abusers; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. BREAUX, Ms. COLLINS, and Mr. ROCKEFELLER):

S. 795. A bill to improve the quality of health plans and health care that is provided through the Federal Government and to protect health care consumers; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mrs. FEINSTEIN):

S. 796. A bill to reduce gun trafficking, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. KENNEDY):

S. 797. A bill to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER:

S. 798. A bill to establish a Commission on Information Technology Worker Shortage; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LEAHY (for himself, Mr. WELLSTONE, Mr. LEVIN, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. FEINGOLD, and Mr. DODD):

S. Con. Res. 28. A concurrent resolution expressing the sense of Congress that the Administrator of the Environmental Protection Agency should take immediate steps to abate emissions of mercury and release to Congress the study of mercury required under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. GRASSLEY, and Mr. GLENN):

S. 779. A bill to amend title XVIII of the Social Security Act to increase the number of physicians that complete a fellowship in geriatric medicine and geriatric psychiatry, and for other purposes; to the Committee on Finance.

THE MEDICARE PHYSICIAN WORKFORCE ACT OF 1997

S. 780. A bill to amend title III of the Public Health Service Act to include each year of fellowship training in geriatric medicine or geriatric psychiatry as a year of obligated service under the National Health Corps Loan Repayment Program; to the Committee on Labor and Human Resources.

THE GERIATRICIANS LOAN FORGIVENESS ACT OF 1997

Mr. REID. Good morning Mr. President. I come to the floor today to offer two bills which are written to address the national shortage of geriatricians we are experiencing in this country. A problem I am sorry to say that is getting worse, not better. I am pleased to have as original cosponsors of my bills Senator GRASSLEY, the distinguished Chairman of the Senate Special Committee on Aging and Senator GLENN, also a member of the Aging Committee, one for whom I have tremendous respect and regard.

Our Nation is growing older. Today, life expectancy for women is 79, for men it is 73. While the population of the United States has tripled since 1900, the number of people age 65 or older has increased 11 times, to more than 33 million Americans. By 2030, this group is projected to double in size to nearly 70 million.

Mr. President, I first became concerned about this problem when a read a report issued by the Alliance for Aging Research in May of 1996 entitled, ''Will you Still Treat Me When I'm 65?'' The report concluded that there are only 6,784 primary-care physicians certified in geriatrics. This number represents less than one percent of the total of 684,414 doctors in the United States. The report goes on to state that the United States should have at least 20,000 physicians with geriatric training to provide appropriate care for the current population, and as many as 36,000 geriatricians by the year 2030 when there will be close to 70 million older Americans.

The bills I am introducing today, the Medicare Physician Worforce Improvement Act of 1997 and the Geriatricians Loan Forgiveness Act of 1997, aim—in modest ways and at very modest cost—to encourage an increase in the number of trained doctors seniors of today and tomorrow will need, those with certified training in geriatrics.

One provision of the Medicare Physician Workforce Improvement Act of 1997 will allow the Secretary of Health and Human Services to double the payment made to teaching hospitals for geriatric fellows capping the double payment to be provided to a maximum of 400 fellows per year. This is intended to serve as an incentive to teaching hospitals to promote and recruit for geriatric fellows.

Another provision directs the Secretary of Health and Human Services to increase the number of certified geriatricians appropriately trained to provide the highest quality care to Medicare beneficiaries in the best and most sensible settings by establishing up to five geriatric medicine training consortia demonstration projects nationwide. In short, allow Medicare to pay for the training of doctors who serve geriatric patients in the settings where this care is so often delivered. Not only in hospitals, but also ambulatory care facilities, skilled nursing facilities, clinics, and day treatment centers.

The second bill I am offering today, The Geriatricians Loan Forgiveness Act of 1997 has but one simple provision. That is to forgive $20,000 of education debt incurred by medical students for each year of advanced training required to obtain a certificate of added qualifications in geriatric medicine or psychiatry. My bill would count their fellowship time as obligated service under the National Health Corps Loan Repayment Program.

Mr. President, the graduating medical school class of physicians in 1996 reported they had incurred debts of $75,000 on average. My bill will offer an incentive to physicians to pursue advanced training in geriatrics by forgiving a small portion of their debt.

Last year Medicare paid out more than $6.5 billion to teaching hospitals and academic medical centers toward the costs of clinical training and experience needed by physicians after they graduate from medical school. It is ironic, only a tiny fraction of those Medicare dollars are directed to the training of physicians who focus mainly on the needs of the elderly. Of over 100,000 residency and fellowship positions that Medicare supports nationwide, only about 250 are in geriatric medicine and psychiatry programs. Existing slots in geriatric training programs oftentimes go unfilled. With 518 slots available in geriatric medicine and psychiatry in 1996, only 261, barely one-half of them were filled.

By allowing doctors who pursue certification in geriatric medicine to become eligible for loan forgiveness, and by offering an incentive to teaching institutions to promote the availability of fellowships, and recruit geriatric fellows, my bills will provide a measure of incentive for top-notch physicians to pursue fellowship training in this vital area.

We must do more to ensure quality medicine today for our seniors and it is certainly in our best interest to prepare for the future when the number of seniors will double. Geriatric medicine requires special and focused training. Too often, problems in older persons are misdiagnosed, overlooked, or dismissed as the normal result of aging because doctors are not trained to recognize how diseases and impairments might appear differently in the elderly than in younger patients. One need only look at undiagnosed clinical depression in seniors or the consequences of adverse reaction to medicines to see how vital this specialized training really is. This lack of knowledge comes with a cost, in lives lost, and in unnecessary hospitalizations and treatments.

We need trained geriatricians to train new medical students. Of the 108 medical schools reporting for the 1994 to 1995 academic year, only 11 had a separate required course in geriatrics, 53 offered geriatrics as an elective, 96 included geriatrics as part of another required course and one reported not offering geriatrics coursework at all. Mr. President, this is simply not good enough.

In a country where by 2030, 1 in 5 citizens will be over the age of 65, there are only two departments of geriatrics at academic medical centers across the entire country. Yet, every academic medical center has a Department of Pediatrics. This just does not seem to make sense to me. While certainly no

one would argue the need for emphasis on pediatrics, there is no less of a need for emphasis on geriatrics as well. In England, it is my understanding that every academic medical center has a department of geriatrics. Do our friends in England know something we do not?

Mr. President, we have here a perfect case where an ounce of prevention will be worth a pound of cure. While not every patient over 65 will need a geriatrician, in fact most will not, we need academicians and researchers to train the medical community about the field of geriatrics and we need primary care physicians to have access to trained geriatricians when a patient's case warrants it. As our oldest old population increases, the population growing the fastest and most appropriate for geriatric intervention, we must ensure that access to geriatricians becomes a reality.

I believe the Medicare Physician Workforce Act of 1997 and the Geriatricians Loan Forgiveness Act of 1997 are steps in the right direction. While they will not solve the total problem, they do make a critical first step.

Mr. President, I am grateful to the American Geriatrics Society for their assistance in working with my staff on this bill and I especially want to thank my cosponsors, Senators GRASSLEY and GLENN, for their support and leadership on this issue.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

THE AMERICAN GERIATRICS SOCIETY,
New York, NY, May 20, 1997.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: On behalf of the American Geriatrics Society (AGS), I am writing to offer our strongest support to the ''Medicare Physician Workforce Improvement Act of 1997'' and the ''Geriatricians Loan Forgiveness Act of 1997.''

With more than 6500 physician and other health care professional members, the AGS is dedicated to improving the health and well being of all older adults. While we provide primary care and supportive services to all patients, the focus of geriatric practice is on the frailest and most vulnerable elderly. The average age of a geriatrician's caseload exceeds 80, and our patients often have multiple chronic illnesses. Given the complexity of medical and social needs among our country's oldest citizens, we are strongly committed to a multi-disciplinary approach to providing compassionate and effective care to our patients.

As you know, America faces a critical shortage of physicians with special training in geriatrics. Even as the 76 million persons of the baby boom generation reach retirement age over the next 15 to 20 years, the number of certified geriatricians is declining. By providing modest incentives—which will encourage teaching hospitals to increase the number of training fellowships in geriatric medicine and psychiatry, provide loan assistance to physicians who pursue such training, and support development of innovative and flexible models for training in geriatrics—your bills represent very positive steps toward reversing that trend.

The American Geriatrics Society has been pleased to work closely with your office to develop initiatives to preserve and improve the availability of highest quality medical care for our oldest and most vulnerable citizens. We believe that the ''Medicare Physician Workforce Improvement Act'' and the ''Geriatricians Loan Forgiveness Act'' represent a cost-effective approach to training the physicians our nation increasingly will need. We commend you for your leadership on an issue of such vital importance to the Medicare program and our elderly citizens.

Sincerely,

DENNIS JAHNIGEN, *MD,*
President.

ALLIANCE FOR AGING RESEARCH,
Washington, DC, May 16, 1997.

Hon. HARRY REID,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR REID: As the Executive Director for the Alliance for Aging Research, an independent, not-for-profit organization working to improve the health and independence of older Americans, I am writing in support of the ''Medicare Physician Workforce Improvement Act'' and the ''Geriatricians Loan Forgiveness Act.''

As you know, on May 14, 1996 the Alliance released a report, ''Will You Still Treat Me When I'm 65?'', addressing the national shortage of geriatricians. Currently, there are only 6,784 primary-care physicians certified in geriatrics, the area of medicine that addresses the complex needs of older patients. That is less than one percent of the total of 684,414 doctors in the U.S. We currently need 20,000 geriatricians and a total of 36,858 by the year 2030 to care for the graying baby boomers. These two pieces of legislation take the important first steps in solving this problem.

In addition to increasing the number of physicians trained in geriatrics, we need to develop a strong cadre of academics and researchers within our medical schools to help mainstream geriatrics into both general practice and specialties. Increasing the number of fellowship positions in geriatric medicine will improve the situation.

We must have this kind of support and commitment from the federal government, along with private philanthropy and business if we are to sufficiently care for our aging population. The Alliance for Aging Research is encouraged by your leadership and support in this area and we look forward to working with you to bring these issues before Congress.

Best regards,

DANIEL PERRY,
Executive Director.

● Mr. GRASSLEY. Mr. President, I am pleased to be an original cosponsor of two very important bills being offered by my colleague on the Senate Special Committee on Aging, Senator HARRY REID. The legislation we are introducing today will encourage more of our nation's physicians to specialize in geriatric medicine. As our population continues to age and with the impending retirement of the baby boomers, the need for trained geriatricians will be great. In my home State of Iowa, 15 percent of the population is over 65 with the third largest percentage of elderly in the Nation.

The incentives for residents to choose geriatrics as a specialty are limited. The financial rewards are fewer than most other specialties. In addition, patients require more time and attention because they typically have a multitude of health problems. With the cost of education so high, many residents face enormous debt when they complete medical school. Institutions have trouble attracting students to specialize in geriatric medicine due to the lack of financial incentives.

The Geriatricians Loan Forgiveness Act of 1997 will provide help to residents. This bill gives the Secretary of the Department of Health and Human Services [DHHS] the authority to forgive up to $20,000 of loans under the National Health Service Corps Loan Repayment Program on behalf of a resident who completes the required 1 year fellowship to become a geriatrician. The maximum amount of residents eligible is 400.

The other bill I am cosponsoring today is the Medicare Physician Workforce Improvement Act of 1997. We spent nearly $7 billion last year on graduate medical education under the Medicare Program. Yet, only 200 of the over 100,000 residency and fellowship positions funded by Medicare are in geriatric medicine. This does not make sense. Medicare is a program for seniors. Therefore, we should be supporting physicians who specialize in geriatrics.

The Medicare Physician Workforce Improvement Act has two provisions to encourage academic medical centers to train physicians in geriatrics under the Medicare graduate medical education [GME] program. The first provision provides for an adjustment in a hospital's count of primary care residents to allow each resident enrolled in an approved medical residency or fellowship program in geriatric medicine to be counted as two full-time equivalent primary care residents for the 1-year period necessary to be certified in geriatric medicine. A limit is placed on the number of residents enrolled each year to control the cost. No more than 400 fellows nationwide can be eligible in any given year. This provision will encourage institutions to train more geriatricians using Medicare funds.

The second provision is budget neutral. It directs the Secretary of DHHS to establish five geriatric medicine training consortium demonstration projects nationwide. The demonstration will allow current Medicare GME funds to be distributed to a consortium consisting of a teaching hospital, one or more skilled nursing facilities, and one or more ambulatory care or community-based facilities to train residents in geriatrics. This provision could be beneficial to rural areas and other areas not served by an academic medical center.

I applaud Senator REID for his efforts to provide our Nation's elderly with qualified trained geriatricians. I ask my colleagues on both sides of the aisle to join Senator REID and me in support of these legislative initiatives.●

By Mr. HATCH (for himself, Mr. CRAIG, Mr. GRAMM, Mr. ENZI, Mr. COCHRAN, Mr. HELMS and Mr. KEMPTHORNE):

S. 781. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment; to the Committee on the Judiciary.

THE OMNIBUS PROPERTY RIGHTS ACT

Mr. HATCH. Mr. President, I am pleased today to once again introduce the Omnibus Property Rights Act. Many Members of the Senate have as a paramount concern the protection of individual rights protected by our Constitution.

One particular right—the right to own and use private property free from arbitrary governmental action—is increasingly under attack from the regulatory state. Indeed, despite the constitutional requirement for the protection of property rights, the America of the late 20th century has witnessed an explosion of Federal regulation that has jeopardized the private ownership of property with the consequent loss of individual liberty.

Under current Federal regulations, thousands of Americans have been denied the right to the quiet use and enjoyment of their private property. Arbitrary bureaucratic enforcement of Federal and State regulatory programs has prevented Americans from building homes and commercial buildings, plowing fields, repairing barns and fences, clearing brush and fire hazards, felling trees, and even removing refuse and pollutants, all on private property.

Fairness and simple justice demand that Americans owning property be entitled to the full use of their property. Ensuring compensation for regulatory takings is the first step toward restoring the fundamental right to own and use private property guaranteed by the takings clause of the fifth amendment to our Constitution. That is why I am once again introducing legislation—the Omnibus Property Rights Act—to protect private property owners from overzealous regulators. This bill, similar in substance and procedure to the bills I introduced last Congress, represents the most comprehensive legislative mechanism to date to foster and protect the private ownership of property.

The omnibus bill contains three different approaches contained in different titles.

The first substantive title of the bill encompasses property rights litigation reform. This title establishes a distinct Federal fifth amendment ''takings'' claim against Federal agencies by aggrieved property owners, thus clarifying the sometimes incoherent and contradictory constitutional property rights case law. Property protected under this section includes real property, including fixtures on land, such as crops and timber, mining interests, and water rights. This title is triggered when a taking, as defined by the Supreme Court, occurs. Moreover, it allows for compensation when the property, or ''affected portion'' of property, is reduced in value by 33 percent or more.

It has been alleged that this bill would impede government's ability to protect public health, safety, and the environment. This is not true. This first title contains a ''nuisance exception'' to compensation. It codifies that part of the 1992 Supreme Court decision in Lucas versus South Carolina Coastal Council, which held that restrictions on property use based on ''background principles of the state's law of property and nuisance'' need not be compensated. Thus, by adopting the Supreme Court's recent Lucas holding, the Omnibus Property Rights Act provides that only innocent property holders are to be compensated for government takings. Those that demonstrably misuse their property to pollute or to harm public health and safety are not entitled to compensation under the bill's nuisance provision.

Finally, this title also resolves the jurisdictional dispute between the Federal district courts and the Court of Federal Claims over fifth amendment ''takings'' cases—sometimes called the Tucker Act shuffle—by granting each court concurrent jurisdiction.

A second title in essence codifies President Reagan's Executive Order 12630. Under this title, a Federal agency must conduct a private property taking impact analysis before issuing or promulgating any policy, regulation, or related agency action which is likely to result in a taking of private property.

A third title provides for alternative dispute resolution in arbitration proceedings.

The three titles of the Omnibus Property Rights Act together function to provide the property owner with mechanisms to vindicate the fundamental constitutional right of private ownership of property, while instituting powerful internal incentives for Federal agencies both to protect private property and include such protection in agency planning and regulating.

It is very significant that the nonpartisan Congressional Budget Office, after a year of research, concluded in a study dated March 8, 1996, that the incentives built into the very similar bills I introduced last Congress would have encouraged agencies to act more responsibly, that the administrative cost of the bill would be quite small, and that compensation costs would be even smaller.

Despite some critics' charges that these very similar bills would be too costly, CBO found that the costs of both the omnibus bills will diminish to an insignificant level over time. This is predicated on the CBO finding that each of the omnibus bills contain powerful incentives, which over time will reduce costs. These include: First, the bills' bright line legal standards, which better enable agencies to avoid takings disputes; second, the takings impact assessment requirement, which requires agencies to analyze the affect of proposed regulations on property rights; and third, the requirement that compensation be paid from the agency's budget, which inevitably will act as a deterrent to unconstitutional and unlawful takings. Based on extensive research, CBO estimated that each omnibus bill should cost no more than $30 or $40 million a year for the first 5 years of implementation, thereafter diminishing to insignificant amounts. The new bill will cost even less.

IMPORTANCE OF PRIVATE PROPERTY

The private ownership of property is essential to a free society and is an integral part of our Judeo-Christian culture and the Western tradition of liberty and limited government. Private ownership of property and the sanctity of property rights reflects the distinction in our culture between a preexisting civil society and the state that is consequently established to promote order. Private property creates the social and economic organizations that counterbalance the power of the state by providing an alternative source of power and prestige to the state itself. It is therefore a necessary condition of liberty and prosperity.

While government is properly understood to be instituted to protect liberty within an orderly society and such liberty is commonly understood to include the right of free speech, assembly, religious exercise and other rights such as those enumerated in the Bill of Rights, it is all too often forgotten that the right of private ownership of property is also a critical component of liberty. To the 17th century English political philosopher, John Locke, who greatly influenced the Founders of our Republic, the very role of government is to protect property: ''The great and chief end therefore, on Men uniting into Commonwealths, and putting themselves under Government, is the preservation of their property.''

The Framers of our Constitution likewise viewed the function of government as one of fostering individual liberties through the protection of property interests. James Madison, termed the ''Father of the Constitution,'' unhesitantly endorsed this Lockean viewpoint when he wrote in The Federalist No. 54 that ''[government] is instituted no less for the protection of property, than of the persons of individuals.'' Indeed, to Madison, the private possession of property was viewed as a natural and individual right both to be protected against government encroachment and to be protected by government against others.

To be sure, the private ownership of property was not considered absolute. Property owners could not exercise their rights as a nuisance that harmed their neighbors, and government could use, what was termed in the 18th century, its despotic power of eminent domain to seize property for public use. Justice, it became to be believed, required compensation for the property taken by government.

The earliest example of a compensation requirement is found in chapter 28 of the Magna Carta of 1215, which reads, ''No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.'' But the record of English and colonial compensation for taken property was spotty at best. It has been argued by some historians and legal scholars that compensation for takings of property became recognized as customary practice during the American colonial period.

Nevertheless, by the time of American independence, the compensation requirement was considered a necessary restraint on arbitrary governmental seizures of property. The Vermont Constitution of 1777, the Massachusetts Constitution of 1780, and the Northwest Ordinance of 1787, recognized that compensation must be paid whenever property was taken for general public use or for public exigencies. And although accounts of the 1791 congressional debate over the Bill of Rights provide no evidence over why a public use and just compensation requirement for takings of private property was eventually included in the fifth amendment, James Madison, the author of the fifth amendment, reflected the views of other supporters of the new Constitution who feared the example to the new Congress of uncompensated seizures of property for building of roads and forgiveness of debts by radical state legislatures. Consequently, the phrase ''[n]or shall private property be taken for public use, without just compensation'' was included within the fifth amendment to the Constitution.

CURRENT PROTECTION OF PROPERTY RIGHTS FALL SHORT

Judicial protection of property rights against the regulatory state has been both inconsistent and ineffective. Physical invasions and government seizures of property have been fairly easy for courts to analyze as a species of eminent domain, but not so for the effect of regulations which either diminish the value of the property or appropriate a property interest.

This key problem to the regulatory takings dilemma was recognized by Justice Oliver Wendell Holmes in *Pennsylvania Coal Co.* v. *Mahon,* 260 U.S. 393 (1922). How do courts determine when regulation amounts to a taking? Holmes' answer, ''if regulation goes too far it will be recognized as a taking,'' 260 U.S. at 415, is nothing more than an ipse dixit. In the 73 years since Mahon, the Court has eschewed any set formula for determining how far is too far, preferring to engage in ad hoc factual inquiries, such as the three-part test made famous by *Penn Central Transportation Co.* v. *City of New York,* 438 U.S. 104 (1978), which balances the economic impact of the regulation on property and the character of the regulation against specific restrictions on investment-backed expectations of the property owner.

Despite the valiant attempt by the Rehnquist Court to clarify regulatory takings analysis in *Nollan* v. *California Coastal Comm'n,* 483 U.S. 825 (1987), *Lucas* v. *South Carolina Coastal Council,* 112 S.Ct. 2886 (1992), and in its recent decision of *Dolan* v. *City of Tigard,* No. 93–518 (June 24, 1994), takings analysis is basically incoherent and confusing and applied by lower courts haphazardly. The incremental, fact-specific approach that courts now must employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment thus has been ineffective and costly.

There is, accordingly, a need for Congress to clarify the law by providing bright line standards and an effective remedy. As Chief Judge Loren A. Smith of the Court of Federal Claims, the court responsible for administering takings claims against the United States, opined in *Bowles* v. *United States,* 31 Fed. Cl. 37 (1994), ''[j]udicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy.''

This incoherence and confusion over the substance of takings claims is matched by the muddle over jurisdiction of property rights claims. The Tucker Act, which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a Government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the Federal district court and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the Government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court.

This Tucker Act shuffle is aggravated by section 1500 of the Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens, in *Keene Corporation* v. *United States,* 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment.

Title II of the Omnibus Property Rights Act addresses these problems. In terms of clarifying the substance of takings claims, it first clearly defines property interests that are subject to the act's takings analysis. In this way a floor definition of property is established by which the Federal Government may not eviscerate. This title also establishes the elements of a takings claim by codifying and clarifying the holdings of the Nollan, Lucas, and Dolan cases.

For instance, Dolan's rough proportionality test is interpreted to apply to all exaction situations whereby an owner's otherwise lawful right to use property is exacted as a condition for granting a Federal permit. And a distinction is drawn between a noncompensable mere diminution of value of property as a result of Federal regulation and a compensable partial taking, which is defined as any agency action that diminishes the fair market value of the affected property by 33 percent or more. The result of drawing these bright lines will not be the end fact-specific litigation, which is endemic to all law suits, but it will ameliorate the ever increasing ad hoc and arbitrary nature of takings claims.

Finally, I once again want to respond to any suggestion that may arise that this act will impede Government's ability to protect the environment or promote health and safety through regulation. This legislation does not, contrary to the assertions of some, emasculate the Government's ability to prevent individuals or businesses from polluting. It is well established that the Constitution only protects a right to reasonable use of property. All property owners are subject to prior restraints on the use of their property, such as nuisance laws which prevents owners from using their property in a manner that interferes with others.

The Government has always been able to prevent harmful or noxious uses of property without being obligated to compensate the property owner, as long as the limitations on the use of property inhere in the title itself. In other words, the restrictions must be based on background principles of State property and nuisance law already extant. The Omnibus Property Rights Act codifies this principle in a nuisance exception to the requirement of the Government to pay compensation.

Nor does the Omnibus Property Rights Act hinder the Government's ability to protect public health and safety. The act simply does not obstruct the Government from acting to prevent imminent harm to the public safety or health or diminish what would be considered a public nuisance. Again, this is made clear in the provision of the act that exempts nuisance from compensation. What the act does is force the Federal Government to pay compensation to those who are singled out to pay for regulation that benefits the entire public.

In other words, it does not prevent regulation, but fulfills the promise of the fifth amendment, which the Supreme Court in *Armstrong* v. *United States,* 364 U.S. 40, 49 (1960), opined is

''to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole.''

I hope that all Senators will join me in supporting this long overdue legislation.

By Mr. LUGAR:

S. 782. A bill to amend the Department of Agriculture Reorganization Act of 1994 to remove the provision that prevents the recovery of an amount disbursed as a result of an erroneous decision made by a State, county, or area committee; to the Committee on Agriculture, Nutrition, and Forestry.

THE USDA'S FINALITY RULE REPEAL ACT OF 1997

● Mr. LUGAR. Mr. President, I introduce legislation to repeal an outdated agricultural law that has cost taxpayers millions of dollars over the last several years.

Historically, as part of its statutory mandate to support farmers' income, the Department of Agriculture made payments to farmers for the planting of certain crops and in cases of natural disaster. In the process of carrying out this mission, USDA sometimes mistakenly overpaid farmers.

A provision of the 1990 farm bill, known as the finality rule or the 90-day rule, allowed farmers to keep these overpayments if they were not discovered within 90 days of the payment or application for farm program benefits. Repayment is required in cases of fraud or misrepresentation involving the farmer.

Whatever its merits in 1990, changes in farm policy and new evidence indicate that the finality rule should be repealed. At the time of the 1990 farm bill, to be eligible for farm program payments, it was necessary for the county or State USDA office to determine that farmers were actively engaged in farming and that their operations were structured properly. Farmers often relied on these determinations before deciding which crops to plant, the size of the plantings, and how to structure their farming operation for the crop year.

However, the landmark reforms in the 1996 farm bill eliminated these justifications for the finality rule. Under the 1996 farm bill, farm payments are no longer linked to the planting decisions of farmers and the structure of the farming operation is unlikely to change. Today, payments are made based on a formula which does not vary from one year to the next.

The finality rule does not only apply to farm program payments. It applies to most types of payments received by farmers including disaster relief assistance. But these disaster payments have been dramatically scaled back in recent years. In 1994, Congress passed the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act which largely eliminated disaster assistance payments for most major crops. Instead of disaster aid, farmers were encouraged to buy crop insurance.

A recent report from the General Accounting Office provides further evidence that the finality rule should be repealed. According to GAO, from November 1990 through September 1996, USDA applied the finality rule to 10,694 cases in which the overpayments were not discovered within the 90-day timeframe. The rule allowed farmers to keep $4.2 million in overpayments. Nearly 90 percent of the overpayments involved crop disaster initiatives or old-style farm programs which no longer exist.

GAO also looked closely at finality rule payments in fiscal years 1995 and 1996. Even though the justification for the finality rule was to prevent farmers from having to repay large amounts of money years after the money was paid, GAO found that most of the overpayments involved small sums and were discovered within 9 months or less. According to GAO, in the years studied, 86 percent of the finality rule cases involved $500 or less. In addition, 59 percent had overpayments amounting to 10 percent or less of the correct payment amounts, and two-thirds were discovered within 9 months of the date of payment or the filing of a program application. It should be noted that while most of the overpayments were small, a few large overpayments accounted for the bulk of the dollar value of the overpayments. An examination of the GAO data indicate that the finality rule, in its application, has not served its original stated purpose.

Mr. President, the U.S. Department of Agriculture agrees that the finality rule should be repealed. In those limited number of cases in which repayment would work a hardship on the farmer, the very cases that finality rule was supposed to assist, USDA has indicated that it would use existing procedures already in place for debt collection in hardship cases.

In summary, Mr. President, the finality rule was largely designed for programs which have been dramatically altered, it generally does not serve the hardship cases for which it was designed, and it can be replaced by other existing procedures designed for hardship cases. The Department of Agriculture and the General Accounting Office support its repeal. It is time to remove this outdated law from the books. I urge my colleagues to support this bill.

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. 782

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

SECTION 1. RECOVERY OF AMOUNTS BASED ON ERRONEOUS DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.

Section 281 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.●

By Mr. D'AMATO (by request):

S. 784. A bill to reform the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes.

THE PUBLIC HOUSING MANAGEMENT REFORM ACT OF 1997

● Mr. D'AMATO. Mr. President, as chairman of the Committee on Banking, Housing and Urban Affairs, I introduce the Public Housing Management Reform Act of 1997 at the request of the Secretary of the Department of Housing and Urban Development, the Honorable Andrew M. Cuomo.●

By Mr. SMITH of Oregon:

S. 785. A bill to convey certain land to the city of Grants Pass, OR; to the Committee on Energy and Natural Resources.

THE GRANTS PASS LAND TRANSFER ACT OF 1997

● Mr. SMITH of Oregon. Mr. President, I am today introducing legislation to transfer 320 acres of Oregon and California grant lands currently under the jurisdiction of the Bureau of Land Management [BLM] to the city of Grants Pass, OR. I am pleased to introduce this legislation because it exemplifies how I believe our government should work. I believe government works best when the local community has an opportunity to participate in making decisions important to them.

Since 1968, the city of Grants Pass has leased 200 acres of BLM land to operate the Merlin Municipal Solid Waste Facility under permit by the Oregon Department of Environmental Quality [DEQ]. The current lease ends April 14 in the year 2000 and, pursuant to BLM's national policy, the lease will not be renewed. The city of Grants Pass has made an incredible commitment of time, manpower, and financial resources over several years to address and minimize the environmental concerns of the Merlin landfill. The long-term management and resolution of these environmental issues can best be handled by the city of Grants Pass through ownership of the property.

The 120 acres not part of the Merlin landfill are described by BLM as ''scab lands'' and are not subject to timber harvest. In addition, if the additional 120 acres are retained they would be landlocked or without access. For these reasons, the BLM recommends that these 120 acres be included in the land transfer. The 120 acres and any of the 200 acres not used for solid waste management will be retained exclusively for public use.

The reason for this legislation is simple: Existing Federal law providing for the transfer of Federal land either does not cover Oregon and California grant lands, presents administrative procedural requirements, or does not provide

the United States with the necessary environmental liability safeguards.

The Grants Pass land transfer legislation is supported at all levels of government—local, State, and Federal. This legislation is a companion bill to that of my good friend and colleague from the House, Congressman BOB SMITH, and is being heard today before the House Subcommittee on National Parks and Public Lands. I encourage my colleagues to join me in support of this legislation.

Mr. President, I ask unanimous consent that the provisions of the bill be inserted in the RECORD.

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

S. 785

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

SECTION 1. CONVEYANCE OF BLM LAND TO GRANTS PASS, OREGON.

(A) CONVEYANCE REQUIRED.—Effective on the date the City of Grants Pass, Oregon tenders to the Secretary of the Interior an indemnification agreement and without monetary compensation, all right, title, and interest of the United States in and to the real property described in subsection (b) is conveyed, by operation of law, to the City of Grants Pass, Oregon (in this section referred to as the ''City'').

(b) PROPERTY DESCRIBED.—

The real property referred to in subsection (a) is that parcel of land depicted on the map entitled '' '' and dated , 1997, consisting of—

(1) approximately 200 acres of Bureau of Land Management land on which the City has operated a landfill under lease; and

(1) approximately 200 acres of Bureau of Land Management land that area adjacent to the land described in subparagraph (1).

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Secretary shall require the City to agree to indemnify the Government of the United States for all liability of the Government that arises from the property.●

By Mrs. MURRAY:

S. 788. A bill to suspend temporarily the duty on certain materials used in the manufacture of skis and snowboards; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mrs. MURRAY. Mr. President, I introduce legislation of importance to the economy and quality of life in my home State of Washington. The measure I am introducing will help maintain the competitiveness of an industry that makes vital contributions to our State and this Nation.

One of my top priorities here in the U.S. Senate is to support policies that promote economic growth for people in Washington State and across the country. To me, this means preserving current jobs and creating new jobs in all sectors of our economy.

The K2 Corp., located on Vashon Island in Washington State, makes an important contribution toward achieving this goal. As the last remaining major U.S. manufacturer of skis and just one of three major snowboard makers in this country, K2 employs more than 700 people at its Vashon Island facility. The products made by K2 represent a substantial percentage of the American skis and snowboards sold around the world. Maintaining the competitiveness of K2 helps ensure the United States remains a player in the global ski market.

To the extent possible, K2 purchases materials used in the manufacture of skis and snowboards from companies based in Washington State and other regions of our country. However, K2 is unable to find a domestic source that meets its requirements for two key raw materials—steel edges and polyethylene base material. As a result, K2 must purchase these two commodities abroad and pay customs duties on the imported products. This forces K2 to spend more for these materials, thus diverting resources that could be used to expand business and develop new technologies.

My legislation seeks to make these resources available to K2 suspending U.S. customs duty on imports of these two raw materials—steel edges and polyethylene base material. It helps ensure K2 and America continue to have a role in the international ski industry. Together, these materials comprise a very small portion of all the materials used to produce skis. However, without the ability to acquire them at a reasonable cost, K2's ability to compete on an international scale would be adversely affected.

K2 strives to continue as a key player in the increasingly competitive international ski and snowboard market. This duty suspension legislation will help enable K2 to compete and to continue supporting our Nation's economy. I urge my colleagues to support this legislation, which strengthens the U.S. ski and snowboard industry and supports American jobs.●

By Mr. GRASSLEY (for himself, Mr. BREAUX, Mr. D'AMATO, Mr. WYDEN, Mr. JEFFORDS, Mr. KOHL and Mr. CHAFEE):

S. 789. A bill to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with additional information regarding Medicare managed care plans and Medicare select policies; to the Committee on Finance.

MEDICARE BENEFICIARY INFORMATION ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise today with my colleague, Senator BREAUX, to introduce the Medicare Beneficiary Information Act of 1997. Medicare is a Federal program paid for with taxpayer dollars. Therefore, Congress has the duty and obligation to ensure beneficiaries have access to necessary information to select an appropriate health plan for their individual health care needs.

This legislation is based upon many of the recommendations made to members of the Senate Special Committee on Aging at a hearing we held on April 10, 1997. This bill will improve competition among Medicare health plans and provide Medicare beneficiaries with the useful information they need to make an informed choice when selecting a health plan. Good, reliable information that allows consumers to select among competing options is essential for any market to work. The health care market is no exception. Under Medicare, accurate, widely-available comparative information does not exist. The Medicare Beneficiary Information Act of 1997 addresses this problem by including the following provisions:

While beneficiaries now have to call all the health plans in their area, wait for the marketing materials to come, and then try and compare all the different brochures with no standard terminology required, this bill instructs the Secretary to develop comparison charts for each Medicare HMO market and for Medicare Select plans. The Secretary has discretion to utilize existing mechanisms in place, such as regional Health Care Financing Administration [HCFA] offices and Insurance Counseling Assistance [ICA's] programs, to develop and distribute these charts.

Comparison charts would be distributed by Medicare health plans in their marketing materials and at the time of enrollment and annually thereafter. In addition, the charts would be available upon request through HCFA. The charts would help beneficiaries understand the difference between the HMO's in their market. The charts would also contain a description of standard fee-for-service Medicare, so beneficiaries have a reference point.

The charts will tell beneficiaries about, for example, the health plans' additional benefits; additional premiums; out-of-pocket expenses; disenrollment rates, as recommended by the General Accounting Office at the Aging Committee hearing; appeal rates, reversed and denied; coverage for out-of-area services.

The bill also requires plans to inform beneficiaries about their rights and responsibilities using understandable, standard terminology regarding benefits; appeals and grievance procedures; restrictions on payments for services not provided by the plan; out-of-area coverage; coverage of emergency services and urgently needed care; coverage of out-of-network services; and any other rights the Secretary determines to be helpful to beneficiaries.

These provisions are also included in the bill I introduced on May 6, entitled the ''Medicare Patient Choice and Access Act of 1997,'' or S. 701. Senator BREAUX and I believe that providing Medicare beneficiaries with proper information to select the health plan that best meets their individual health care needs is so important, we decided to introduce this free-standing bill. Increasing choices within the Medicare program has strong bipartisan support, but this approach is meaningless if beneficiaries cannot make an informed choice. Our bill can be enacted and implemented quickly. HCFA is already collecting this data and plans to start

distributing comparative information this summer through the Internet. However, Internet access is not enough. We need to provide this information in written form and through Medicare counseling programs as well. Medicare beneficiaries, as research has shown, prefer reviewing written materials and having someone with which to talk. Our bill would enable beneficiaries to obtain a user-friendly chart utilizing existing Medicare counseling programs, local Medicare offices and through health plans participating in the Medicare program.

We ask our colleagues on both side of the aisle to join us in cosponsoring this important legislation. I ask unanimous consent that a copy of the bill be submitted for the RECORD. I also ask unanimous consent that a news column by Senator BREAUX be included in the RECORD.

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

S. 789

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 Beneficiary Information Act of 1997''.

SEC. 2. MEDICARE BENEFICIARY INFORMATION.

(a) IN GENERAL.—Section 1876(c)(3)(E) of the Social Security Act (42 U.S.C. 1395mm(c)(3)(E)) is amended to read as follows:

''(E)(i) 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 and responsibilities under this section and a copy of the most recent comparative report (as established by the Secretary under clause (ii)) for that organization.

''(ii)(I) 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 decisionmaking 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, eligible organizations under this section, providers of services, and physicians and other health care professionals, in order to assist the Secretary in developing the report.

''(II) The report described in subclause (I) shall include a comparison for each plan of—

''(aa) the premium for the plan;

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

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

''(dd) 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;

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

''(ff) 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;

''(gg) 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;

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

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

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

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

''(ll) 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) The comparative report shall also include—

''(aa) a comparison of each plan to the fee-for-service program under parts A and B; and

''(bb) an explanation of medicare supplemental policies under section 1882 and how to obtain specific information regarding such policies.

''(IV) The Secretary shall, not less than annually, update each comparative report.

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

''(iv) In this subparagraph—

''(I) the term 'health care provider' means anyone licensed under State law to provide health care services under part A or B;

''(II) 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; and

''(III) 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.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) 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. 3. APPLICATION OF ADDITIONAL INFORMATION 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(c)(3)(E)(i) 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(a)(3)(E)(ii).''.

(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. 4. NATIONAL INFORMATION CLEARINGHOUSE.

(a) IN GENERAL.—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(c)(3)(E)(ii) of the Social Security Act (42 U.S.C. 1395mm(c)(3)(E)(ii)) (as amended by section 2 of this Act) and section 1882(t)(4) of the Social Security Act (42 U.S.C. 1395ss(t)(4)) (as added by section 3 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).

GIVING OLDER CONSUMERS BETTER INFO ON HEALTH CARE BENEFITS

(John Breaux, U.S. Senator for Louisiana)

The federal government needs to provide older Americans with better information about all their health care options. That was the conclusion of a senate hearing I recently cochaired as the new ranking Democrat on the Senate Special Aging Committee. We called in a number of health care experts to talk about the quality of information provided to millions of Medicare beneficiaries, including nearly 600,000 in Louisiana.

Many who testified said that right now Medicare beneficiaries are not being given all the information they need to adequately compare the costs and benefits of their health care coverage.

We learned that many beneficiaries simply do not know how managed care is different from standard fee-for-service Medicare. And they are not getting simple explanations of the differences among the Medicare Health Maintenance Organizations (HMO's) in their local areas. Because it is generally agreed that HMO's best serve their enrollees when they compete on factors other than just price, providing Medicare beneficiaries with more and better information is essential.

Consumers ideally need simple, readable comparison charts so they are able to readily understand the differences between plans. Currently, the Health Care Financing Administration (HCFA), which administers Medicare, does not provide beneficiaries with any comparative data. This means older people who want to learn about managed care options must call a toll-free number to see what HMO's are in their area and then call each company one-by-one and request their health care information. The problem is that each local plan with a Medicare contract presents information using different formats and language, so it's difficult or even impossible to make cost and benefit comparisons.

And while the vast majority of Medicare beneficiaries—87 percent nationally—remain enrolled in traditional fee-for-service Medicare, this is changing rapidly. The number of beneficiaries nationwide who enroll in HMO's is growing by about 30 percent a year. In Louisiana, the growth rate is more than 50 percent. The number of health plans with Medicare contracts is also increasing rapidly. In 1993, there were 110 such plans. Last year, the number more than doubled to 241.

In a recent report to the Congress, the General Accounting Office (GAO) was critical of the type of information older Americans get on their health care options. The Prospective Payment Assessment Commission also said in a recent report that ''cost and benefit definitions should be standardized so that beneficiaries can better compare plans.''

And the Institute of Medicine last year reported that ''current information available to Medicare beneficiaries lags far behind the kinds of assistance provided by progressive private employers to their employees.''

One way to begin addressing these disturbing structural problems is to provide more and better information so that beneficiaries can make informed choices. It is really a fairly simple concept, but one that government often loses sight of—people make wiser and less costly decisions for themselves and their families if they have the right kind of information.

In fact, in its October 1996 report, GAO recommended that the federal government require plans to use standard formats and terminology; produce benefit and cost comparison charts with all Medicare options available for all areas; and analyze, compare and widely distribute certain statistics about HMO's, including their disenrollment rates and rate of complaints.

Clearly, we must find a better way to inform Medicare consumers about their choices because good information is the key to making the right health care choices for ourselves and our loved ones.

By Mr. DASCHLE:

S. 790. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES LEGISLATION

Mr. DASCHLE. Mr. President, I am pleased to introduce legislation to expand the current inventory charitable donation rule to include Indian tribes. This proposal is short and simple.

Under current law, companies may obtain a special charitable donation tax deduction under Internal Revenue Code section 170(e)(3) for contributing their excess inventory to the ill, the needy, or infants. While not limited to any particular type of company or inventory, this deduction commonly is used by food processing companies whose excess food inventories otherwise would spoil. Indian tribes have had difficulty obtaining these donations, however, because of an ambiguity in the law as to whether or not donating companies may deduct donations to organizations on Indian reservations.

The current language in section 170(e)(3) requires charitable donations of excess inventory to be made to organizations that are described in section 501(c)(3) of the Code and exempt from taxation under section 501(a). While Indian tribes are exempt from taxation, they are not among the organizations described in section 501(c)(3). Accordingly, it is not clear that a direct donation of excess inventory to an Indian tribe would qualify for the charitable donation deduction under section 170(e)(3).

Ironically, the Indian Tribal Government Tax Status Act found in section 7871 provides that an Indian tribal government shall be treated as a State for purposes of determining tax deductibility of charitable contributions made pursuant to section 170. Unfortunately, the act does not expressly extend to donations made under section 170(e)(3) because that provision technically does not include States as eligible donees.

Mr. President, it is well documented that Native Americans, like other citizens, may meet the qualifications for this special charitable donation. No one would argue that it is not within the intent of section 170(e)(3) to allow contributions to Native American organizations to qualify for the special charitable donation deduction in that section of the code. The bill I am introducing today simply would allow those contributions to qualify for the deduction. By allowing companies to make qualified contributions to Indian tribes under section 170(e)(3), the bill would clearly further the intended purpose of both Internal Revenue Code section 170(e)(3) and the Indian Tribal Government Tax Status Act.

The appropriateness of the measure is exhibited by the fact that it was included in the Revenue Act of 1992 (H.R. 11), which was vetoed for unrelated reasons. At that time, the measure was supported on policy grounds by the staffs of the joint committee on Taxation and Finance Committee. In 1995, the joint committee estimated that the proposal would have a negligible effect on Federal receipts over the 6-year period it estimated.

I strongly encourage my colleagues to support this bill and ask unanimous consent that its text be printed in the RECORD.

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

S. 790

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to a special rule for certain contributions of inventory or other property) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR INDIAN TRIBES.—

''(i) IN GENERAL.—An Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

''(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government, such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

By Mr. DASCHLE (for himself, Mr. DORGAN, Mr. GRASSLEY, Mr. JOHNSON and Mr. CONRAD):

S. 791. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company; to the Committee on Finance.

TAX TREATMENT OF TELEPHONE COOPERATIVES ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing legislation that reaffirms the intent of the U.S. Congress, originally expressed in 1916, to grant tax exempt status to telephone cooperatives. This exemption is now set forth in section 501(c)(12) of the Internal Revenue Code.

I am joined by my distinguished colleagues, Senators DORGAN, GRASSLEY, JOHNSON, and CONRAD.

This legislation is identical to a bill I introduced in the 103d and 104th Congresses and to a measure that was included in the Revenue Act of 1992, which ultimately was vetoed.

Congress has always understood that a tax exemption is necessary to ensure that reliable, universal telephone service is available in rural America at a cost that is affordable to the rural consumer. Telephone cooperatives are nonprofit entities that provide this service where it might otherwise not exist due to the high cost of reaching remote, sparsely populated areas.

The facilities of a telephone cooperative are used to provide both local and long distance communications services. Perhaps the most important of these for rural users is long distance. Without these services, both local and long distance, people in rural areas could not communicate with their own neighbors, much less with the world. While telephone cooperatives comprise only a small fraction of the U.S. telephone industry—about 1 percent—their services are vitally important to those who must rely upon them.

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, that is, rural consumers. No more than 15 percent of the cooperative's gross income may come from nonmember sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain categories of income are deemed neither member nor nonmember income and are excluded from the calculation. The reason for the 85 percent test is to ensure that cooperatives do not abuse their tax exempt status.

A technical advice memorandum [TAM] released by the Internal Revenue Service a few years ago threatens to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority could lose their tax exempt status.

Specifically, the IRS now appears to take the position that all fees received by telephone cooperatives from long distance companies for use of the local lines must be excluded from the 85 percent test and that fees received for billing and collection services performed by cooperatives on behalf of long distance companies constitute nonmember income to the cooperative.

The legislation I am introducing today would clarify that access revenues paid by long distance companies to telephone cooperatives are to be counted as member revenues, so long as they are related to long distance calls paid for by members of the cooperative. In addition, the legislation would indicate that billing and collection fees are to be excluded entirely from the 85 percent test calculation.

Mr. President, it is no secret that mere distance is the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances more effectively than ever before. Technology in this area has advanced at an incredible pace; however, maintaining and upgrading the rural telecommunications infrastructure is an exceedingly expensive proposition. We must do all we can to encourage this development, and ensuring that telephone cooperatives retain their legitimate tax exempt status is a vital step toward this goal. I believe that providing access to customers for long distance calls as well as billing and collecting for those calls on behalf of the cooperative's members and long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives have not materially changed since 1916, and neither should the formula upon which they rely to obtain tax exempt status.

In the 104th Congress, the Joint Committee on Taxation estimated the cost of this legislation to be $61 million over a 6-year period. At the appropriate time, I will recommend appropriate offsets to cover the cost of this measure over the 10-year period required under the Budget Act.

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. 791

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

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

''(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative.''

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from billing and collection services performed for a nonmember telephone company.''

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma at the end thereof '', other than income described in subparagraph (E)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1996.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of such Code (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

''(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account.''

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 of such Code is amended by adding at the end the following new subsection:

''(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

''(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

''(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

''(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

''(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

''(A) which would (but for this subsection) be excluded under subsection (b), and

''(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1996.

By Mr. DASCHLE (for himself, Mr. DORGAN, Mr. CONRAD and Mr. JOHNSON):

S. 792. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

THE SPECIAL USE VALUATION FOR FAMILY FARMS ACT OF 1997

Mr. DASCHLE. Mr. President, since 1988, I have studied the effects on family farmers of a provision in estate tax law known as section 2032A. While section 2032A may seem a minor provision to some, it is critically important to family run farms. A problem with respect to the Internal Revenue Service's interpretation of this provision has been festering for a number of years and threatens to force the sale of many family farms.

Section 2032A, which bases the estate tax applicable to a family farm on its use as a farm, rather than on its market value, reflects the intent of Congress to help families keep their farms. A family that has worked hard to maintain a farm should not have to sell it to a third party solely to pay stiff estate taxes resulting from increases in the value of the land. Under section 2032A, inheriting family members are required to continue farming the property for at least 15 years in order to avoid having the IRS recapture the tax savings.

At the time section 2032A was enacted, it was common practice for one or more family members to cash lease the farm from the other members of the family. This practice made sense in a situation in which some family members were more involved than others in the day-to-day farming of the land. Typically, the other family members would continue to be at risk with respect to the value of the farm and participate in decisions affecting the farm's operation. Cash leasing among family members remained a common practice after the enactment of section 2032A. An inheriting child would continue to cash lease from his or her siblings, with no reason to suspect from the statute or otherwise that the cash leasing arrangement might jeopardize the farm's qualification for special use valuation.

Based at least in part on some language that I am told was included in a Joint Committee on Taxation publication in early 1982, the Internal Revenue

Service has taken the position that cash leasing among family members will disqualify the farm for special use valuation. The matter has since been the subject of numerous audits and some litigation, though potentially hundreds of family farmers may yet be unaware of the change of events. Cases continue to arise under this provision.

In 1988, Congress provided partial clarification of this issue for surviving spouses who cash lease to their children. Due to revenue concerns, however, no clarification was made of the situation where surviving children cash lease among themselves.

My concern is that many families in which inheriting children or other family members have cash leased to each other may not even be aware of the IRS's position on this issue. At some time in the future, they are going to be audited and find themselves liable for enormous amounts in taxes, interest and penalties. For those who cash leased in the late 1970's, this could be devastating because the taxes they owe are based on the inflated land values that existed at that time.

A case that arose in my State of South Dakota illustrates the unfairness and devastating impact of the IRS interpretation of section 2032A. Janet Kretschmar, who lives with her husband, Craig, in Cresbard, SD, inherited her mother's farm along with her two sisters in 1980. Because the property would continue to be farmed by the family members, estate taxes were paid on it pursuant to section 2032A, saving over $50,000 in estate tax.

Janet and Craig continued to farm the land and have primary responsibility for its day-to-day operation. They set up a simple and straightforward arrangement with the other two sisters whereby Janet and Craig would lease the sisters' interests from them.

Seven years later, the IRS told the Kretschmars that the cash lease arrangement had disqualified the property for special use valuation and that they owed $54,000 to the IRS. According to the IRS, this amount represented estate tax that was being recaptured as a result of the disqualification. This came as an enormous surprise to the Kretschmars, as they had never been notified of the change in interpretation of the law and had no reason to believe that their arrangement would no longer be held valid by the IRS for purposes of qualifying for special use valuation. The fact is that, if they had known this, they would have organized their affairs in one of several other acceptable, though more complicated, ways.

For many years, I have sought inclusion in tax legislation of a provision that would clarify that cash leasing among family members will not disqualify the property for special use valuation. In 1992, such a provision was successfully included in H.R. 11, the Revenue Act of 1992 and passed by Congress. Unfortunately, H.R. 11 was subsequently vetoed. In 1995, I introduced this provision as freestanding legislation; however, it did not reach the full Senate for a vote.

Today, I am reintroducing a bill that is identical to the section 2032A measure which was passed in the Revenue Act of 1992. I am joined in this effort by Senators DORGAN, CONRAD and Mr. JOHNSON whose expertise on tax and rural issues are well known.

I must emphasize that there may be many other cases in other agricultural States where families are cash leasing the family farm among each other, unaware that the IRS could come knocking at their door at any minute. I urge my colleagues in the Senate who may have such cases in their State to work with us and support this important clarification of the law.

I intend to request that the Joint Committee on Taxation estimate the revenue impact of this proposal. At an appropriate time thereafter, I will recommend any necessary offsets over a 10-year period as required by the Budget Act.

Mr. President, I ask unanimous consent that the full 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. 792

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

SECTION 1. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use.''

(b) CONFORMING AMENDMENT.—Section 2032A (b)(5)(A) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

By Mr. DODD:

S. 793. A bill to amend the Public Health Service Act to require that the Center for Substance Abuse Treatment carry out treatment programs for adolescents; to the Committee on Labor and Human Resources.

THE SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS ACT

S. 794. A bill to amend the Public Health Service Act to revise and extend the grant program for services for children of substance abusers; to the Committee on Labor and Human Resources.

THE SUBSTANCE ABUSE TREATMENT FOR ADOLESCENTS ACT

Mr. DODD. Mr. President, I rise today to introduce two bills which seek to address one of the most critical problems tearing at the fabric of American society: substance abuse. When we consider health care costs, lost time on the job, increased crime, and other related factors, it is estimated that drug and alcohol abuse cost this Nation more than $300 billion in 1993. While some efforts to address this problem have been successful, there is still a great deal of work to be done. The two bills that I am introducing, the Services for Children of Substance Abusers Act and the Substance Abuse Treatment for Adolescents Act, seek to provide additional tools for families to fight the battle of addiction and its debilitating social consequences.

Addiction threatens the American family in several ways. The long term emotional health of an individual is shaped during childhood, and the children of substance abusers face numerous obstacles during their development. The children of substance abusers are typically deprived of the parent's attention and concern, and often the financial support to provide food, clothing, and shelter. In the most dramatic cases, children are exposed to substances prenatally and are deprived of a healthy future before they are even born.

An estimated 7 million children are growing up with at least one substance abusing parent, and more than 200,000 women who gave birth in the United States in 1992 used illegal drugs at some time during their pregnancy. In addition, alcohol consumption by pregnant women has recently surged, despite public campaigns about the effects of alcohol on the developing fetus. Clearly these parents will need help if they hope to overcome their addictions and raise healthy children. Unfortunately, these parents often face several obstacles on the road to recovery.

The basic problem with our current drug and alcohol treatment programs is that they fail to address the wide range of problems that addicted parents face. Many were physically or sexually abused as children. Many are victims of domestic violence. Many lack any formal job skills. Many will need child care assistance if they hope to enroll in a treatment program. Many fear that they will lose their children if they come forward for treatment. In short, these parents face several problems which extend far beyond their addictions.

The Children of Substance Abusers Act is currently authorized in the Public Health Services Act, but it has never been funded. Today, I introduce a revised version of this legislation that seeks to give families affected by substance abuse somewhere to turn. The heart of the bill is the grant program which will provide $50 million for a comprehensive range of health, developmental, and social services to children, parents, and other family members. These services will enhance the

ability of parents to access drug and alcohol treatment and promote family preservation, where appropriate.

The bill ensures that all children whose parents are substance abusers can enter the program and receive a range of services. The legislation addresses another critical need by providing grants to train professionals, child welfare workers, and other providers serving children to identify and address the effects of familial substance abuse.

For years we have talked about the impact of substance abuse on families. We have all visited the neonatal intensive care units, and we have all seen reports on children who were abused and neglected because their parents were on drugs. The time has come for Congress to respond to what is going on in this country and take an aggressive step toward alleviating these problems.

The Children of Substance Abusers Act is critical to our efforts to reach out to those families that are struggling with substance abuse, and I urge my colleagues to support the legislation I introduce today and fund this critical program.

On another front, the increased prevalence of substance abuse among young Americans poses an additional public health crisis. Last year, the percentage of teens using drugs within the past month rose from 8.2 to 10.9 percent, and the rate of drug use among 12 to 17 year-olds has doubled since 1992. I am particularly disappointed to learn that Connecticut's students report higher rates of drug use than their peers nationwide.

Annually, more than 400,000 Americans under the age of 18 are in need of treatment, and in Connecticut approximately 6,700 students need substance abuse treatment. However, young people have few places to turn. Most treatment programs are designed for adults, and there are limited resources available for the treatment of adolescents with drug and alcohol problems.

Federal and state initiatives have focused on preventing children from becoming substance abusers. While prevention efforts are effective and necessary, they do not provide for those adolescents with substance abuse problems. In addition, most substance abusing adolescents have co-occurring disorders, such as depression, learning disabilities, post-traumatic stress disorders, and other health problems which make treatment even more challenging.

The Substance Abuse Treatment for Adolescents Act seeks to create a funding stream for adolescent treatment. This would be the first time that any money has ever been earmarked specifically for adolescent treatment, setting aside an estimated $70 million annually to address this problem. This bill would also eliminate the need within the public system for adolescent providers to compete with other groups for scarce treatment dollars, thereby allowing them to focus upon the real problem: successfully treating adolescent substance abusers.

Mr. President, this legislation marks a significant step on the road toward improved treatment for adolescent substance abuse. It tells families that we care about their children's health and well-being, and it sends a signal to those individuals who struggle to help our kids overcome addiction that their hard work is not for naught, but will soon be rewarded.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 793

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 ''Substance Abuse Treatment for Adolescents Act''.

SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 507 of the Public Health Service Act (42 U.S.C. 290bb) is amended by adding at the end the following:

''(d) PROVISION OF SERVICES.—Notwithstanding any other provision of law, the Secretary, acting through the Center for Substance Abuse Treatment, shall ensure that not less than 20 percent of the amounts appropriated under this subpart for the programs and activities of the Center for Substance Abuse Treatment for each fiscal year, but in no case less than $20,000,000, is used to carry out adolescent specific substance abuse treatment programs. Such programs shall include the provision of services to such adolescents as well as the conduct of evaluations and research concerning the effects of such services.''.

S. 794

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 ''Services for Children of Substance Abusers Reauthorization Act''.

SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) ADMINISTRATION AND ACTIVITIES.—

(1) ADMINISTRATION.—Section 399D(a) of the Public Health Service Act (42 U.S.C. 280d(a)(1)) is amended—

(A) in paragraph (1), by striking ''Administrator'' and all that follows through ''Administration'' and insert ''Director of the Substance Abuse and Mental Health Services Administration''; and

(B) in paragraph (2), by striking ''Administrator of the Substance Abuse and Mental Health Services Administration'' and inserting ''Administrator of the Health Resources and Services Administration''.

(2) ACTIVITIES.—Section 399D(a)(1) of the Public Health Service Act (42 U.S.C. 280d(a)(1)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ''through family social services; child protective services; child care providers (including Head Start, schools, and early childhood development programs); community-based family resource and support centers; the criminal justice system; health and mental health providers through screenings conducted during regular childhood examinations and other examinations; self and family member referrals; treatment services; and other service providers and agencies serving children and families; and''; and

(C) by adding at the end the following:

''(D) to provide education and training to health care professionals, child welfare providers, and the personnel or such providers who provide services to children and families.''.

(3) IDENTIFICATION OF CERTAIN CHILDREN.—Section 399D(a)(3)(A) of the Public Health Service Act (42 U.S.C. 280d(a)(3)(A)) is amended—

(A) in clause (i), by striking ''(i) the entity'' and inserting ''(i)(I) the entity'';

(B) in clause (ii)—

(i) by striking ''(ii) the entity'' and inserting ''(II) the entity''; and

(ii) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) the entity will identify children who may be eligible for medical assistance under a State program under title XIX of the Social Security Act.''.

(b) SERVICES FOR CHILDREN.—Section 399D(b) of the Public Health Service Act (42 U.S.C. 280d(b)) is amended—

(1) in paragraph (1), by inserting ''alcohol and drug,'' after ''psychological,''; and

(2) by striking paragraph (5) and inserting the following:

''(5) Drug and alcohol treatment and prevention services.''.

(c) SERVICES FOR AFFECTED FAMILIES.—Section 399D(c) of the Public Health Service Act (42 U.S.C. 280d(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting before the semicolon the following: '', or through an entity the meets applicable State licensure or certification requirements regarding the services involved''; and

(B) by adding at the end the following:

''(D) Aggressive outreach to family members with substance abuse problems.

''(E) Inclusion of consumer in the development, implementation, and monitoring of Family Services Plan.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

''(A) Alcohol and drug treatment services, including screening and assessment, diagnosis, detoxification, individual, group and family counseling, relapse prevention, and case management.'';

(B) by striking subparagraph (C) and inserting the following:

''(C) Pre- and post-pregnancy family planning services and counseling on the human immunodeficiency virus and acquired immune deficiency syndrome.'';

(C) in subparagraph (D), by striking ''conflict and''; and

(D) in subparagraph (E), by striking ''Remedial'' and inserting ''Career planning and''.

(d) ELIGIBLE ENTITIES.—Section 399D(d) of the Public Health Service Act (42 U.S.C. 280d(d)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting:

''(d) ELIGIBLE ENTITIES.—The Secretary shall distribute the grants through the following types of entities:'';

(2) in paragraph (1), by inserting ''or prevention'' after ''drug treatment''; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking ''; and'' and inserting ''; or''; and

(B) in subparagraph (B), by inserting ''or pediatric health or mental health providers and family mental health providers'' before the period.

(e) SUBMISSION OF INFORMATION.—Section 399D(h) of the Public Health Service Act (42 U.S.C. 280d(h)) is amended—

(1) in paragraph (2)—

(A) by inserting ''including maternal and child health'' before ''mental'';

(B) by striking ''treatment programs''; and

(C) by striking ''and the State agency responsible for administering public maternal and child health services'' and inserting '', the State agency responsible for administering alcohol and drug programs, the State lead agency, and the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act''; and

(2) in paragraph (3)(B), by inserting before the semicolon the following: ''when the child can be cared for at home without endangering the child's safety''.

(f) REPORTS.—Section 399D(i)(6) of the Public Health Service Act (42 U.S.C. 280d(k)(6)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''(F) the number of children described in subparagraph (C) for whom the permanent plan is other than family reunification;''.

(g) EVALUATIONS.—Section 399D(l) of the Public Health Service Act (42 U.S.C. 280d(l)) is amended—

(1) in paragraph (4), by inserting before the semicolon the following: '', including increased participation in work or employment-related activities and decreased participation in welfare programs'';

(2) in paragraph (5), by striking ''children whose'' and inserting ''children who can be cared for at home without endangering their safety and whose''; and

(3) in paragraph (6), by inserting before the semicolon the following: ''if the reunification would not endanger the child''.

(h) REPORT TO CONGRESS.—Section 399D(m) of the Public Health Service Act (42 U.S.C. 280d(m)) is amended—

(1) in paragraph (2), by adding ''and'' at the end;

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

(3) by striking paragraphs (4) and (5).

(i) DATA COLLECTION.—Section 399D(n) of the Public Health Service Act (42 U.S.C. 280d(n)) is amended by adding at the end the following: ''The periodic report shall include a quantitative estimate of the prevalence of alcohol and drug problems in families involved in the child welfare system, the barriers to treatment and prevention services facing these families, and policy recommendations for removing the identified barriers, including training for child welfare workers.''.

(j) DEFINITION.—Section 399D(o)(2)(B) of the Public Health Service Act (42 U.S.C. 280d(o)(2)(B)) is amended by striking ''dangerous''.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 399D(p) of the Public Health Service Act (42 U.S.C. 280d(p)) is amended to read as follows:

''(p) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1998, and such sums as may be necessary for fiscal year 1999.''.

(l) GRANTS FOR TRAINING AND CONFORMING AMENDMENTS.—Section 399D of the Public Health Service Act (42 U.S.C. 280d) is amended—

(1) by striking subsection (f);

(2) by striking subsection (k);

(3) by redesignating subsections (d), (e), (g), (h), (i), (j), (l), (m), (n), (o), and (p) as subsections (e) through (o), respectively;

(4) by inserting after subsection (c), the following:

''(d) TRAINING FOR HEALTH CARE PROFESSIONALS, CHILD WELFARE PROVIDERS, AND OTHER PERSONNEL.—The Secretary may make a grant under subsection (a) for the training of health care professionals, child welfare providers, and other personnel who provide services to vulnerable children and families. Such training shall be to assist professionals in recognizing the drug and alcohol problems of their clients and to enhance their skills in identifying and obtaining substance abuse prevention and treatment resources.'';

(5) in subsection (k)(2) (as so redesignated), by striking ''(h)'' and inserting ''(i)''; and

(6) in paragraphs (3)(E) and (5) of subsection (m) (as so redesignated), by striking ''(d)'' and inserting ''(e)''.

By Mr. TORRICELLI (for himself and Mrs. FEINSTEIN):

S. 796. A bill to reduce gun trafficking, and for other purposes; to the Committee on the Judiciary.

THE GUN KINGPIN DEATH PENALTY ACT OF 1997

Mr. TORRICELLI. Mr. President, I rise today, on behalf of myself and the distinguished Senator from California, Senator FEINSTEIN, to introduce the Gun Kingpin Death Penalty Act of 1997. I hope that our colleagues will soon join us in sending a clear and strong signal to our most violent gunrunners—your actions will no longer be tolerated.

Mr. President, the fight against gun violence is a long-term, many-staged process. We have already succeeded in enacting the Brady bill and the ban on devastating assault weapons. Last year, even in the midst of what many consider a hostile Congress, we told domestic violence offenders that they could no longer own a gun.

And these laws have been effective: 186,000 prohibited individuals have already been denied a handgun due to Brady background checks—70 percent of these people were convicted or indicted felons. Traces of assault weapons have plummeted since the ban, and prices have gone up. And our law enforcement officers are no longer dying at the hands of criminals armed with assault weapons.

As I said, we have been successful. But we cannot be satisfied with victories in battle—we must use every avenue possible to win the war against gun violence.

Mr. President, it is for this reason that I rose just a few weeks ago with Senator DURBIN to introduce a new prosecutorial tool in the fight to stop gun traffickers—the Gun Kingpin Penalty Act of 1997. That bill would institute a sliding scale of mandatory minimum penalties for the worst gunrunners, and I hope we can debate it soon.

But we must also address the problem of the most violent and dangerous offenders—those who commit murder in furtherance of their gun trafficking crimes. So I rise again today to issue a new challenge—send a message to murderous gunrunners that their violence must stop.

Our Gun Kingpin Death Penalty Act of 1997, which is modeled after the Drug Kingpin Death Penalty legislation already enacted into law, provides that any criminal who commits murder or successfully orders a murder committed during the course of trafficking in more than 25 firearms may receive life in prison or the death penalty. This provision gives Federal prosecutors one more tool in the fight against gun trafficking, and sends out a warning to all violent gunrunners—think twice before you act.

Mr. President, when I rose with Senator DURBIN last month to introduce the first in this two-bill attack on gunrunners, I cited recent numbers gathered by the Bureau of Alcohol, Tobacco and Firearms which clearly demonstrate what many of us already knew all too well—several key highways in this country have become so-called firearm freeways—pipelines for merchants of death who deal in illegal firearms.

We learned from the ATF data that in 1996, New Jersey exported fewer guns used in crimes, per capita, than any other State—less than one gun per 100,000 residents, or 75 total guns. In contrast, Mississippi exported 29 of these guns per capita last year.

Meanwhile, an incredible number of guns used to commit crimes in New Jersey last year came from out-of-State—944 guns were imported and used to commit crimes compared to only 75 exported—a net import of 869 illegal guns used to commit crimes against the people of New Jersey.

In fact, the top six exporters of illegal guns used to commit crimes in New Jersey supplied 62 percent of the guns, 585, and only one of those six States—North Carolina—has strong gun control laws.

This represents a one-way street—guns come from States with lax gun laws straight to States—like New Jersey—with strong laws.

New Jersey has long been proud to have some of the toughest gun control laws in the Nation. But for far too long, the courageous efforts of New Jersey citizens in enacting these tough laws have been weakened by out-of-State gunrunners who treat our State like their own personal retail outlet.

It is clear that New Jersey's strong gun control laws offer criminals little choice but to import their guns from States with weak laws. We must act on a Federal level to send a clear message that this cannot continue and will not be tolerated. And we must send an equally clear message that gunrunners who commit murder risk the ultimate of penalties.

Finally, Mr. President, I remind my colleagues that we cannot rest satisfied simply because we have succeeded in the past. The problem of illegal gun traffickers will not just go away, and we cannot stand by and watch as innocent men, women, and children die at