

Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 1542. A bill to amend the Federal Food, Drug, and Cosmetic Act to require any person who reprocesses a medical device to comply with certain safety requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCONNELL (for himself, Mr. HELMS, Mr. BUNNING, Mr. COVERDELL, Mr. EDWARDS, Mr. ROBB, and Mr. WARNER):

S. 1543. A bill to amend the Agricultural Adjustment Act of 1938 to release and protect the release of tobacco production and marketing information; considered and passed.

By Mr. ALLARD:

S. 1544. A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM:

S. 1545. A bill to require schools and libraries receiving universal service assistance to install systems or implement policies for blocking or filtering Internet access to matter inappropriate for minors, to require a study of available Internet blocking or filtering software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. LIEBERMAN, and Mr. HAGEL):

S. 1546. A bill to amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes; considered and passed.

By Mr. BURNS (for himself, Mr. WYDEN, Mr. LOTT, and Mr. HOLLINGS):

S. 1547. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1548. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. HOLLINGS, and Mr. DORGAN):

S. 1549. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE:

S. 1550. A bill to extend certain Medicare community nursing organization demonstration projects; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. HOLLINGS, Mr. DORGAN, Mr. LEVIN, Ms. MIKULSKI, and Mr. KENNEDY):

S. 1551. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 1552. A bill to eliminate the limitation on judicial jurisdiction imposed by section 377 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 1553. A bill establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1554. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 1555. A bill to provide sufficient funds for the research necessary to enable an effective public health approach to the problems of youth suicide and violence, and to develop ways to intervene early and effectively with children and adolescents who suffer depression or other mental illness, so as to avoid the tragedy of suicide, violence, and long-term illness and disability; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mrs. MURRAY, Mr. KENNEDY, Mr. HARKIN, and Mr. BINGAMAN):

S. 1556. A bill to amend the Elementary and Secondary Education Act of 1965 to strengthen the involvement of parents in the education of their children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1557. A bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury to issue regulations covering the practices of enrolled agents; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. HATCH):

S. 1558. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1559. A bill to amend title 49, United States Code, to enhance the safety of motor carrier operations and the Nation's highway system, including highway-rail crossings, by amending existing safety laws to strengthen commercial driver licensing, to improve compliance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1560. A bill to establish the Shivwits Plateau National Conservation Area; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 1561. A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes; to the Committee on the Judiciary.

By Mr. NICKLES:

S. 1562. A bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. HAGEL):

S. 1563. A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself, Mr. STEVENS, Mr. ROTH, and Ms. COLLINS):

S. 1564. A bill to protect the budget of the Federal courts; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES (for himself, Mr. EDWARDS, Mr. BAYH, and Mr. KERRY):

S. 1565. A bill to license America's Private Investment Companies and provide enhanced credit to stimulate private investment in low-income communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLARD:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S.J. Res. 32. A joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ROTH. (for himself and Mr. LUGAR):

S. Res. 175. A resolution expressing the sense of the Senate regarding United States policy toward the North Atlantic Treaty Organization, in light of the Alliance's April 1999 Washington Summit and the conflict in Kosovo; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. BIDEN, Mr. COVERDELL, Mr. DE WINE, Mr. GRASSLEY, Mr. FRIST, Mr. TORRICELLI, Mr. GRAHAM, Mr. LEAHY, Mr. ASHCROFT, Mr. HUTCHINSON, Mr. LUGAR, Mr. BENNETT, and Mrs. HUTCHISON):

S. Res. 176. A resolution expressing the appreciation of the Senate for the service of United States Army personnel who lost their lives in service of their country in an anti-drug mission in Colombia and expressing sympathy to the families and loved ones of such personnel; considered and agreed to.

By Mr. WELLSTONE:

S. Res. 177. A resolution designating September, 1999, as "National Alcohol and Drug Addiction Recovery Month"; considered and agreed to.

