

H.J. Res. 122. A joint resolution making further appropriations for the fiscal year 2003, and for other purposes.

Under the authority of the order of the Senate of January 3, 2001, the enrolled bill and joint resolution were signed by the President pro tempore (Mr. BYRD) on October 11, 2002.

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on October 15, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 114. A joint resolution to authorize the use of United States Armed Forces against Iraq.

Under the authority of the order of the Senate of January 3, 2001, the enrolled joint resolution was signed by the President pro tempore (Mr. BYRD) on October 15, 2002.

At 11:22 a.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 bill, without amendment:

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4757. An act to improve the national instant criminal background check system, and for other purposes.

H.R. 4967. An act to establish new non-immigrant classes for border commuter students.

H.R. 5590. An act to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H.R. 5599. An act to apply guidelines for the determination of per-pupil expenditure requirements for heavily impacted local educational agencies, and for other purposes.

At 8:04 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 joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 123. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2558. An act to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

H.J. Res. 113. A joint resolution recognizing the contributions of Patsy Takemoto Mink.

At 8:35 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. 5200. An act to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

H.R. 5651. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-354. A resolution adopted by the House of the Legislature of the State of Michigan relative to an independent review and analysis of generic drugs; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 293

Whereas, the United States Food and Drug Administration (FDA) is a vital agency responsible for ensuring safety in foods and medicines. The work it undertakes has a direct impact on each citizen. The FDA oversees the approval of drugs for the market and provides information to the health care network; and

Whereas, a key component of our health care resources is the availability of generic drugs, which can offer a less costly means of treatment. The use of this option, however, is only as good as the level of assurance that a generic drug is as safe as possible. The FDA considers generic drugs submitted for approval through its Office of Generic Drugs; and

Whereas, in spite of repeated assurances from the FDA and pharmaceutical companies that generic drugs are safe and are identical in the ingredients to their brand-name counterparts, there have been concerns over the safety of some generic drugs. Any concern must be investigated thoroughly to ensure that all standards of ingredients, preparation, and packaging are met. We must do all we can to ensure the highest standards for all prescription medications. Most importantly, there can be no doubt that the review of submitted medications is completely unaffected by criteria other than scientific evidence and the impact of the drugs in question on patients. Citizens as well as health care providers must have faith in the independence and reliability of all tests and determinations; Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States and the Food and Drug Administration to provide for an independent review and analysis of generic drugs submitted for approval; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Food and Drug Administration.

POM-355. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania relative to Medicare

home health benefits and home health providers; to the Committee on Finance.

HOUSE RESOLUTION NO. 576

Whereas, there are 321 Medicare-certified agencies in Pennsylvania providing critical care each year in the homes of nearly half a million Pennsylvanians; and

Whereas, home health patients receiving Medicare services are typically the sickest, frailest and most vulnerable of Pennsylvania's elderly population; and

Whereas, the Congress of the United States in 1997 sought to cut growth in the Medicare home health benefit by \$16.2 billion over five years but resulted in cutting more than \$72 billion; and

Whereas, nearly one million fewer Medicare beneficiaries qualify for Medicare-reimbursed home care than in 1997; and

Whereas, additional cuts in the Medicare home health benefit would force many low-cost, efficient agencies in Pennsylvania which are struggling under the current system to go out of business, thereby harming access to Medicare beneficiaries; and

Whereas, total elimination of the 15% cut has been postponed for the past two years; and

Whereas, the impending 15% cut is making it difficult for home health agencies to secure lines of credit and is discouraging investment in advanced technologies and staff benefits; and

Whereas, sixty-five members of the United States Senate have joined in a bipartisan letter that recommends the elimination of the 15% cut; and

Whereas, one hundred thirteen members of the United States House of Representatives have joined in a bipartisan letter that recommends the elimination of the 15% cut; and

Whereas, the Budget Committee of the United States Senate has voted to set aside the funds necessary to do away with the 15% cut; and

Whereas, the Medicare Payment Advisory Commission (MedPAC), the group established by the Congress to advise on Medicare policy, has called upon the Congress to permanently eliminate the 15% cut in the Medicare home health benefit; and

Whereas, MedPAC has reported that there are three factors that can lead to a cost increase for rural home health providers; travel, volume of services and lack of sophisticated management and patient care procedures; and

Whereas, Medicare home health services are delivered to a large rural population in Pennsylvania which often lives miles apart, increasing the cost of providing home health services; Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress to permanently eliminate the 15% cut in the Medicare home health benefit AND EXTEND THE 10% RURAL ADD-ON TO MEDICARE HOME HEALTH PROVIDERS; And be it further

Resolved, That the House of Representative urge the President to support the Congress in eliminating the 15% cut in the Medicare home health benefit AND EXTEND THE 10% RURAL ADD-ON TO MEDICARE HOME HEALTH PROVIDERS; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives and to each member of Congress from Pennsylvania.

POM-356. A joint resolution adopted by the General Assembly of the State of California relative to home health care; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 49

Whereas, California's home health care industry has suffered a loss of over one-third of licensed home health agencies since 1998; and

Whereas, the Medicare home health care benefit started in 1966 and has provided Medicare home health care insurance coverage to hundreds of thousands of home-bound Medicare beneficiaries who need care on a part-time or intermittent basis; and

Whereas, Medicare home health care users are older, sicker, poorer, and more disabled than the Medicare population generally, with 26 percent over 85 years of age; and

Whereas, in 1980, Congress changed the home health care benefit by expanding access to care for beneficiaries without a prior hospitalization and by eliminating visit limits; and

Whereas, in 1981 restrictive administrative interpretations of part-time or intermittent care limited spending by denying access to this medically fragile population. As a result of the restrictions, a class action lawsuit was filed that resulted in a 1988 ruling that overturned the restrictions. *Duggan v. Bowen* (D.C. 1988) 691 F. Supp. 1487. As a result, utilization of home health services grew; and

Whereas, the growth continued until Congress passed the 1997 Balanced Budget Act to restrict spending; and

Whereas, an interim payment system (IPS) was implemented in fiscal years 1998–2000 to immediately control spending; and

Whereas, the IPS system dramatically reduced reimbursement rates, which fell below 1993 payment limits and resulted in 284 closures of California home health care agencies during 1998–99; and

Whereas, a new system, the prospective payment system (PPS), was implemented to cease the IPS unprecedented reductions in payments; and

Whereas, PPS could not correct the 49 percent cut in home health care outlays with further declines expected through 2002; and

Whereas, during IPS implementation and before PPS, a new national standard patient assessment system, the Outcomes and Assessment Information Set (OASIS), was required for all Medicare providers in 1999 and provided burdensome reporting requirements; and

Whereas, the implementation of IPS, PPS, and OASIS collection has resulted in a 36-percent reduction in the number of participating home health care providers, closure of over 340 licensed home health agencies, and reduced access to care for medically fragile Californians; and

Whereas, the 1997 Balanced Budget Act has already reduced utilization and home health care spending significantly below the intended savings that were anticipated due to that act; and

Whereas, the Congressional Budget Office projected home health expenditure reductions of \$16.2 billion over five years (fiscal year 1998 to fiscal year 2002), actual reductions from fiscal year 1998 to fiscal year 2000 were \$35.8 billion, and current projected reductions for fiscal years 2001 and 2002 are an additional \$35.3 billion resulting in \$71.1 billion; and

Whereas, California is undergoing an anticipated \$20 billion budget deficit, which could result in Medi-Cal reducing current reimbursement rates to 2000 levels, resulting in a double rate reduction guaranteed to devastate the 629 Medicare certified home health care agencies operating California; and

Whereas, the proposed 15 percent cut in home health care reimbursement rates will negatively affect access to care, and leave thousands without a home health care agency that can service their medical needs: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and

the Congress of the United States to enact legislation that contains steps to ensure that Medicare home health care recipients are guaranteed the best care, and that home health providers, who have undergone multiple regulation and administrative changes at the hands of the federal government since the 1997 Balanced Budget Act, are not further harmed; and be it further

Resolved, That the Legislature opposes the 15 percent cut in home health payments scheduled for October 1, 2002; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the President's commission to eliminate the pending additional 15 percent cut in home health payments scheduled for October 1, 2002.

POM-357. A resolution adopted by the Legislative of Guam relative to supporting efforts for a Constitutional amendment to limit the authority of the federal court system to appropriate money through judicial orders; to the Committee on Finance.

RESOLUTION NO. 6 (LS)

Whereas, concerns among state legislatures across the Nation have been raised relative to incursions by the Federal Judicial Branch into areas are clearly defined as powers of the Legislative Branch of government, more specifically, instance where members of the Federal judiciary have exercised the power to levy or increase taxes; and

Whereas, it is incumbent on all Legislative Branches of government, from the U.S. Congress to each state jurisdiction, to insure that the Separation of Powers Doctrine, its spirit, intent and integrity are inviolate; and

Whereas, the Judicial Branch of the Federal Government has ignored constitutional restrictions on its powers to levy or increase taxes, a power clearly reserved and limited to the Legislative Branch; and

Whereas, the only resolution to this threat to the integrity of and challenge to the Separation of Powers Doctrine, must emanate from the U.S. Congress in the form of a Constitutional amendment: Now therefore, be it

Resolved, That I Mina'Bente Sais Na Liheslatuan Guahan does hereby, on behalf of the people of Guam, call upon the U.S. Congress to initiate the adoption of an amendment to the Constitution of the United States which would more clearly define and state the restriction upon the power of the Judicial Branch of the Federal Government to levy or increase taxes in any manner, means or form; and be it further

Resolved, That Mina'Bente Sais Na Liheslatuan Guahan does hereby, on behalf of the people of Guam, suggest that the form of the amendment to the United Constitution shall read: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or any official of such state or political subdivision, to levy or increase taxes"; and be it further

Resolved, That the Speaker certify, and the Legislative Secretary attests to, the adoption hereof and that copies of the same be thereafter transmitted to the Honorable George W. Bush, President of the United States of America; to the Honorable Richard B. Cheney, President of the United States Senate; to the Honorable J. Dennis Hastert, Speaker of the United States House of Rep-

resentatives; to Missouri State Senator Walter Mueller; to Mr. John R. Stoeffler, President, The Madison Forum; to the Honorable Robert A. Underwood, Member of Congress, U.S. House of Representatives; and to the Honorable Carl T.C. Gutierrez, I Maga'lahaen Guahan.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 486: A bill to reduce the risk that innocent persons may be executed, and for other purposes. (Rept. No. 107-315).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1850: A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes. (Rept. No. 107-316).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2817: A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes. (Rept. No. 107-317).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 630: A bill to prohibit senders of unsolicited commercial electronic mail from disguising the source of their messages, to give consumers the choice to cease receiving a sender's unsolicited commercial electronic mail messages, and for other purposes. (Rept. No. 107-318).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 2733: A bill to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration. (Rept. No. 107-319).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2644: A bill to amend chapter 35 of title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GRAHAM for the Select Committee on Intelligence.

*Scott W. Muller, of Maryland, to be General Counsel of the Central Intelligence Agency.

By Mr. LEVIN for the Committee on Armed Services.

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Air Force nomination of Lt. Gen. Glen W. Moorehead III.

Air Force nominations beginning Colonel Chris T. Anzalone and ending Colonel Thomas B. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 21, 2002.