

(1) pursuant to a law enacted under the constitutional powers of Congress relating to the Indian tribes; or

(2) under a treaty between an Indian tribe and the United States.

(c) CERTAIN SEX-BASED CLASSIFICATIONS.—This Act does not prohibit or limit any classification based on sex if—

(1) the classification is applied with respect to employment and the classification would be exempt from the prohibitions of title VII of the Civil Rights Act of 1964 by reason of section 703(e)(1) of such Act (42 U.S.C. 2000e-2(e)(1)); or

(2) the classification is applied with respect to a member of the Armed Forces pursuant to statute, direction of the President or Secretary of Defense, or Department of Defense policy.

(d) IMMIGRATION AND NATIONALITY LAWS.—This Act does not affect any law governing immigration or nationality, or the administration of any such law.

SEC. 6. COMPLIANCE REVIEW OF POLICIES AND REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the head of each department or agency of the Federal Government, in consultation with the Attorney General, shall review all existing policies and regulations that such department or agency head is charged with administering, modify such policies and regulations to conform to the requirements of this Act, and report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the results of the review and any modifications to the policies and regulations.

SEC. 7. REMEDIES.

(a) IN GENERAL.—Any person aggrieved by a violation of section 3 may, in a civil action, obtain appropriate relief (which may include back pay). A prevailing plaintiff in a civil action under this section shall be awarded a reasonable attorney's fee as part of the costs.

(b) CONSTRUCTION.—This section does not affect any remedy available under any other law.

SEC. 8. EFFECT ON PENDING MATTERS.

(a) PENDING CASES.—This Act does not affect any case pending on the date of enactment of this Act.

(b) PENDING CONTRACTS AND SUBCONTRACTS.—This Act does not affect any contract or subcontract in effect on the date of enactment of this Act, including any option exercised under such contract or subcontract before or after such date of enactment.

SEC. 9. DEFINITIONS.

In this Act, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term "Federal Government" means executive and legislative branches of the Government of the United States.

(2) PREFERENCE.—The term "preference" means an advantage of any kind, and includes a quota, set-aside, numerical goal, timetable, or other numerical objective.

(3) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term "historically Black college or university" means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

THE CIVIL RIGHTS ACT OF 1997—SUMMARY

The Civil Rights Act of 1997 is designed to bring the Federal Government into compliance with the Equal Protection Clause of the United States Constitution, and to ensure that the federal government treats all people equally, without regard to their race or sex.

The bill contains two main operative provisions:

(1). Prohibits the Federal Government from discriminating against, or granting

preferences to, individuals based in whole or in part on race, color, national origin, or sex, in connection with federal contracts, employment, or other programs or activities.

(2). Prohibits the Federal Government from requiring or encouraging federal contractors, subcontractors, licensees, or recipients of federal assistance, to discriminate, or grant preferences to individuals on the basis of their race, color, national origin, or sex.

The Act defines "preference" as "an advantage of any kind" including quotas, set-asides, goals, timetables, and other numerical objectives.

The bill expressly protects the Federal Government's ability to engage in outreach, recruiting, and marketing efforts—the original form of affirmative action.

The bill maintains the full range of judicial remedies currently available to proven individual victims of race or sex discrimination.

The bill contains exemptions for historically Black colleges and universities, Indian tribes, and for sex-based bona fide occupational qualifications that are already exempt under Title VII of the Civil Rights Act of 1964 or applied in the Armed Forces.

The Act requires the heads of each department or agency to modify all existing policies and regulations to comply with the Act and report to the Senate and House Judiciary Committees the results of the modification.

The Act is limited to Federal Government actions and would not affect voluntary programs adopted by State and local governments, or private sector entities.

Mr. HATCH. Mr. President, last year, I stated on the Senate floor that "our country stands at a crossroads on the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. * * * Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences."

I am proud to stand today with my colleagues in the House and the Senate, and others who have worked so hard for the cause of equal opportunity, to announce the introduction of the Civil Rights Act of 1997. The act represents our best efforts to recommit the Nation to the ideal of equal opportunity for every American—to emphasize that we must resist the temptation to define the Nation's problems in narrow racial terms, and rather must roll up our sleeves and begin the hard work of dealing with our problems as Americans, and as fellow human beings.

Of course, our critics will imply that those of us who today reject divisive racial preferences and distinctions do so because we underestimate the social, economic, and discriminatory obstacles some Americans face. President Clinton, for example, told his audience in San Diego last week that "[t]he vast majority of [Californians who supported that state's Proposition 209] did it with a conviction that discrimination and isolation are no longer barriers to achievement." But that is just plain wrong.

To the contrary, last week in the Senate Judiciary Committee we heard from a panel of ordinary citizens who movingly told us of their experiences with discrimination in America. Among them was a Chinese-American mother from San Francisco, Charlene Loen, who told us how her young son Patrick was denied admission to an elite public magnet school, Lowell High School, because he is Chinese. The school district's efforts to ensure diversity among its students led it to employ a system of racial preference that had the effect of capping Chinese enrollment in many of its schools, forcing Chinese children to score much higher on entrance exams than children of other races. At virtually every public school Ms. Loen approached, she was first asked whether Patrick was Chinese, and when learning that he was, would inform Ms. Loen that Patrick need not apply. The Chinese quota was in effect full. Ladies and gentlemen, that is not the promise of America.

There should be no question that discrimination indeed continues to deny opportunities to too many Americans. At the Judiciary Committee's recent hearing we heard from black Americans, white Americans, Asian-Americans, and even a victim of an outrageous hate crime. But the question that we all must answer is whether one American's racial suffering should be valued above another's. It is a question that will only become more complicated and more urgent as our population grows ever more diverse.

As we in the Judiciary Committee now know, when we prefer individuals of one race, we must by definition discriminate against individuals of another. But America's great social divide can never be crossed until we begin the work of building a bridge of racial reconciliation. By saying today, with the introduction of this act, that the Federal Government stands for the principle that racial discrimination in all its forms is wrong, we hope to take a small step forward on the path to healing the Nation's racial wounds by recognizing that every American is equal before the law.

ADDITIONAL COSPONSORS

S. 278

At the request of Mr. GRAMM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 278, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of

internal police investigations, and for other purposes.

S. 350

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. INHOFE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 350, a bill to authorize payment of special annuities to surviving spouses of deceased members of the uniformed services who are ineligible for a survivor annuity under transition laws relating to the establishment of the Survivor Benefit Plan under chapter 73 of title 10, United States Code.

S. 433

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 433, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

S. 496

At the request of Mr. CHAFEE, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 541

At the request of Mr. ALLARD, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 541, a bill to provide for an exchange of lands with the city of Greeley, Colorado, and The Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes.

S. 548

At the request of Mr. ROBERTS, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 548, a bill to expand the availability and affordability of quality child care through the offering of incentives to businesses to support child care activities.

S. 648

At the request of Mr. GORTON, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 755

At the request of Mr. CAMPBELL, the names of the Senator from Kentucky [Mr. McCONNELL], and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to

make other improvements to that chapter.

S. 832

At the request of Mr. KOHL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 832, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

S. 876

At the request of Mr. GREGG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 876, a bill to establish a nonpartisan commission on Federal election campaign practices and provide that the recommendations of the commission be given expedited consideration by Congress.

S. 891

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 891, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET ACT OF 1997

DODD AMENDMENT NO. 425

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 947, to provide for reconciliation pursuant to section 104(a) of the current resolution on the budget for fiscal year 1998; as follows:

On page 874, between lines 7 and 8, insert the following:

SEC. 5817A. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting “(or were being paid as of the date of enactment of section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104-193; 110 Stat. 2188) and would continue to be paid but for the enactment of that section)” after “title XVI”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

GREGG AMENDMENT NO. 426

Mr. GREGG proposed an amendment to the bill, S. 947, supra; as follows:

On page 213, strike all of (d) and insert the following:

“(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individual for a Medicare Choice plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i).”

DEWINE AMENDMENT NO. 427

(Ordered to lie on the table.)

Mr. DEWINE submitted an amendment intended to be proposed by him to the bill, S. 947, supra; as follows:

At the appropriate place in chapter 3 of subtitle F of division 1 of title V, insert the following:

SEC. . MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(A) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking “and (iii)” and inserting “, (iii), and (iv)”;

(2) by adding at the end the following:

“(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—

(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirement for initial board eligibility in the longest of the individual programs plus one additional year.

“(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after July 1, 1996.

HARKIN AMENDMENT NO. 428

Mr. HARKIN proposed an amendment to the bill, S. 947, supra; as follows:

At the end of the bill, add the following:

SEC. . IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1393b-2) is amended by adding at the end the following new subsection:

“(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

“(2) Each explanation of benefits provided under paragraph (1) shall include—

“(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in (C)

(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

“(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).”

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended by adding at the end the following new subsection:

“(m) WRITTEN REQUEST FOR ITEMIZED BILL.—