By Mr. THURMOND (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. SARBANES, Mr. TORRICELLI, Mr. CLELAND, Mr. HOLLINGS, Mr. ROBB, Mr. FRIST, Mr. LINCOLN, Mr. THOMPSON, Mr. MACK, Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. LOTT, Mr. SPECTER, Mr. EDWARDS, Mr. COVERDELL, Mr. NICKLES, Mr. SCHUMER, Mr. GRASSLEY, Mr. BROWNBACK, Mr. ASHCROFT, Mr. DODD, Mr. LIEBERMAN, Mr. CRAIG, Mr. LAUTENBERG, Mr. DURBIN, Mr. SESSIONS):

S. Res. 178. A resolution designating the week beginning September 19, 1999, as "National Historically Black Colleges and Universities Week"; to the Committee on the Judiciary.

By Mr. LOTT:

S. Con. Res. 51. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. ASHCROFT:

S. Con. Res. 52. A concurrent resolution expressing the sense of Congress in opposition to a "bit tax" on Internet data proposed in the Human Development Report 1999 published by the United Nations Development Programme; to the Committee on Foreign Relations.

Mrs. FEINSTEIN (for herself, Ms. MUKULSKI, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, and Mr. SARBANES):

S. Con. Res. 53. A concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States and supporting political and civic participation by such individuals throughout the United States; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mr. HELMS):

S. Con. Res. 54. A concurrent resolution expressing the sense of Congress that the Auschwitz-Birkenau state museum in Poland should release seven paintings by Auschwitz survivor Dina Babbitt made while she was imprisoned there, and that the governments of the United States and Poland should facilitate the return of Dina Babbitt's artwork to her; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK (for himself, Ms. MIKULSKI, Mr. GRAMS, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 1499. A bill to title XVIII of the Social Security Act to promote the coverage of frail elderly Medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly; to the Committee on Finance.

MEDICARE'S ELDERLY RECEIVING INNOVATIVE TREATMENTS (MERIT) ACT OF 1999

Mr. MACK. Mr. President, today I am pleased to join my colleagues, Senator MIKULSKI, Senator WELLSTONE, and Senator GRAMS, in sponsoring the Medicare's Elderly Receiving Innovative Treatments (MERIT) Act of 1999.

This legislation ensures that frail elderly persons residing in nursing homes continue to have the opportunity for improved quality of care and better health outcomes provided by the EverCare program. This program is reimbursed by Medicare on a capitated fee basis to managed care organizations that deliver preventive and primary medical care geared to the special needs of this population. Care is given by nurse practitioner/physician primary care teams which also coordinate care when the patient is hospitalized. Ideally, as much care as possible is provided at the nursing home thus preventing the expense of hospitalization. A major goal is to maintain stability in the patients' life by caring for them in their place of residence. The typical patient is over 85, 82 percent are female, 75 percent are on Medicaid and 70 percent have dementia.

The Balanced Budget Act of 1997 (BBA) requires the Health Care Financing Administration (HCFA) to establish a new risk-adjusted methodology for payments to health plans which is

to go into effect on January 1, 2000. An interim risk adjusted payment will be based on inpatient hospital encounter data. However, an unintended consequence of this methodology may be a dramatic drop in EverCare payments by more than 40 percent, according to Long Term Care Data Institute study. This would jeopardize the program, which is currently comprised of demonstration and non-demonstration components, since providers could not afford to remain in business. HCFA recognized the possibility of this and did grant an exemption from the interim methodology for one year, 2000-2001. HCFA, however, has not yet presented a methodology that would be fair and adequate to ensure the continuance of EverCare.

This legislation exempts programs serving the frail elderly living in nursing homes from the phased in risk-adjustment payment methodology and continues payments using the current system. It directs HCFA to develop a distinct payment methodology which meets the needs of these patients and to establish performance measurement standards. It also allows the frail elderly to join EverCare on a continual basis without regard to enrollment periods.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

#### S. 1499

*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's Elderly Receiving Innovative Treatments (MERIT) Act of 1999".

#### SEC. 2. MODIFICATION OF PAYMENT RULES.

Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking "subsections (e) and (f)" and inserting "subsections (e) through (i)";

(B) in paragraph (3)(D), by inserting "and paragraph (4)" after "section 1859(e)(4)"; and

(C) by adding at the end the following:

"(4) EXEMPTION FROM RISK-ADJUSTMENT SYSTEM FOR FRAIL ELDERLY BENEFICIARIES ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

"(A) IN GENERAL.—During the period described in subparagraph (B), the risk-adjustment described in paragraph (3) shall not apply to a frail elderly Medicare+Choice beneficiary (as defined in subsection (i)(3)) who is enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in subsection (i)(2)).

"(B) PERIOD OF APPLICATION.—The period described in this subparagraph begins with January 2000, and ends with the first month for which the Secretary certifies to Congress that a comprehensive risk adjustment methodology under paragraph (3)(C) (that takes into account the types of factors described in subsection (i)(1)) is being fully implemented."; and

(2) by adding at the end the following:

"(1) SPECIAL RULES FOR FRAIL ELDERLY ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

"(1) DEVELOPMENT AND IMPLEMENTATION OF NEW PAYMENT SYSTEM.—The Secretary shall develop and implement (as soon as possible after the date of enactment of this subsection), during the period described in subsection (a)(4)(B), a payment methodology for frail elderly Medicare+Choice beneficiaries enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in paragraph (2)(A)). Such methodology shall account for the prevalence, mix, and severity of chronic conditions among such beneficiaries and shall include medical diagnostic factors from all provider settings (including hospital and nursing facility settings). It shall include functional indicators of health status and such other factors as may be necessary to achieve appropriate payments for plans serving such beneficiaries.

#### "(2) SPECIALIZED PROGRAM FOR THE FRAIL ELDERLY DESCRIBED.—

"(A) IN GENERAL.—For purposes of this part, the term 'specialized program for the frail elderly' means a program which the Secretary determines—

"(i) is offered under this part as a distinct part of a Medicare+Choice plan;

"(ii) primarily enrolls frail elderly Medicare+Choice beneficiaries; and

"(iii) has a clinical delivery system that is specifically designed to serve the special needs of such beneficiaries and to coordinate short-term and long-term care for such beneficiaries through the use of a team described in subparagraph (B) and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

"(B) SPECIALIZED TEAM.—A team described in this subparagraph—

"(i) includes—

"(I) a physician; and

"(II) a nurse practitioner or geriatric care manager, or both; and

"(ii) has as members individuals who have special training and specialize in the care and management of the frail elderly beneficiaries.

"(3) FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARY DESCRIBED.—For purposes of this part, the term 'frail elderly Medicare+Choice beneficiary' means a Medicare+Choice eligible individual who—

"(A) is residing in a skilled nursing facility or a nursing facility (as defined for purposes of title XIX) for an indefinite period and without any intention of residing outside the facility; and

"(B) has a severity of condition that makes the individual frail (as determined under guidelines approved by the Secretary).".

#### SEC. 3. CONTINUOUS OPEN ENROLLMENT FOR QUALIFIED INDIVIDUALS.

(a) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w-21(e)) is amended by adding at the end the following:

"(7) SPECIAL RULES FOR FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARIES ENROLLING IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—There shall be a continuous open enrollment period for any frail elderly Medicare+Choice beneficiary (as defined in section 1853(i)(3)) who is seeking to enroll in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in section 1853(i)(2)).".

#### (b) CONFORMING AMENDMENTS.—

(1) OPEN ENROLLMENT PERIODS.—Section 1851(e)(6) of the Social Security Act (42 U.S.C. 1395w-21(e)(6)) is amended—

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

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting at the end of subparagraph (A) the following: