

and toddlers. By establishing better relationships with other public and private programs, early childhood programs under IDEA can be a resource for young children with disabilities as well as for children at risk of disability. It will make it easier for schools and districts to collect funds from other agencies, without allowing schools to abdicate their responsibility for making sure that disabled students get the services they need.

It also requires States to offer mediation, but makes it voluntary for both parties to determine whether they want to participate. In addition, the bill authorizes school districts to require parents to meet with representatives from parent training centers or other alternative dispute resolution experts to explain the benefits of mediation.

Schools have asked for additional leeway to discipline students with disabilities to help guarantee a safe learning environment for all students. This bill gives schools more discretion in disciplining students with disabilities, while still protecting those students. The bill provides the authority for school personnel to remove children with disabilities from their current placement into an interim alternative educational setting for up to 45 days in two specific cases: First, if the child carries a weapon or knowingly possesses, uses, or sells illegal drugs of controlled substances; or second, if the school obtains such authority from a hearing officer after demonstrating that maintaining a child in the current placement is substantially likely to result in injury to the child or others.

Although the bill provides more flexibility for schools to discipline students, discipline should never be used as an excuse to exclude or segregate children with disabilities because of the failure to design behavioral management plans, or the failure to provide support services and staff training. It is critical that schools use the new discretion with utmost care. Research tells us that suspension and expulsion are ineffective in changing the behavior of students in special education. When students with disabilities are suspended or expelled and their education is disrupted, they are likely to fall farther behind, become more frustrated, and drop out of school altogether.

Children who leave school become a burden on society. Dropouts are three times more likely to be unemployed than high school graduates. Nearly half of the heads of households on welfare and half of the prison population did not finish high school.

We have also made changes to see that the provisions of IDEA are more vigorously enforced by giving the U.S. Secretary of Education and State education agencies greater power to enforce the law, including greater discretion to withhold funds when violations are found and explicit statutory authority to refer cases of noncompliance

to the Department of Justice for enforcement action. We expect the Department of Justice to act on such referrals in a timely and appropriate manner. This referral authority is particularly critical for instances when a State fails to implement corrective action within the time specified in the State monitoring plan. We expect the Secretary to use enforcement authorities when applicable to ensure that failure to comply with the law will not go without remedy.

In addition, the Department of Education is expected to report annually on the status of State monitoring and compliance. We also expect the Department of Education to include parents more actively in the State and local monitoring process.

We must never go back to the days when large numbers of school-age children with disabilities were excluded from public school, when few if any pre-school children with disabilities received services, and when most children in school did not get the help they deserve. The goal of public education is to give all children the opportunity to pursue their dreams. We must be committed to every child—even the ones who aren't easy to teach.

I commend all the students, parents, teachers, and administrators who have left an indelible mark on this legislation. Their commitment to this law and their willingness to put aside the divisions of the past and find constructive compromises will improve the education of students with disabilities, and enable schools to implement the law as effectively as possible.

I also commend and thank all the staff members of the working group for their skillful assistance in making this process successful: Pat Morrissey and Jim Downing of Senator JEFFORDS' staff; Townsend Lange of Senator COATS staff; Bobby Silverstein and Tom Irvin of Senator HARKIN's staff; David Hoppe and Mark Hall of Senator LOTT's staff; and Kate Powers, Connie Garner, and Danica Petroschius of my own staff. I also commend the hard work of the House staff on the working group, including Sally Lovejoy and Todd Jones of the House committee majority staff; Alex Nock of the House committee minority staff; Theresa Thompson of Representative SCOTT's staff; and Charlie Barone of Representative MILLER's staff.

This bill deserves the support of every Member of Congress. It means a new day of hope and opportunity for children with disabilities.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1841. A communication from the Acting President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-1842. A communication from the Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, a rule entitled "Revisions and Clarifications" (RIN0694-AB56) received on May 1, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1843. A communication from the Deputy Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a rule including a definition (RIN3235-AH14) received on May 1, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1844. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on Bradley Vehicle Systems acquisition program; to the Committee on Armed Services.

EC-1845. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on Chemical Demilitarization acquisition program; to the Committee on Armed Services.

EC-1846. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation that addresses several management concerns; to the Committee on Armed Services.

EC-1847. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Intergovernmental Personnel Act Mobility Program" (RIN3206-AG61) received on April 30, 1997; to the Committee on Governmental Affairs.

EC-1848. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule relative to employment, (RIN3206-AH66) received on April 30, 1997; to the Committee on Governmental Affairs.

EC-1849. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Official Duty Station Determination for Pay Purposes" (RIN3206-AH84) received on May 8, 1997; to the Committee on Governmental Affairs.

EC-1850. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation to reform government-wide acquisition; to the Committee on Governmental Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. BREAU (for himself, Mr. MACK, Mr. GRAHAM, and Mr. DORGAN):

S. 734. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program; to the Committee on Finance.

By Mr. D'AMATO:

S. 735. A bill to amend title 10, United States Code, to restore the Department of Defense loan guarantee program for small and medium-sized business concerns that are economically dependent on defense expenditures; to the Committee on Armed Services.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAU (for himself, Mr. MACK, Mr. GRAHAM, and Mr. DORGAN):

S. 734. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare Program; to the Committee on Finance.

#### THE MEDICARE HOSPICE BENEFIT AMENDMENTS OF 1997

• Mr. BREAU. Mr. President, I introduce legislation to make technical changes to the Medicare hospice benefit which will ensure that high-quality hospice services will be available to all terminally ill Medicare beneficiaries. This legislation is identical to H.R. 521, introduced by Representative CARDIN.

Hospices care for and comfort terminally ill patients at home or in home-like settings. There are 2,800 hospice programs in all 50 States and in 1995 they cared for more than 390,000 patients. One out of every three people who died from cancer or AIDS were cared for by hospice.

Services provided under the Medicare hospice benefit include physician services, nursing care, drugs for symptom management, pain relief, short term inpatient and respite care, and counseling both for the terminally ill and their families. But terminally ill patients who elect hospice care opt out of most other Medicare services related to their terminal illness.

Hospice services permit terminally ill people to die with dignity, usually in the comforting surroundings of their own homes with their loved ones nearby. Hospice is also a cost-effective form of care. At a time when Medicare is pushing to enroll more beneficiaries in managed care plans, hospice is already managed. Hospices provide patients with whatever palliative services are needed to manage their terminal illness, and they are reimbursed a standard per diem rate, based on the intensity of care needed and the location of the provision of care.

With 28 percent of all Medicare costs now going toward the care of people in their last year of life, and almost 50 percent of those costs spent during the last 2 months of life, cost-effective alternatives are needed. Studies show hospices reduce Medicare spending. A 1995 Lewin study showed that for every dollar Medicare spent on hospice, it

saved \$1.52 in Medicare part A and part B expenditures. Similarly, a 1989 study commissioned by the Health Care Financing Administration showed savings of \$1.26 for every Medicare dollar spent on hospice.

Since 1982, when the hospice benefit was added to the Medicare statute, more and more Americans have chosen to spend their final months of life in this humane and cost-effective setting. Yet in recent years, it has become clear that certain technical changes are needed in the Medicare hospice benefit to protect beneficiaries and ensure that a full range of cost-effective hospice services continue to be available. The bill I am introducing today makes these necessary technical changes.

First, the Medicare Hospice Benefits Amendments of 1997 restructure the hospice benefit periods. The basic eligibility criteria do not change. Under this bill, as in current law, a person is eligible for the Medicare hospice benefit only if two physicians have certified that the patient is terminally ill with a life expectancy of six months or less. Patients who elect to receive hospice benefits give up most other Medicare benefits unless and until they withdraw from the hospice program.

While this bill does not change hospice eligibility criteria, it does change how the benefit periods are structured. Currently, the Medicare benefit consists of four benefit periods. At the end of each of the first three periods, the patient must be recertified as being terminally ill. The fourth benefit period is of unlimited duration. However, a patient who withdraws from hospice during the fourth hospice period forfeits his ability to elect hospice services in the future. Thus, patients who go into remission, and are thus no longer eligible for hospice because their life expectancy exceeds 6 months, cannot return to hospice when their condition worsens.

This bill restructures the hospice benefit periods to eliminate the existing open-ended fourth benefit period and to provide that after the first two 90-day periods, patients are reevaluated every 60 days to ensure they still qualify for hospice services. This restructuring ensures that those receiving Medicare benefits are able to receive hospice services at the time they need them and can be discharged from hospice care with no penalty if their prognosis changes.

Second, the bill clarifies that ambulance services, diagnostic tests, radiation, and chemotherapy are covered under the hospice benefit when they are included in the patient's plan of care. No separate payment will be made for these services, but hospices will have to provide them when they are found to be necessary as a palliative measure. This change conforms the statute to current Medicare regulatory policy and does not cost Medicare any additional money because payments are covered by the current per-diem payments.

Third, the bill also permits hospices to have independent contractor relationships with physicians. Under current law, hospices must directly employ their medical directors and other staff physicians. This creates a legal problem in some States which prohibit the corporate practice of medicine, and the requirement has made it increasingly difficult to recruit part-time hospice physicians.

Fourth, the bill creates a mechanism to allow waiver of certain staffing requirements for rural hospices, which often have difficulty becoming Medicare-certified because of shortages of certain health professionals. Currently, about 80 percent of hospices are Medicare-certified or pending certification.

Finally, this bill provides some administrative flexibility regarding certification of terminal illness. Currently, the statute requires that paperwork documenting physician certification of a patient's terminal illness be completed within a certain number of days of the patient's admission to hospice. This bill will eliminate the strict statutory requirements. It gives the Health Care Financing Administration the discretion, as it currently has with home health certifications, to require hospice certifications to be on file before a Medicare claim is submitted.

The Medicare Hospice Benefit Amendments of 1997 are noncontroversial and should not affect Medicare spending, but they will make important and necessary changes to the Medicare hospice benefit, to enable hospices to provide high-quality, cost-effective care to the terminally ill, and to protect beneficiaries who depend on these services.

I urge my colleagues to support this bill, and 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. 734

*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 Hospice Benefit Amendments of 1997".

#### SEC. 2. HOSPICE CARE BENEFIT PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking "a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—

(1) Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and