

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

S. 1066. A bill to amend title XVIII of the Social Security Act to establish procedures for determining payment amounts for new clinical diagnostic laboratory tests for which payment is made under the medicare program; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, and Mr. CRAIG):

S. 1067. A bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts; to the Committee on Finance.

By Mrs. BOXER:

S. 1068. A bill to provide refunds for unjust and unreasonable charges on electric energy; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. KOHL, Mr. FEINGOLD, Mr. SCHUMER, Mr. JOHNSON, and Ms. STABENOW):

S. 1069. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers from the majority of the trails in the System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REED:

S. 1070. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND:

S. 1071. A bill to amend title 23, United States Code, to require consideration under the congestion mitigation and air quality improvement program of the extent to which a proposed project or program reduces sulfur or atmospheric carbon emissions, to make renewable fuel projects eligible under that program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROBERTS:

S. 1072. A bill to extend eligibility for loan deficiency payments and payments in lieu of loan deficiency payments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INHOFE:

S. 1073. A bill to establish a National Commission to Eliminate Waste in Government; to the Committee on Governmental Affairs.

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

S. 1074. A bill to establish a commission to review the Federal Bureau of Investigation; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. SMITH of Oregon, and Mr. DASCHLE):

S. 1075. A bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 170

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 278

At the request of Mr. JOHNSON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 283

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 283, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue code of 1986 to protect consumers in managed care plans and other health coverage.

S. 421

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 421, a bill to give gifted and talented students the opportunity to develop their capabilities.

S. 480

At the request of Mr. DEWINE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 480, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 626

At the request of Mr. JEFFORDS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 626, a bill to amend the Internal Revenue Code of 1986 to permanently extend the work opportunity credit and the welfare-to-work credit, and for other purposes.

S. 672

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 672, a bill to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens "age-out" while awaiting immigration processing, and for other purposes.

S. 677

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repay-

ments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 697

At the request of Mr. HATCH, the names of the Senator from Florida (Mr. NELSON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 697, a bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

S. 706

At the request of Mr. KERRY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 731

At the request of Mr. NELSON of Florida, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 731, a bill to ensure that military personnel do not lose the right to cast votes in elections in their domicile as a result of their service away from the domicile, to amend the Uniformed and Overseas Citizens absentee Voting Act to extend the voter registration and absentee ballot protections for absent uniformed services personnel under such Act to State and local elections, and for other purposes.

S. 732

At the request of Mr. THOMPSON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 732, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain restaurant buildings, and for other purposes.

S. 778

At the request of Mr. KENNEDY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 801

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 860

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 950

At the request of Mr. REID, the names of the Senator from New York (Mr. SCHUMER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 950, a bill to amend the Clean Air Act to address problems concerning methyl tertiary butyl ether, and for other purposes.

S. 1017

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

S. 1037

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri (Mr. BOND) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1050

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1050, a bill to protect infants who are born alive.

S. RES. 68

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 68, a resolution designating September 6, 2001 as "National Crazy Horse Day."

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

AMENDMENT NO. 805

At the request of Mr. TORRICELLI, the names of the Senator from California (Mrs. BOXER) and the Senator from Nevada (Mr. REID) were added as cosponsors of amendment No. 805 proposed to H.R. 1, a bill to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1066. A bill to amend title XVIII of the Social Security Act to establish

procedures for determining payment amounts for new clinical diagnostic laboratory tests for which payment is made under the Medicare Program; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise to introduce the Medicare Patient Access to Preventive and Diagnostic Tests Act. This bipartisan legislation will establish new procedures under Medicare for determining the coding and payment amounts for clinical diagnostic laboratory tests. I am pleased to have my colleague, Senator JOHN KERRY, as the lead Democratic sponsor of this bill. Similar legislation has been introduced in the House of Representatives by Congresswoman JENNIFER DUNN and Congressman JIM MCDERMOTT.

Innovative clinical laboratory tests help save lives and reduce health care costs by detecting diseases, such as cancer, heart attacks, and kidney failure in their early stages, when they are more treatable. However, there are serious flaws in the way that the Center for Medicare and Medicaid Services, CMS, formally known as HCFA, currently sets reimbursement rates for diagnostic tests.

This cumbersome bureaucratic system makes it difficult for physicians and laboratories to offer these diagnostic tests to their patients who need them. Due to institutionalized flaws in the current Medicare reimbursement system, revolutionary and innovative diagnostic tests may not benefit patients for years to come. In addition, it has been shown that lower laboratory payments correlate with lower utilization. The payment rates vary significantly from region to region and State to State.

For example, in my home State of Utah, a patient is sent for blood work to test for kidney disease. Based upon the 2001 Medicare Lab Reimbursement schedule, the Utah lab would receive \$2.12 for performing the test. However, labs in Arizona, Nevada, Montana, New Mexico and Wyoming, would receive \$6.33 to perform the same test. This makes no economic or medical sense to me.

A recent Institute of Medicine, IoM, report stated that Medicare payments for outpatient clinical laboratory services should be based on a single, rational fee schedule. Medicare should account for market-based factors such as local labor costs and prices for goods and services in establishing the fee schedule. In addition, CMS should provide opportunities for stakeholder input and develop better communication with contractors while policies are being developed and after these policies are adopted.

Our bill, based upon the principles of this IoM report, would require CMS to establish a national fee schedule for new and current tests, based upon an open, transparent, and rational public process for incorporating new tests, as well as to provide clear explanations of the reasoning behind its reimbursement decisions. This new process would

be based upon science based methodologies for setting prices for new technologies that are designed to establish fair and appropriate payment levels for these items and services.

CMS's procedures would provide that the payment amount for tests would be established under either the so-called gap-filling or cross-walking methodologies, and they would specify the rules for deciding which methodology will be used and how it will be employed. In particular, the legislation would require that if a new test is clinically similar to a test for which a fee schedule amount has already been established, through cross-walking, CMS will pay the same fee schedule amount for the new test. In determining whether tests are clinically similar, CMS will not take into account economic factors.

Finally, this new process would provide a mechanism for any laboratory or other stakeholder to challenge CMS fee schedule decisions. The cost of these changes is small in light of the significant impact on improving the quality of patient care.

I hope my colleagues will join me in cosponsoring this bill. The laudable goal of this bipartisan legislation is to establish an open and transparent public process for incorporating new laboratory tests into the Medicare program. Many seniors currently do not have full access to the medical care they need due to the antiquated process for assigning billing codes and setting reimbursement rates. We need to bridge the gap between seniors and the life-saving lab tests they need to preserve their health and promote their well-being.

I ask my colleagues to join with me in supporting this legislation and ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1066

*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 Patient Access to Preventive and Diagnostic Tests Act".

#### SEC. 2. CODING AND PAYMENT PROCEDURES FOR NEW CLINICAL DIAGNOSTIC LABORATORY TESTS UNDER MEDICARE.

(a) DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395f(h)) is amended by adding at the end the following new paragraph:

"(9)(A) The Secretary shall establish procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2002 (in this subsection referred to as 'new tests'). Such procedures shall provide that—

"(i) the payment amount for such a test will be established only on—

"(I) the basis described in paragraph (10)(A); or