

which reflects a debt increase of more than \$4 trillion—\$4,073,790,386,516.94 (Four trillion, seventy-three billion, seven hundred ninety million, three hundred eighty-six thousand, five hundred sixteen dollars and ninety-four cents) during the past 15 years.

#### CINCO DE MAYO

Mr. DOMENICI. Mr. President, today, May 5, or "Cinco de Mayo," marks an important holiday for Mexicans and Mexican-Americans alike, and it will be observed with celebrations and festivities across the United States. Contrary to a popular misconception, Cinco de Mayo does not commemorate Mexico's independence from Spain. That holiday is celebrated on September 16. Instead, Cinco de Mayo marks the victory in 1862 of the Mexican army over a larger, better armed and better trained invading French army at La Batalla de Puebla.

After gaining independence in 1821, Mexico endured a series of set backs while trying to establish a republic. By the late 1850s, Mexico was in the grips of a severe economic crisis, and the treasury was bankrupt. In 1861, President Benito Juarez placed a moratorium halting payments on foreign debt. Since much of Mexico's debt was owed to France, Napoleon III responded by invading Mexico. After landing in the port of Veracruz, the French army, which was considered the finest military force of the period, expected to march through the country and easily capture the capital, Mexico City. However, a small Mexican army, under the command of General Ignacio Zaragoza, mounted a strong defense at the town of Pueblo and routed the invading force.

The stunning victory was short-lived, though. The French returned with reinforcements and were able to defeat Mexican forces the following year. But they were only able to control Mexico for four years, and President Juarez regained power in 1867.

Although, in the end, La Batalla de Puebla had little lasting military significance, it was, culturally, a watershed event for the fledgling nation, and for Latin America as a whole. After seeing Europe's best army routed by a hastily gathered and largely untrained Mexican defense, European leaders became more wary of exerting military force in the Americas. Europe never sent another invading force to the Americas after this episode.

The victory at Puebla also instilled a great sense of pride and patriotism in the people of Mexico. They proved their military mettle to themselves and the world, and their government, led by President Juarez, secured legitimacy in the eyes of other nations.

Finally, La Batalla de Puebla asserted the right of people living in former European colonies to self determination and national sovereignty, and it unified all the citizens of Mexico, from landowners to laborers, in a com-

mon cause. It marks the point when people stopped seeing themselves as subjects of monarchy in a distant land or restricted their loyalty to a particular state or region, but instead viewed themselves as citizens of a new nation, a nation united under the green, white and red colors of the Mexican flag.

Much has been said in recent years about the "commercialization" of Cinco de Mayo, and it is true that importance of this holiday often has been overlooked. However, to most Mexican-Americans, or Chicanos, Cinco de Mayo has a special meaning. Many scholars believe La Batalla de Puebla produced the first military hero from the American Southwestern region in General Ignacio Zaragoza, who was born in Texas. The holiday has long been a lesson in overcoming great odds through determination and unity. Today, Cinco de Mayo is an occasion for people of Mexican descent to come together to express pride in their history, and I encourage all Americans to enjoy this opportunity to celebrate and appreciate the contributions of Mexican culture.

#### RUMORS OF NURSING HOME BANKRUPTCY

Mr. GRASSLEY. Mr. President, I serve as chairman of the Senate Aging Subcommittee and I feel a necessity to inform my colleagues about the issue of rumors about the pending bankruptcy of some nursing home chains in the United States.

There are reports in the press, and in discussions with my colleagues I have received information, indicating that one and possibly two large nursing home chains may be facing bankruptcy in the near future. That has an economic side and it has a human side. I will speak first about the human side.

Should one or both of these nursing home chains go bankrupt, we would have an immediate challenge to ensure the continued care of somewhere between 35,000 residents, on the one hand, and 70,000, on the other, in these respective homes where they are currently under care. This would be a significant task. Nursing home residents are frail and are not easily moved. Moving them runs the risk of causing "transfer trauma," a condition that can result in death. Therefore, it is critical that we keep focused on preventing avoidable harm and take precautions to prevent this from happening.

I have introduced legislation to ensure that the quality of patient care is monitored if there would be bankruptcy. My legislation requires the appointment of an ombudsman to act as an advocate for the patient. This change will ensure that bankruptcy judges are fully aware of all the facts when they guide a health care provider through the process of bankruptcy. Prior to a chapter 11 filing, or immediately thereafter, the debtor employs a health care crisis consultant to help

it in its reorganization effort. The first step is usually cutting costs. Sometimes this step may result in a lower quality of care for the patients who live there. The appointment, then, of an ombudsman, should balance the interests between the creditor and the patient. These interests need balancing because the court-appointed officials owe fiduciary duties to creditors and the estate but not necessarily to the patients.

There will be occasions which illustrate that what may be in the best interest of creditors may not always be consistent with the patients' best interest. The trustee's interest, for example, is to maximize the amount of the estate to pay off the creditors. The more assets the trustee disburses, the more his payment will be. On the other hand, the ombudsman for the patient is designed to ensure continued quality of care at least above some minimum standards. Such quality of care standards currently exist throughout the health care environment, from the health care facility itself to State standards and even Federal standards that were adopted in 1987.

I would like to have my colleagues consider the following excerpt from the Los Angeles Times on September 28, 1997, which describes the unconscionable, pathetic, and traumatizing consequences of a sudden nursing home closing because of bankruptcy:

It could not be determined Saturday how many more elderly or chronically ill patients may be affected by the health care company's financial problems. Those at the Reseda Care Center in the San Fernando Valley, including a 106-year-old woman, were rolled into the streets late Friday in wheelchairs and on hospital beds, bundled in blankets as relatives scurried to gather up clothes and other personal belongings.

The presence of an ombudsman should help prevent a recurrence of instances similar to what I just described, where trustees quickly close health care facilities without notifying appropriate state and federal agencies and without notifying the bankruptcy court.

I began discussions with the Health Care Financing Administration at the beginning of April to urge them to take seriously the rumors we were hearing about possible nursing home bankruptcies and to encourage them to make preparations. I called for contingency plans that would prepare, well in advance, for the daunting challenges bankruptcies would pose to various federal and state agencies. HCFA briefed the staff of the Aging Committee, as well as staff from the Finance Committee and Budget Committee. While the HCFA staff appreciated the severity and size of the problem of ensuring resident safety in the event of a bankruptcy, they did not have a plan—or even a plan for a plan.

I wrote to the HCFA Administrator urging her to take the effort very seriously, to keep at the planning and to stay in touch with my office. Only on April 28th did I hear from her office

that we could expect to see the plan in the next two weeks. That is why I wrote to her again on April 29, to tell her to get on with the effort and to let me and interested Members know of the plan to ensure that the people in the affected nursing homes will be protected.

Once we are assured that residents will be safe we can turn to the financial part of the bankruptcies. Now I will address these financial issues.

Before we take any action involving the taxpayers' hard-earned dollars, we should ask, and get solid answers to, some critical questions.

The first is this: if the rumors of financial distress are true, how is it that some providers are in such distress while others seem not to be? What factors have put certain companies at particular risk? The answer to that question will go a long way to help us know what kind of response their situation demands.

At this point, I'd like to make an observation about the Medicare element of this situation.

This is in response to the one excuse you are going to find from some of these changes why something ought to be done in the balanced budget amendment of 1997.

A Prospective Payment System (PPS) for Skilled Nursing Facilities was mandated by the Balanced Budget Act of 1997 (BBA). Some argue that, comparing CBO's 1997 baseline with its 1999 baseline, Medicare has saved \$7 billion more than originally anticipated, and that this pushed these companies over the edge.

But we need to ask whether or not it did.

CBO has recently clarified its baselines, explaining that the alleged difference between the two baselines comes from an apples-to-oranges comparison: the 1997 baseline included Part B spending on patients in these facilities, while the 1999 baseline does not. When apples are compared to apples, CBO tells us, the Medicare Part A baseline for Skilled Nursing Facilities has decreased by only \$200 million over 5 years—not by the \$7 billion that we are hearing. Of course this doesn't tell us what is going on in the real world—it only tells us that the discussion should not be about CBO's baselines, it should be about what is really going on out there.

And that is what we need to find out.

Next, questions have been raised by shareholders, in class action suits against the management of these companies, about the competence and effectiveness of the management of these two companies. Did these companies try to grow too large, too fast? Did they take on more debt than they could manage? Was their business strategy flawed? A host of questions need to be answered about the internal operation of these companies—to see if they were being well run—before we assume that more taxpayer dollars will fix the problem. Otherwise we could

wind up subsidizing the mistakes of well compensated executives.

These are serious questions that should be answered by the committees of this body. We should make full use of the evaluators who work for Congress. And the Administration should devote some effort to the inquiry as well. We need to understand the problem before we propose a solution.

Yet, some solutions are being presumed, and they are being presumed based on that apples-to-oranges comparison which says there has been \$7 billion more saved from Medicare than was anticipated in the 1997 balanced budget amendment. We should make haste to get these answers, and not rush blindly into what could otherwise be a thoughtless bailout.

#### COMMENDING THE EFFORTS OF THE REVEREND JESSE JACKSON

Mr. DORGAN. Mr. President, I would like to take this opportunity to join all Americans in expressing my profound relief at the safe return of Sergeant Andrew Ramirez, Sergeant Christopher Stone, and Specialist Steven Gonzales from captivity in the Federal Republic of Yugoslavia.

I was necessarily absent from the Senate this morning in order to attend a technology conference in my home State of North Dakota. Had I been present, I would have gladly joined 92 of my colleagues in commending the Reverend Jesse Jackson, and the delegation of religious and political leaders he led, for their instrumental efforts in securing the release of these three Americans. A grateful nation owes them its gratitude.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

##### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 118. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building."

H.R. 459. An act to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project.

H.R. 509. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

H.R. 510. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

H.R. 560. An act to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the "Jose V. Toledo Federal Building and United States Courthouse."

H.R. 686. An act to designate a United States courthouse in Brownsville, Texas, as the "Garza-Vela United States Courthouse."

H.R. 1121. An act to designate the Federal building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the "Lewis R. Morgan Federal Building and United States Courthouse."

H.R. 1162. An act to designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the "William H. Natcher Bridge."

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 84. Concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act.

H. Con. Res. 88. Concurrent resolution urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs.

The message further announced that pursuant to the provisions of section 503(b)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5933) and upon the recommendation of the Minority Leader, the Speaker reappoints the following members to the National Skill Standards Board on the part of the House for a four-year term: Ms. Carolyn Warner of Phoenix, Arizona and Mr. George Bliss of Washington, D.C.

The message also announced that pursuant to section 2(b) of Public Law 98-183 and upon the recommendation of the Minority Leader, the Speaker appoints the following member to the Commission on Civil Rights on the part of the House, effective May 4, 1999, to fill the existing vacancy thereon: Mr. Christopher F. Edley, Jr. of Cambridge, Massachusetts.

The message further announced that the House has passed the following bills, without amendment:

S. 453. An act to designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the "Hurff A. Saunders Federal Building."

S. 460. An act to designate the United States courthouse located at 401 Michigan Street in South Bend, Indiana, as the "Rock K. Rodibaugh United States Bankruptcy Courthouse."

#### MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated: