previous fiscal year (after an appeal was filed with the Secretary) that the Secretary upheld or reversed a denial of a request that the plan cover certain medical services;

''(XI) the restrictions (if any) on payment for services provided outside the plan's health care provider network;

''(XII) the process by which services may be obtained through the plan's health care provider network;

''(XIII) coverage for out-of-area services;

''(XIV) any exclusions in the types of health care providers participating in the plan's health care provider network; and

''(XV) any additional information that the Secretary determines would be helpful for beneficiaries to compare the organizations that the beneficiaries are eligible to enroll with.

''(iii) ONGOING DEVELOPMENT OF REPORT.—The Secretary shall, not less than annually, update each comparative report.

''(D) COMPLIANCE.—Each eligible organization shall disclose to the Secretary, as requested by the Secretary, the information necessary to complete the comparative report.

''(5) RESTRICTIONS ON HEALTH CARE PROVIDER INCENTIVE PLANS.—

''(A) IN GENERAL.—Each contract with an eligible organization under this section shall provide that the organization may not operate any health care provider incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a health care provider or health care provider group as an inducement to reduce or limit medically necessary services.

''(ii) If the plan places a health care provider or health care provider group at substantial financial risk (as determined by the Secretary) for services not provided by the health care provider or health care provider group, the organization—

''(I) provides stop-loss protection for the health care provider or health care provider group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number (and type) of health care providers placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization that receive services from the health care provider or the health care provider group; and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) HEALTH CARE PROVIDER INCENTIVE PLAN DEFINED.—In this paragraph, the term 'health care provider incentive plan' means any compensation arrangement between an eligible organization and a health care provider or health care provider group that may directly or indirectly have the effect of reducing or limiting medically necessary services provided with respect to individuals enrolled with the organization.

''(6) PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.—

''(A) IN GENERAL.—

''(i) PROHIBITION OF CERTAIN PROVISIONS.—Subject to subparagraph (C), an eligible organization may not include with respect to its plan under this section any provision that prohibits or restricts any medical communication (as defined in subparagraph (B)) as part of—

''(I) a written contract or agreement with a health care provider;

''(II) a written statement to such a provider; or

''(III) an oral communication to such a provider.

''(ii) NULLIFICATION.—Any provision described in clause (i) is null and void.

''(B) MEDICAL COMMUNICATION DEFINED.—In this paragraph, the term 'medical communication' means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to any of the following:

''(i) How participating physicians and health care providers are paid.

''(ii) Utilization review procedures.

''(iii) The basis for specific utilization review decisions.

''(iv) Whether a specific prescription drug or biological is included in the formulary.

''(v) How the eligible organization decides whether a treatment or procedure is experimental.

''(vi) The patient's physical or mental condition or treatment options.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an entity from—

''(i) acting on information relating to the provision of (or failure to provide) treatment to a patient; or

''(ii) restricting a medical communication that recommends 1 health plan over another if the sole purpose of the communication is to secure financial gain for the health care provider.

''(7) ADDITIONAL DEFINITIONS.—In this subsection:

''(A) HEALTH CARE PROVIDER.—The term 'health care provider' means anyone licensed under State law to provide health care services under part A or B.

''(B) IN-NETWORK.—The term 'in-network' means services provided by health care providers who have entered into a contract or agreement with the organization under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the organization under this section.

''(C) NETWORK.—The term 'network' means, with respect to an eligible organization, the health care providers who have entered into a contract or agreement with the organization under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the organization under this section.

''(D) OUT-OF-NETWORK.—The term 'out-of-network' means services provided by health care providers who have not entered into a contract agreement with the organization under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the organization under this section.

''(8) NONPREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to the subject matter of this

subsection, but only if such requirements are more stringent than the requirements established under this subsection.''.

(b) CONFORMING AMENDMENTS.—Section 1876 of such Act is amended—

(1) in subsection (a)(1)(E)(ii)(II), by striking ''subsection (c)(3)(E)'' and inserting ''subsection (k)(4)'';

(2) in subsection (c)—

(A) in paragraph (3)—

(i) by striking subparagraph (E); and

(ii) in subparagraph (G)(ii)(II), by striking ''subparagraph (E)'' and inserting ''subsection (k)(4)'';

(B) by striking paragraph (4); and

(C) by striking ''(5)(A) The organization'' and all that follows through ''(B) A member'' and inserting ''(5) A member''; and

(3) in subsection (i)—

(A) in paragraph (6)(A)(vi), by striking ''paragraph (8)'' and inserting ''subsection (k)(5)''; and

(B) by striking paragraph (8).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed under section 1876 of the Social Security Act (42 U.S.C. 1395mm) after the expiration of the 1-year period that begins on the date of enactment of this Act.

SEC. 4. APPLICATION OF PROTECTIONS TO MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 1882(t) of the Social Security Act (42 U.S.C. 1395ss(t)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(C) by adding at the end the following:

''(G) notwithstanding any other provision of this section to the contrary, the issuer of the policy meets the requirements of section 1876(k) (except for subparagraphs (C) and (D) of paragraph (4) of that section) with respect to individuals enrolled under the policy, in the same manner such requirements apply with respect to an eligible organization under such section with respect to individuals enrolled with the organization under such section; and

''(H) the issuer of the policy discloses to the Secretary, as requested by the Secretary, the information necessary to complete the report described in paragraph (4).''; and

(2) by adding at the end the following:

''(4) The Secretary shall develop an understandable standardized comparative report on the policies offered by entities pursuant to this subsection. Such report shall contain information similar to the information contained in the report developed by the Secretary pursuant to section 1876(k)(4)(C).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to policies issued or renewed on or after the expiration of the 1-year period that begins on the date of enactment of this Act.

SEC. 5. STUDY AND RECOMMENDATIONS TO CONGRESS.

(a) STUDY.—The Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') shall conduct a thorough study regarding the implementation of the amendments made by sections 3 and 4 of this Act.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary shall submit a report to Congress that shall contain a detailed statement of the findings and conclusions of the Secretary regarding the study conducted pursuant to subsection (a), together with the Secretary's recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) FUNDING.—The Secretary shall carry out the provisions of this section out of funds otherwise appropriated to the Secretary.

SEC. 6. NATIONAL INFORMATION CLEARINGHOUSE.

Not later than 18 months after the date of enactment of this Act, the Secretary shall establish and operate, out of funds otherwise appropriated to the Secretary, a clearinghouse and (if the Secretary determines it to be appropriate) a 24-hour toll-free telephone hotline, to provide for the dissemination of the comparative reports created pursuant to section 1876(k)(4)(C) of the Social Security Act (42 U.S.C. 1395mm(k)(4)(C)) (as added by section 3 of this Act) and section 1882(t)(4) of the Social Security Act (42 U.S.C. 1395ss(t)(4)) (as added by section 4 of this Act). In order to assist in the dissemination of the comparative reports, the Secretary may also utilize medicare offices open to the general public, the beneficiary assistance program established under section 4359 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–3), and the health insurance information counseling and assistance grants under section 4359 of that Act (42 U.S.C. 1395b–4).

SUMMARY—MEDICARE PATIENT CHOICE AND ACCESS ACT OF 1997

The Medicare Patient Choice and Access Act of 1997 establishes certain standards and beneficiary protections for Medicare recipients enrolled in Medicare managed care plans. The legislation builds upon and strengthens existing law, which already provides some protections to Medicare beneficiaries. There is growing concern, however, that as more and more beneficiaries (currently 4.9 million Medicare beneficiaries with enrollment growth averaging 30% annually) enroll in managed care greater protections must be in place to ensure quality and access to care for seniors.

The bill would require the following:

Comparative Health Plan Information: Expands the consumer information that health plans must provide to beneficiaries under current law. Provides beneficiaries with standardized consumer-friendly charts to compare health plans. Requires the Health Care Financing Administration (HCFA) to include disenrollment data, which will contribute to greater competition among health plans. HCFA currently collects this data, but does not distribute it to beneficiaries.

Expedited Appeals Process: Provides an expedited appeals procedure, consistent with new regulations, and a 30 day resolution for grievances and appeals of health plan enrollees. Preserves current law allowing beneficiaries to appeal to the Secretary of the Department of Health and Human Services.

Prohibition of Gag Clauses: Prohibits gag rules, using the managed care industry's definition of ''medical communication.'' This is an expansion of HCFA's current regulation banning the use of gag clauses regarding treatment options.

Expansion of Restrictions on Financial Incentives: Expands the current Federal law which places certain restrictions on the use of financial incentives to manage care from applying to physicians only to covering all providers.

Point-of-Service Option: Expands choice of health plans by guaranteeing enrollees the option of choosing a point-of-service plan at the time they enroll in a Medicare managed care plan.

Timely and Appropriate Access to Specialists: Gives enrollees the assurance they will be able to see a specialist in-network, as medically necessary. Current law requires that managed care health plans provide access to the full range of Medicare health care services. The bill expands and strengthens this provision.

Mr. HELMS. Mr. President, I certainly am not alone in having strong feelings that the senior citizens of America must not be deprived of their right to choose their own doctors.

Senator GRASSLEY's Medicare Patient Choice and Access Act of 1997, which I'm cosponsoring today, ensures choice, access, and quality care for senior citizens by guaranteeing enrollees the option of choosing a point-of-service plan at the time they enroll in a Medicare HMO.

Five years ago, I had a close but fortunate encounter with some remarkable medical doctors in my home town of Raleigh. My heart surgery and the very effective subsequent rehabilitation made it clear that I had been cared for by some of the most capable people in the medical profession.

I was free to choose the surgeon who performed the operation. Senior citizens enrolled in Medicare should have the same choice, and the bill I'm cosponsoring today will enable senior citizens who join HMO's to preserve their right to choose their doctor.

America's senior citizens depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure they will not be forced to give up their right to choose their doctors.

Mr. President, the Health Care Financing Administration—which, of course, administers Medicare—is now the largest purchaser of managed care in the Nation, accounting for about 18 million Americans. As of February 1997, 5 million Medicare beneficiaries were enrolled in managed care plans. This represents a 108-percent increase in managed care enrollment since 1993. Increased migration of the elderly into health maintenance organizations, and other types of managed care plans, will surely lower the costs of operating the vast Medicare system. And citizens who belong to a Medicare-supported HMO may increase their benefits for prescription drugs, eyeglasses, and hearing aids coverage not available through fee-for-service plans.

Without some moderating legislation, however, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctor.

Mr. President, consider, if you will, the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a long-standing relationship. Should that patient be required to wait for a year's time to change to a plan that will cover the cardiologist whom the patient knows and trusts?

We must provide a safety valve to protect seniors who find themselves in that position. A point-of-service option

would enable patients to see physicians and specialists inside and outside the managed care network. If senior citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists. Without such options, however, these senior citizens will be locked into a rigid system which may, or may not, give them the health care they need from people they most trust to provide it.

Mr. President, most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professional will provide their care and treatment. According to polls I have seen, patients are willing to pay a little more for the ability to go out of network to be assured of seeing the doctors of their choice. As many as 70 percent of Americans over 50 years old declared in one poll that they would be unwilling to join a Medicare managed plan that denied them the freedom to choose their own physicians.

Building a point-of-service option into all health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient first.

The CBO indicated that a built-in point-of-service feature would not increase the cost of Medicare. In testimony before the Senate Budget Committee, CBO stated that:

> the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit cost to HMO's or to Medicare * * *

The Medicare Patient Choice and Access Act also includes patient protections and provisions ensuring Medicare participants' timely access to specialists and provides an expedited appeals process which requires patient grievances to be resolved within 30 days. Lastly, this bill expands the consumer information which must be provided to beneficiaries to help patients compare health plans. Unfortunately, although the Health Care Financing Administration collect vast amounts of data, virtually none of it is currently accessible to consumers.

So, Mr. President, I urge Senators to support the Medicare Patient Choice and Access Act, which will provide senior citizens with real patient protections and real choice in health care.

By Mrs. BOXER:

S. 702. A bill to amend the Individuals With Disabilities Education Act to clarify that a State is not required to provide special education and related services to a person with a disability who is convicted of a felony and incarcerated in a secure correctional facility with adult offenders; to the Committee on Labor and Human Resources.

SPECIAL EDUCATION FOR VIOLENT CRIMINALS LEGISLATION

Mrs. BOXER. Mr. President, today I introduce legislation to ensure that children across the country will not lose special education funds provided by the Individual With Disabilities Education Act or IDEA. My legislation will fix a loophole in IDEA that threatens to cut off special education funding to children in California and as many as 24 other States.

IDEA guarantees all children a ''free and appropriate public education.'' Unfortunately, the Department of Education has interpreted this requirement with a bizarre twist. It has insisted that ''all children'' includes those felons who, because of the particularly violent nature of their crimes, are serving time in adult State prisons. The Department of Education has even insisted California provide special education classes to two murderers on death row. If California refuses to comply, it stands to loss all Federal funding for special education—over $330 million, which helps educate close to 600,000 children.

I believe California is correct to protest these guidelines.

To hold special education children hostage to juvenile murderers and rapists in the State's adult prison system is unconscionable. The $5 to $20 million it would cost to provide specialized classes for these violent felons would clearly be better spent on law-abiding citizens.

My colleagues should be aware that California is not alone in this predicament. Twenty-four other states have been cited for noncompliance with IDEA's prison mandate, and they may lose Federal special education aid if they fail to change their policies.

My bill would amend IDEA to clarify that those juveniles sent to adult prisons because of the violent nature of their crimes would not be subject to the IDEA special education requirement. Young adults housed in juvenile detention facilities will not be affected in any way.

This bill will not prohibit or hinder in any way a State's ability to provide special education to adult prisoners. It will only remove the Federal mandate requiring States to provide special education to juveniles remanded to adult prisons. Deciding which rehabilitation programs to provide to State prisoners properly rests with lawmakers in each State. States such as California should not have to fear the loss of critical Federal aid because they prefer to allocate scarce resources to educate noncriminals.

Mr. President, this is a commonsense proposal, and I hope the Senate will act on it expeditiously.

I ask unanimous consent that the full text of the bill be printed in the RECORD. I ask unanimous consent that a newspaper article on this subject also be printed.

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

S. 702

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

SECTION 1. CLARIFICATION ON THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO CHILDREN WITH DISABILITIES WHO ARE CONVICTED OF FELONIES.

Section 612(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(1)) is amended by adding at end the following: ''The State is not required under the policy to assure a free appropriate public education to a person with a disability who is convicted of a felony and as a result of such a conviction, is incarcerated in a secure correctional facility.''.

(b) DEFINITIONS.—Section 602(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)) is amended by adding at the end the following:

''(28) The term ''secure correctional facility'' means any public or private residential facility that—

''(A) includes construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in such facility; and

''(B) is used for the placement, after adjudication and disposition, of an individual convicted of a criminal offense.''.

[From the Los Angles Times, Apr. 18, 1997]

STATE SHOULD GIVE PRISONERS SPECIAL EDUCATION, U.S. SAYS

(By Richard Lee Colvin)

The federal government wants California to provide special education services to some imprisoned felons, including those serving life terms or on death row. And, to pressure the state to do so, the U.S. Department of Education is threatening to withhold $332 million that now goes to pay for the same services for public schoolchildren.

The issue arises from an Education Department interpretation of the 1975 law that requires schools to ensure that students with physical, emotional and learning disabilities receive a ''free, appropriate public education'' in return for federal aid.

The law does not specifically require that prisoners receive such services. Indeed, many other states do not provide them. Neither does the federal prison system.

Yet, because California extends services such as tutoring and vocational and speech therapy to juveniles until they turn 22, the federal government says prisoners up to that age cannot be discriminated against—even if they are behind bars for crimes including murder and rape or awaiting execution.

Privately, federal education officials acknowledge that withholding money from programs for schoolchildren to pressure the state would be highly unpopular and that they would be reluctant to go through with it.

Nonetheless, federal officials have continued to press the state to comply.

The Wilson administration has resisted the order, saying that screening inmates and creating an individualized plan for serving each of them would pose daunting logistic, financial, security and legal problems. State officials have been lobbying Congress to change the law.

In testimony before a congressional committee looking into the issue, Gregory W. Harding, the Department of Corrections chief deputy director, questioned the ''appropriateness and wisdom of expending precious resources'' on individuals who have ''committed felonious and, in many instances, heinous crimes.''

Harding also warned that inmates or their parents ''would merely use this process to make unreasonable demands or to bring frivolous lawsuits against staff.''

The state prisons house roughly 10,000 inmates between the ages of 16 and 21. No one

knows for sure how many of those prisoners might have disabilities qualifying them for special education. Estimates have ranged between 10% and 25%. Cost estimates also range widely, from $5 million to $20 million annually.

Those numbers pale next to the $3.4 billion spent annually in California to provide special education for 590,000 students.

But the possibility of shifting any money to prisoners rankles educators because the federal government requires the states to provide special education to disabled children, but has never come close to providing its full share of the programs' cost. The law originally said the federal government could cover up to 40% of the cost of special education, but Washington has never put up more than 12% of the money and has now dropped its share to roughly 8%—draining money from local school district budgets.

''Our position is that we don't want to see any public education dollar—state or federal—be siphoned off to provide special education service . . . to youth in prison,'' said Lou Barela, a special education administrator in Solano County who has testified on the issue on behalf of a statewide administrators group.

Barela said it would be more expensive to provide services in prisons than in schools because of security risks. She said the state already has a huge shortage of trained special education teachers, and it will be even more difficult to find ones willing to work in prisons.

It is not uncommon for federal officials to threaten to withhold special education funding in order to get a state or a local school district to comply with a ruling. In 1994, the Los Angeles Unified School District was threatened with the loss of its special education funding if it did not revamp its procedures for assessing students' needs in a timely fashion. In the end, no money was withheld.

Federal education officials have scheduled a public hearing for next month in Sacramento to discuss when the state will begin to provide the services. That hearing will also consider a compliance agreement under which the state would have as long as three years to change its program.

The issue of providing special education services to inmates is one of many that have complicated action to extend the life of the landmark 1975 law, now known as the Individuals With Disabilities Act.

Last fall, after working on the reauthorization bill for two years, Congress adjourned without taking action. Among the other issues stalling the bill were questions about how federal money for the program is distributed and how students served by the program can be disciplined.

Representatives of both parties in the Senate and House and from the Clinton administration are in the middle of negotiations on the reauthorization bill and are expected to come up with a compromise in the next few weeks. In an effort to keep those negotiations on track, the parties, including those from the Department of Education, have agreed not to talk about whether they are making progress.

Repubican Rep. Frank Riggs of Windsor heads one of the subcommittees dealing with the reauthorization and has vowed in the past to change the law to exempt California from the order to serve prisoners.

''It is utterly unfair to take precious special education dollars away from students in the public schools to give those dollars to muggers, murderers and rapists,'' said Beau Phillips, Riggs' spokesman.

''For the U.S. Department of Education to threaten the special ed grant for the entire state of California because the state won't provide special education to 19- and 22-year-old killers is insane.''

By Mr. ALLARD:

S. 703. A bill to amend the Internal Revenue Code of 1986 to clarify the deductibility of expenses by a taxpayer in connection with the business use of the home; to the Committee on Finance.

HOME OFFICE TAX LEGISLATION

Mr. ALLARD. Mr. President, today I am introducing legislation to fully restore the home office tax deduction. This legislation is necessary because a recent Supreme Court decision and subsequent IRS regulations have made it impossible for many small business entrepreneurs to use the home office tax deduction.

During my service in the House of Representatives I introduced this legislation in both the 103d and 104th Congresses. We made great progress in the 104th, and even included a full home office tax deduction in the Contract With America tax legislation. Unfortunately, that tax legislation was vetoed.

However, by the end of the last Congress we were able to reach agreement with the President on a number of small business tax changes, and among them was a restoration of the tax deduction for home space used for the storage of product samples. This year we should finish the job and restore the full home office tax deduction.

Increasingly, it is the little guy who gets squeezed by the tax system. While large corporations can rent space and deduct office and virtually all other expenses, many taxpayers who work out of their home are no longer able to deduct their office expenses.

Traditionally, the Tax Code has permitted individuals who operate businesses within their homes to deduct a portion of the expenses related to that home. However, over the past 20 years Congress, the courts, and the IRS have reduced the scope and usefulness of the deduction.

The most serious blow came in 1993 when the Supreme Court's ruling in the Soliman decision effectively eliminated the home office deduction for most taxpayers. Under the Supreme Court's new interpretation of ''principal place of business'' a taxpayer who maintains a home office, but also performs important business related work outside the home is not likely to pass IRS scrutiny.

This change effectively denies the deduction to taxpayers who work out of their home but also spend time on the road. Those impacted include sales representatives, caterers, teachers, computer repairers, doctors, veterinarians, house painters, consultants, personal trainers, and many more. Even though these taxpayers may have no office other than their home, the work they perform will often deny them a deduction.

According to the IRS, 1.6 million taxpayers claimed a home office tax deduction in 1991. While not all of these taxpayers were affected by the Court's decision, many were. Clearly, any taxpayers who operate a business out of their home must review their tax situation.

There are many reasons why a broad home office tax deduction is important. The deduction is pro-family. It helps taxpayers pursue careers that enable them to spend more time with their children. The deduction helps cut down on commuting and saves energy. The deduction recognizes the advances of technology—computer and telecommunciations advances mean that more and more individuals will be able to work for themselves and maintain a home office.

The deduction is a boost to women and minorities who are increasingly starting their own businesses. In fact, over 32 percent of all proprietorships are now owned by women entrepreneurs, and Commerce Department data reveal that 55 percent of these women business owners operate their firms from their home. In addition, there are now well over 1 million minority-owned small businesses and a good number of these are operated out of the home.

Finally, the home office tax deduction helps our economy. It benefits small businesses and entrepeneurs who develop new ideas, and create jobs. Many of America's most important businesses originated out of a home.

Small business is increasingly the engine which drives our economy. With large firms downsizing, entrepeneurs must pick up the slack. The importance of this trend is demonstrated by the job shift that occurred during the slow recovery from the most recent recession. During the period of October 1991 to September 1992 large businesses cut 400,000 jobs while small business created 178,000 new jobs. During the boom years of the 1980's, the vast majority of the 20 million new jobs created were in the small business sector.

It is critical that recent assaults on the home office tax deduction be reversed. That is why I plan to work hard to see that this change in law is enacted as soon as possible.

By Mr. KOHL:

S. 704. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to the separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE JAIL IMPROVEMENT ACT

Mr. KOHL. Mr. President, I rise today to introduce the Juvenile Jail Improvement Act of 1997.

We face a growing and frightening tide of juvenile violence. And that tide is threatening to swamp our rural sheriffs. It is increasingly common for

rural sheriffs to face a terrible dilemma every time they arrest a juvenile—they either have to release a potentially violent juvenile on the street to await trial or they have to spend invaluable time and manpower chauffeuring the juvenile around their State to an appropriate detention facility. Either way, the current system makes little sense and needs to be changed.

Let me explain how this dilemma works. In most rural communities, the only jail available is built exclusively for adults. There are no special juvenile facilities. But sometimes, the community can create a separate portion of the jail for juveniles. However, under current law, a juvenile picked up for criminal activity can only be held in a separate portion of an adult facility for up to 24 hours. After that, the juvenile must be transported—often across hundreds of miles—to a separate juvenile detention facility, often to be returned to the very same jail 2 or 3 days later for a court date. This system often leaves rural law enforcement crisscrossing the State with a single juvenile—and results in massive expenses for law enforcement with little benefit for juveniles, who spend endless hours in a squad car. Such a process does not serve anyone's interests.

And that is not all that rural sheriffs face. Even qualifying for the 24-hour exception can be a nightmare. That's because juveniles can be kept in adult jails only under a very stringent set of rules. Keeping juveniles in an adult jail is known as collocation. It can only be done if there is strict sight and sound separation between the adults and the juveniles as well as completely separate staff. For many small communities, making these physical and staff changes to their jails is prohibitively expensive.

So sheriffs faced with diverting officers to drive around the State in search of a detention facility may choose to let the juvenile go free while awaiting trial. This prospect should frighten anyone who is aware of the growing trend in juvenile violence.

Today, I am introducing legislation that is designed to cure this problem. My legislative solution is simple, straightforward and effective. It extends from 24 to 72 hours the time during which rural law enforcement may collocate juvenile offenders in an adult facility, as long as juveniles remain separated from adults. It also relaxes the requirements for acceptable collocation. After taking a hard look at how collocation rules have worked—and in what ways they have failed—this legislation comes to a reasonable compromise.

Mr. President, one of our most important goals in assuring that any changes to these rules do not sacrifice the safety and welfare of arrested juveniles. In addition to the growing fear about juvenile violence, we have witnessed a growing anger and frustration at juveniles. This frustration should not lead us to forget the painful lessons we learned many years ago about abusive and dangerous treatment of delinquent children. Twenty years ago, we learned about kids who were thrown in jail where they were victimized and abused by adult prisoners; or where, without proper supervision, they committed suicide; or, where, guarded by people who only had experience with adult prisoners, they were disciplined savagely. When we give into the temptation to throw juveniles in jail and teach them a tough lesson, we are often ill rewarded. So even as we loosen these collocation requirements, we must bear in mind that the juvenile justice system still has its principle goal rehabilitation not harsh retribution.

My conversations with administrators, sheriffs, and juvenile court judges have led me to conclude that we must bring greater flexibility—and less red-tape—to the Juvenile Justice Act. It is my hope that this legislation—which offers greater flexibility while retaining important protections regarding the separation of juveniles from adults—will meet with strong support from the Senate. Thank you.

By Mr. MCCAIN:

S. 705. A bill to amend the Communications Act of 1934 to establish statutory rules for the conversion of television broadcast station from analog to digital transmission consistent with the Federal Communications Commission's fifth order and report, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE DIGITAL TELEVISION CONVERSION ACT

Mr. MCCAIN. Mr. President, I am pleased to introduce the Digital Television Conversion Act. This legislation codifies the rules and policies recently adopted by the Federal Communications Commission to govern the transition of the over-the-air television system from analog to digital broadcasting.

Mr. President, every American has a stake in the speedy and successful implementation of new digital broadcasting technology. Those of us who like to watch TV will benefit from crisper, larger video, CD-quality audio, and more channels of video programming choices. Even better, those of us who would prefer to interact with TV will find that the convergence of digital television and computer technology will make exciting new interactive video service offerings possible. The economy will benefit from the new jobs created by manufacturing new digital television receivers. The television broadcasting industry stands on the threshold of a transformation that will assure that over-the-air broadcasting isn't relegated to the slow lane on the digital information superhighway.

To enable this all to happen, the $100 billion television industry will be given extra channels of broadcast spectrum valued at up to $70 billion for free. In return, each television licensee will only be required to incur the cost of installing digital broadcasting equipment—a cost, I assure you, far below the estimated value of the new digital spectrum each broadcaster will be given—and, when the transition is complete, return the analog channels they now occupy, to be auctioned for other uses.

The new and improved services that will come from digitial television, plus whatever revenue is derived from auctioning the analog channels, is what the American people will get from the television industry in return. It is therefore absolutely imperative, Mr. President, to guarantee that this transition to digital takes place as quickly as conditions will reasonably allow. Put another way, Mr. President, it is incumbent upon us to make sure, on behalf of the American people, that the television industry actually crosses the digital threshold upon which it now stands.

And that is the reason I am introducing this legislation today. For the rules recently adopted by the Federal Communications Commission do not establish firm timetables and deadlines to govern the television industry's critically important digital conversion. For example, although the FCC set out target dates for television stations in each market to convert to digital, this conversion schedule is not binding on more than 90 percent of all television stations, and the Commission has not adopted any way to verify licensee's compliance with the nonbinding conversion schedule. Likewise, there is no rule requiring that television licensees return their current analog channels by any given date so they can be auctioned.

Given the tremendous promise that digital broadcasting holds for television licensees, why not simply rely on broadcasters to voluntarily implement a rapid transition out of their own best interests? The answer, Mr. President, is that different licensees may see their own best interests in different ways.

Some may see their own best interests served by delaying the conversion to avoid the added expenditure, at least until a majority of other stations take the plunge. This could produce a classic ''chicken-and-egg'' problem, especially in smaller markets: Local stations wait to convert until the cost comes down and until local viewers buy digital sets or converter boxes—but the cost won't come down and consumers won't buy digital sets or converter boxes because local stations aren't broadcasting in digital. It would be unfortunate that viewers in smaller markets, who probably stand to benefit the most from the diverse array of new services that digital broadcasting can provide, are most likely to fall victim to these perverse incentives.

And of course, Mr. President, there is that element of self-interest that any broadcaster, regardless of market size, might have: the perfectly understandable interest in retaining both the old

analog and the new digital channel for as long as possible. But this, of course, would doubly enrich television licensees, who would already have been given their digital channel for free. It would also delay the ability to use the returned analog channels for different telecommunications services from which the public would benefit. Moreover, any delay in returning the analog channels would also affect the revenues realized from auctioning them. This has now become an especially important consideration with the bipartisan agreement between Congress and the White House to balance the budget by the year 2002: Revenues from the auction of these channels have been scored and included in the estimates on which this bipartisan budget agreement is based.

To be sure, many station licensees are apparently eager to get on with the job of conversion, although they sometimes foresee practical difficulties beyond their control getting in the way. In recognition of these potential problems, this legislation also codifies the FCC's standard for waiving the conversion schedule on a case-by-case basis. And in codifying the FCC's nonbinding analog channel giveback dates, the bill also recognizes the special circumstances faced by noncommercial broadcasters, and codifies the more liberal analog channel giveback target dates the FCC provided for these licensees.

Nor am I concerned, Mr. President, that some markets could lose over-the-air television if analog channel reversion deadlines are codified but, for some unforeseen reason, digital broadcasting does not take hold. Codifying the digital conversion timetables will assure that as many stations as possibly can convert to digital, will. And it is simply preposterous to think that, even if digital broadcasting somehow fails to take hold during the next 9 years notwithstanding this bill's legislative impetus for it to do so, further legislation extending the date for the give back of the analog channels would not swiftly be enacted.

In sum, Mr. President, those televisions broadcasters who are willing and eager to convert to digital will not be hurt in any way by codifying the deadlines and the waiver standard. It is only those licensees who, for whatever reason, might be less than anxious to make the transition who will have their feet held to the fire. Is this fair? You bet it is. We cannot be lax in our duty to guarantee, to the greatest extent we can, that consumers enjoy both the telecommunications benefits of digital television and the economic benefits of the analog channels' auction revenues.

By Mr. BOND:

S. 706. A bill to amend the Individuals With Disabilities Education Act to permit the use of long-term disciplinary measures against students who are children with disabilities, to provide for a limitation on the provision of educational services to children with disabilities who engage in behaviors that are unrelated to their disabilities, and to require educational entities to include in the educational records of students who are children without disabilities documentation with regard to disciplinary measures taken against such students, and for other purposes; to the Committee on Labor and Human Resources.

THE SCHOOL SECURITY IMPROVEMENT ACT OF 1997

Mr. BOND. Mr. President, today I am introducing the School Security Improvement Act of 1997. This legislation will make some needed reforms to the Individuals With Disabilities Education Act [IDEA]. The goal of this act is to preserve the rights of students with disabilities while granting local school districts more flexibility to discipline violent and disruptive students. This legislation also focuses on reducing litigation and unnecessary attorneys' fees.

Last week, I traveled through my home State of Missouri to discuss this measure with school district superintendents, principals, school board members, special education directors, and parents. The top two concerns mentioned, without exception, were safety and discipline of all students in the public school system. The rising incidences of school violence and current inflexible Federal mandates have made IDEA reform a high priority issue for educators and parents around the country. Current law prohibits removal of a disabled child from the classroom for more than 10 days—even if he or she becomes violent, commits a crime, or threatens other children—unless permission is granted by a parent. IDEA has created a separate category of students that are not bound by the rules of conduct required of their students, even when their behavior is not related to their disability.

My primary concern is creating a safe learning environment for all children. In attempting to provide good education services to disabled students, which I fully support, we have unfortunately created a situation where some kids can hide behind their disability in displaying some outrageous behavior. For instance, I know a case where a young man who sold drugs at school was still in the classroom a year later, even though his crime was not related to his disability. What does that say to other kids, particularly when for them the same crime would bring an automatic 1-year expulsion? In another horrendous case, a student stabbed a classmate with scissors and was back in the classroom in just 10 days.

The School Security Improvement Act of 1997 will eliminate the double standard that currently exists between special education and general education children. All students, disabled or not, should receive the same discipline for the same behavior. I believe this is appropriate when the behavior of the child is not related to their disability. Children must learn that there are consequences for violating the rules. Good education demands discipline and standards of conduct.

In an effort to ensure that the students, teachers, and school employees remain safe within the educational environment, this bill requires schools to include in the records of a child with a disability a statement of disciplinary action taken against the student and allows intrastate and interstate transfer of records from one district to another. The records issue has been brought to the forefront because of several instances when disabled students have caused serious problems and school officials were unaware that the student had a record of similar activities in other schools.

I believe that all students with disabilities need and deserve access to educational services to meet their individual needs. However, in those occasional circumstances when a student becomes so violent or dangerous, and their behavior significantly disrupts the educational process and they become a danger to themselves or others, or create an environment in which learning cannot occur, then the rights of others in the school to have a safe and effective learning environment must take precedence.

The School Security Improvement Act of 1997 will enable school administrators, those who are closest to the problem, to remove dangerous students with disabilities who pose a threat to the safety of others from the classroom and make temporary alternative placements to ensure the safety of all students until a more appropriate placement is determined. When these students are able to behave appropriately, they will be returned to the classroom.

The current IDEA provision requiring local school districts to reimburse attorneys' fees incurred by parents who elect to initiate litigation has had the predictable result of encouraging such litigation and of driving up special education costs. The dispute-resolution procedures has become extremely adversarial and costly. Studies have found that the amount of special education litigation has dramatically increased in recent years. Sadly, some parent attorneys seem encouraged to use due process, as a fishing expedition or to threaten districts with protracted litigation over non-issues as a tactic to force school districts to comply with parental demands.

This practice only serves to reduce district funds available to meet the needs of students with disabilities. Clearly, we need reasonable reforms to the dispute-resolution process to ensure that scarce educational funds are used for educational services for our children.

I firmly believe that children with disabilities must be guaranteed a free appropriate education. Yet no school district should have to cut services to any student so it can pay attorneys'

fees. But, because of the explosion of litigation in this area, educational services for all students are being endangered.

Under the School Security Improvement Act of 1997, local school districts will be permitted to provide alternative educational placement for children who threaten the safety of others. For some children, it is absolutely appropriate to swiftly and permanently remove them from the regular classroom setting. The law should not prohibit local school officials from acting on their own authority to discipline dangerous and unruly students.

The School Security Improvement Act will give local school districts the authority and flexibility to ensure that the students and the personnel are provided educational and working environments that are safe and orderly.

Mr. President, when the Federal Government enacted IDEA, it promised to fund 40 percent of the national average per pupil expenditure. Today, the Federal Government funds only 7 percent. My bill contains a provision expressing a sense of the Senate that the Federal portion of educating students with disabilities should be fully funded. In recent years, costly regulations have dramatically increased, placing a tremendous strain on local school districts. The time and money spent on Federal mandates must be reduced, so that more time and resources can be spent in the classroom on school children. This money will help students by easing the financial burden on local school districts.

I know the feelings run high on this issue. We have a difficult job when it comes to balancing the needs of those with special needs with our responsibility to educate all children in the classroom, free of violence and disruption. I look forward to the upcoming reauthorization of IDEA and working with my colleagues in this effort to come up with a commonsense approach to improve our Nation's schools.

By Mr. LAUTENBERG:

S. 707. A bill to prohibit the public carrying of a handgun, with appropriate exceptions for law enforcement officials and others; to the Committee on the Judiciary.

THE CONCEALED WEAPONS PROHIBITION ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Concealed Weapons Prohibition Act of 1997, that would prohibit individuals from publicly carrying a handgun.

The bill includes exceptions for certain people authorized to carry handguns under State law, such as law enforcement personnel and duly authorized security officers. States also could provide exemptions in individual cases, based on credible evidence of compelling circumstances warranting an exemption, such as a woman being stalked by someone who is threatening her. A simple claim of concern about generalized risks would not be sufficient to warrant an exemption; there would have to be a specified, credible threat.

Mr. President, common sense tells us that there are more than enough dangerous weapons on America's streets. Yet, incredibly, some seem to think that there should be more. These people want to turn our States and cities into a modern version of the old wild west, where everyone carries a gun on his or her hip, taking the law into their own hands. This is a foolhardy and dangerous trend.

Mr. President, this country is already drowning in a sea of gun violence. Every 2 minutes, someone in the United States is shot. Every 14 minutes, someone dies from a gunshot wound. In 1994 alone, over 15 thousand people in our country were killed by handguns. Compare that to countries like Canada, where 90 people were killed by handguns that year, or Great Britain, which had 68 handgun fatalities.

Mr. President, the Federal Centers for Disease Control and Prevention estimate that by the year 2003, gunfire will have surpassed auto accidents as the leading cause of injury-related deaths in the United States. In fact, this is already the case in seven States.

Mr. President, given the severity of our Nation's gun violence problem, we need to be looking for ways to reduce the number of guns on our streets. Yet, instead, many States recently have enacted laws to do the opposite, by making it easier for people to carry concealed weapons.

Unfortunately, Mr. President, concealed weapons make people less, not more, secure. In fact, there is near-unanimous agreement among law enforcement groups that concealed weapons laws are bad policy. These groups understand that when more people carry weapons on the streets, more routine conflicts escalate into deadly violence.

Mr. President, every day people get into everything from traffic accidents to domestic disputes. Maybe these arguments lead to yelling, or even fisticuffs. But if people are carrying guns, those conflicts are much more likely to end in a shooting, and death.

Concealed weapons laws also are likely to make criminals more violent. Think about it, Mr. President. If a criminal thinks that you might be carrying a concealed weapon, common sense tells you that he is much more likely to simply shoot first, and ask questions later.

Mr. President, another dangerous side-effect of having private citizens carry concealed weapons is the impact these unseen guns will have on law enforcement officers. Police officers would become reluctant to conduct even routine traffic stops if they knew that large numbers of citizens could be carrying concealed weapons.

You do not need to take my word for this, Mr. President. Just ask the men and women in law enforcement. In fact, the Police Executive Research Forum did just that. In their 1996 survey, they found that 92 percent of their membership opposed legislation allowing private citizens to carry concealed weapons. The most cited reason for this opposition was public safety.

Mr. President, the police of this country understand that the public carrying of handguns increases the likelihood of gun violence. Also, concealed weapons increase the chances that incompetent or careless handgun users will accidently injure or kill innocent bystanders. Unfortunately, States increasingly are allowing individuals to carry concealed weapons with little or no training in the operation of firearms. This means that many incompetent people are putting the public at risk from stray bullets.

Mr. President, although the regulation of concealed weapons has been left to States, it is time for Congress to step in to protect the public. All Americans have a right to be free from the dangers posed by the carrying of concealed handguns, regardless of their State of residence. And Americans should be able to travel across State lines for business, to visit their families, or for any other purpose, without having to worry about concealed weapons.

Congress has the constitutional authority to provide this protection, Mr. President, and there is a strong Federal interest in ensuring the safety of our citizens. Beyond the human costs of gun violence, crimes committed with handguns impose a substantial burden on interstate commerce and lead to a reduction in productivity and profitability for businesses around the Nation whose workers, suppliers, and customers are adversely affected by gun violence. Moreover, to ensure its coverage under the Constitution's commerce clause, my bill applies only to handguns that have been transported in interstate or foreign commerce, or that have parts or components that have been transported in interstate or foreign commerce. This clearly distinguishes the legislation from the gun free school zone statute that was struck down in the Supreme Court's Lopez case.

Mr. President, the bottom line is that more guns equals more death. This legislation will help in our struggle to reduce the number of guns on our streets, and help prevent our society from becoming even more violent and dangerous.

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 707

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 ''Concealed Weapons Prohibition Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) crimes committed with handguns threaten the peace and domestic tranquility of the United States and reduce the security and general welfare of the Nation and its people;

(2) crimes committed with handguns impose a substantial burden on interstate commerce and lead to a reduction in productivity and profitability for businesses around the Nation whose workers, suppliers, and customs are adversely affected by gun violence;

(3) the public carrying of handguns increases the level of gun violence by enabling the rapid escalation of otherwise minor conflicts into deadly shootings;

(4) the public carrying of handguns increases the likelihood that incompetent or careless handgun users will accidently injure or kill innocent bystanders;

(5) the public carrying of handguns poses a danger to citizens of the United States who travel across State lines for business or other purposes; and

(6) all Americans have a right to be protected from the dangers posed by the carrying of concealed handguns, regardless of their State of residence.

SEC. 3. UNLAWFUL ACT.

Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(y)(1) Except as provided in paragraph (2), it shall be unlawful for a person to carry a handgun on his or her person in public.

''(2) Paragraph (1) shall not apply to the following:

''(A) A person authorized to carry a handgun pursuant to State law who is—

''(i) a law enforcement official;

''(ii) a retired law enforcement official;

''(iii) a duly authorized private security officer;

''(iv) a person whose employment involves the transport of substantial amounts of cash or other valuable items; or

''(v) any other person that the Attorney General determines should be allowed to carry a handgun because of compelling circumstances warranting an exception, pursuant to regulations that the Attorney General may promulgate.

''(B) A person authorized to carry a handgun pursuant to a State law that grants a person an exemption to carry a handgun based on an individualized determination and a review of credible evidence that the person should be allowed to carry a handgun because of compelling circumstances warranting an exemption. A claim of concern about generalized or unspecified risks shall not be sufficient to justify an exemption.

''(C) A person authorized to carry a handgun on his or her person under Federal law.''.

By Mr. LAUTENBERG:

S. 708. A bill to amend title 23, United States Code, to provide for a national minimum penalty for an individual who operates a motor vehicle while under the influence of alcohol; to the Committee on Labor and Human Resources.

THE DEADLY DRIVER REDUCTION AND MATTHEW P. HAMMELL MEMORIAL ACT

Mr. LAUTENBERG. Mr. President, today I am introducing the Deadly Driver and Matthew P. Hammell Memorial Act, which would establish national minimum penalties for alcohol-related motor vehicle violations. It is a companion to S. 412, the Safe and Sober Streets Act, which I introduced last month along with Senator MIKE DEWINE of Ohio, a bill intended to make .08 blood alcohol content the national standard for impaired driving. I am proud to sponsor this legislation and when it is adopted, many lives will be saved.

However, Mr. President, we can also reduce fatalities and serious injury caused by drunk driving by having tougher penalties. Driving while intoxicated, or DWI, is one of the most prevalent crimes in this country. In 1992, more people were arrested for DWI—1.6 million—than for any other reported criminal activity including larceny or theft, or for drug abuse violations. By even reasonable standards this could be considered a kind of epidemic. And we need to start treating this epidemic.

A shocking number of DWI convictions are repeat offenders. When the National Highway Traffic and Safety Administration studied this issue, it found that about one-third of all drivers arrested or convicted of DWI each year are repeat DWI offenders. One study in California demonstrated the extent of this problem over the long term. It found that 44 percent of all drivers convicted of DWI in California in 1980 were convicted again of DWI within the next 10 years.

In my State of New Jersey, the problem is exacerbated by the fact that DWI offenses are treated as traffic violations as opposed to crimes. Unfortunately, Mr. President, too many people share this view of drinking and driving, with the result being that those who are charged with DWI often drink and drive again. While in New Jersey new laws and programs have been implemented to address the drunk-driving problem, and DWI arrests and convictions have declined, the problem of repeat offenders persists. Between 1994 and 1995 the number of two-time offenders actually increased from 4,495 in 1994 to 4,731 in 1995.

The danger of these repeat offenders is illustrated by the fact that drivers with prior DWI convictions are overrepresented in fatal crashes. These drivers have a 4.1 times greater risk of being in a fatal crash, as do intoxicated drivers without a prior DWI, and the risk of a particular driver being involved in a fatal crash increases with each DWI arrest.

Mr. President, it is time that we take this problem of repeat offenders seriously. The first time a driver is convicted of DWI, he or she must understand the severity of the crime which has been committed. If a person continues to ignore the law, and continues to drink and drive, the courts need to treat that person with the full force of the law, both to punish that person, and to protect the public at large.

That is why I am introducing the Deadly Driver Reduction and Matthew P. Hammell Memorial Act. This bill requires States to adopt mandatory minimum sentences for DWI offenders within 3 years or otherwise lose a portion of their Federal highway funding. The sentencing requirements are as follows: For a first-time conviction of a person operating a motor vehicle while under the influence of alcohol, their license is revoked for 6 months. A second conviction requires a 1-year suspension, and a third conviction for the crime of driving while impaired by alcohol results in the permanent revocation of that person's license.

If a State fails to adopt these minimum sentences by October 1, 2000, 5 percent of that State's Federal highway funds will be withheld. If a State fails to adopt these minimum sentences after another year, that State would then lose 10 percent of its allocated Federal highway funds.

Mr. President, sanctions work. In too many States, and in too many courts in this country, drunk driving is not taken seriously enough. We want to make sure that those who disobey the law by drinking and driving both understand the severity of their offense and are prevented from driving if they continue to break the law. These mandatory minimum penalties will meet these challenges.

When we talk about drunk driving, too often we talk about it in statistical terms. But there are real people attached to those statistics. In the spring of 1995, a young man, from Tuckerton, NJ, full of goodness and potential, was struck down by a drunk driver while he and his friend were in-line skating. Matthew Hammell was exceptional. All those who knew him talk about being touched by his kindness and caring. Like so many American boys, at one point he dreamed of being a baseball player, but as he matured he knew he wanted to be a missionary. His dream became living a life of helping others. But this dream, this young man, was taken away from all of us much too early when Robert Hyer, drunk and driving, struck Matthew with his car while passing another vehicle. Robert Hyer should not have been on the road. Not only was he drunk, but he had a history of driving drunk. Before this fateful incident, Hyer had been charged with DWI six times, though he was convicted only twice. Hyer lost his license in New Jersey in 1984, but somehow he obtained a North Carolina license just 2 years later. He was a habitual offender who kept bucking the system. A system which kept letting him go. A system which, in the end, was too late in responding.

Mr. President, it may be too late for Matthew Hammell, and all of the other Matthew Hammells whose spirits are taken from us too early, but it is now that we must become serious about drinking and driving. So, in his honor, and in the memory of all of our loved ones who do not get to achieve their potential due to the actions of drunk drivers, we have named this bill the Deadly Driver Reduction and Matthew P. Hammell Memorial Act. While I will be the first to admit that this bill is not enough, at least it is a start. Let us

work together now so that such memorial acts are unnecessary in the future.

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. 708

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 ''Deadly Driver Reduction and Matthew P. Hammell Memorial Act''.

SEC. 2. MINIMUM PENALTY FOR AN INDIVIDUAL WHO OPERATES A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 162. National minimum penalty for an individual who operates a motor vehicle while under the influence of alcohol

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2001.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 2000, if the State does not meet the requirements of paragraph (3) on that date.

''(2) THEREAFTER.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5)(B) of section 104(b) on October 1, 2001, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that provides for a minimum penalty consistent with the following:

''(i) In the case of the first offense of an individual of operating a motor vehicle while under the influence of alcohol, revocation of the individual's driver's license for at least 180 days.

''(ii) In the case of the second offense of an individual of any alcohol-related offense while operating a motor vehicle (including operating a motor vehicle while under the influence of alcohol), revocation of the individual's driver's license for at least 1 year.

''(iii) In the case of the third or subsequent offense of an individual of any alcohol-related offense while operating a motor vehicle (including operating a motor vehicle while under the influence of alcohol), permanent revocation of the individual's driver's license.

''(B) TERMS OF REVOCATION.—A revocation under subparagraph (A) shall not be subject to any exception or condition, including an exception or condition to avoid hardship to any individual.

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2002.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2002, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2002.—No funds withheld under this section from apportionment to any State after September 30, 2002, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse or, in the case of funds apportioned under section 104(b)(5)(B), shall lapse and be made available by the Secretary for projects in accordance with section 118.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), the funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5)(B), shall lapse and be made available by the Secretary for projects in accordance with section 118.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''162. National minimum penalty for an individual who operates a motor vehicle while under the influence of alcohol.''.

By Mr. WARNER (for himself, Mr. INOUYE, Mr. THURMOND, and Mrs. FEINSTEIN):

S.J. Res. 30. A joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day,'' and for other purposes; to the Committee on the Judiciary.

U.S. NAVY ASIATIC FLEET MEMORIAL DAY

Mr. WARNER. Mr. President, I rise today to introduce legislation to recognize the sailors and marines who served in the U.S. Asiatic Fleet throughout the Far East. During the Asiatic Fleet's existence from 1910 to 1942, the fleet was an instrumental component of American national security and diplomacy.

The U.S. Asiatic Fleet, the successor to the old Asiatic Station and precursor to today's 7th Fleet, maintained an important presence throughout Southeast Asian waters. Initially operating between coastal China and the Philippines, the fleet's activities expanded to include operations in Russian waters and the straits and narrows encompassing Malaysia and Indonesia.

In these critical regions, the fleet's men and women supported American security interests and the safety of citizens abroad during civil wars and international conflicts. During one of the greatest natural disasters, the Yangtze flood of 1931, which killed 150,000 people, the fleet rendered aide and assistance to Americans and Chinese. Through these actions, the fleet demonstrated the commitment of the United States to an important area of the world during a dynamic period in history.

During the last years of Asiatic Fleet operations, sailors and marines courageously distinguished themselves by defending against the tidal wave of Japanese aggression. Facing the modern Japanese armada were the fleet's 3 cruisers, 13 WWI-vintage destroyers, 29 submarines and a handful of gunboats and patrol aircraft. Against overwhelming odds, the fleet defended the Philippines until the evacuation was ordered and fought the continued expansion of the Japanese throughout the South Pacific. Many of those defenders were captured or killed in these heroic battles.

It is important that we pause to remember the valor and spirit of these dedicated servicemen. For that reason, I am introducing a resolution which will designate March 1, 1998, the 56th anniversary of the sinking of the Asiatic Fleet's flagship, the U.S.S. *Houston*, by Japanese Imperial Forces, as ''United States Navy Asiatic Fleet Memorial Day.'' I invite my colleagues to support this resolution.

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 18, a bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 191

At the request of Mr. HELMS, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Alaska [Mr. STEVENS], and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 191, a bill to throttle criminal use of guns.

S. 193

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 193, a bill to provide protections to individuals who are the human subject of research.