

of tight budgets and limited resources, the Food and Drug Administration (FDA) will be able to monitor each shipment of imported food for each pesticide that a foreign farmer may use. FDA import inspections have declined dramatically in just the last four years, so that now less than two percent of FDA-regulated imported food is subject to any type of inspection.

It is possible, however, to aid FDA by limiting the number of dangerous pesticides which U.S. chemical companies supply to foreign farmers. By banning the export of pesticides which EPA has not deemed safe, the "circle of poison" legislation will reduce the availability of some of the most hazardous pesticides. By curtailing the supply, it is less likely that foreign farmers will use these pesticides, and therefore, less likely that these pesticides will end up on food that Americans consume.

In addition, this bill puts American farmers on an equal footing with foreign farmers. Under the bill, if a pesticide is not legal for American farmers to use, it will not be legal for foreign farmers to use on food that is exported to the U.S. A simple and reasonable concept, but a concept which is not yet in place in the real world.

Finally, it is simply wrong to allow the export of illegal pesticides. If the Environmental Protection Agency does not allow our citizens and environment to be exposed to a pesticide, we should not subject other countries to the hazards of the pesticide. A pesticide that may endanger people and the environment in the U.S. does not diminish in toxicity simply because it has been exported.●

ADDITIONAL COSPONSORS

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 2121

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2121, a bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes.

S. 2180

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2356

At the request of Mr. ROBERTS, the name of the Senator from Kentucky [Mr. McCONNELL] was added as a cosponsor of S. 2356, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 2576

At the request of Ms. SNOWE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2576, a bill to create a National Museum of Women's History Advisory Committee.

S. 2616

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 2616, A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program.

SENATE CONCURRENT RESOLUTION 128

At the request of Mr. LEAHY, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from New Jersey [Mr. TORRICELLI], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 128, a concurrent resolution expressing the sense of Congress regarding measures to achieve a peaceful resolution of the conflict in the state of Chiapas, Mexico, and for other purposes.

SENATE RESOLUTION 312—TO AMEND SENATE RESOLUTION 209 IN ORDER TO PROVIDE BUDGET LEVELS FOR FISCAL YEAR 1999

Mr. DOMENICI submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 312

Resolved, That Senate Resolution 209, agreed to April 2, 1999 (105th Congress), is amended by striking all after the resolving clause and inserting the following:

SECTION 1. SENATE BUDGET LEVELS.

(a) IN GENERAL.—For the purpose of enforcing the Congressional Budget Act of 1974 and section 202 of House Concurrent Resolution 67 (104th Congress), the following levels, amounts, and allocations shall apply in the Senate in the same manner as a concurrent resolution on the budget for fiscal year 1999 and including the appropriate budgetary levels for fiscal years 2000, 2001, 2002, and 2003:

(1) FEDERAL REVENUES.—The recommended levels of Federal revenues are as follows:

Fiscal year 1999: \$1,358,919,000,000.
Fiscal year 2000: \$1,388,039,000,000.
Fiscal year 2001: \$1,424,774,000,000.
Fiscal year 2002: \$1,480,891,000,000.
Fiscal year 2003: \$1,534,362,000,000.

(2) NEW BUDGET AUTHORITY.—The appropriate levels of new budget authority are as follows:

Fiscal year 1999: \$1,417,136,000,000.
Fiscal year 2000: \$1,453,654,000,000.
Fiscal year 2001: \$1,489,637,000,000.
Fiscal year 2002: \$1,517,259,000,000.
Fiscal year 2003: \$1,577,949,000,000.

(3) BUDGET OUTLAYS.—The appropriate levels of total budget outlays are as follows:

Fiscal year 1999: \$1,402,185,000,000.
Fiscal year 2000: \$1,438,029,000,000.
Fiscal year 2001: \$1,473,660,000,000.
Fiscal year 2002: \$1,484,272,000,000.
Fiscal year 2003: \$1,548,914,000,000.

(4) SOCIAL SECURITY REVENUES.—The amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: \$441,749,000,000.
Fiscal year 2000: \$460,115,000,000.
Fiscal year 2001: \$477,722,000,000.
Fiscal year 2002: \$497,290,000,000.
Fiscal year 2003: \$518,752,000,000.

(5) SOCIAL SECURITY OUTLAYS.—The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1999: \$321,261,000,000.
Fiscal year 2000: \$330,916,000,000.
Fiscal year 2001: \$344,041,000,000.
Fiscal year 2002: \$355,614,000,000.
Fiscal year 2003: \$368,890,000,000.

(b) REVISIONS.—

(1) IN GENERAL.—The Chairman of the Senate Committee on the Budget may file 1 set of revisions to the levels, amounts, and allocations provided by this resolution and those revisions shall only reflect legislation enacted in the 105th Congress and not assumed in this resolution.

(2) CONGRESSIONAL PAY-GO SCORECARD.—Upon making revisions pursuant to paragraph (1) and for the purpose of enforcing section 202 of House Concurrent Resolution 67 (104th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and receipts for any fiscal year to zero.

(c) EFFECTIVE DATE AND EXPIRATION.—This resolution shall—

(1) take effect on the date that the Congress adjourns sine die or the date the 105th Congress expires, whichever date is earlier; and

(2) expire on the effective date of a concurrent resolution on the budget for fiscal year 1999 agreed to pursuant to section 301 of the Congressional Budget Act of 1974.

SEC. 2. COMMITTEE ALLOCATIONS.

Upon the adoption of this resolution, the Chairman of the Committee on the Budget shall file allocations consistent with this resolution pursuant to section 302(a) of the Congressional Budget Act of 1974.

SENATE RESOLUTION 313—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO THE BRUTAL KILLING OF MR. MATTHEW SHEPARD

Mr. THOMAS (for himself and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 313

Whereas Mr. Matthew Shepard, a 21-year old student at the University of Wyoming in Laramie, Wyoming, was physically beaten and tortured, tied to a wooden fence and left for dead; and

Whereas Mr. Matthew Shepard died as a result of his injuries on October 12, 1998, in a Colorado hospital, surrounded by his loving family and friends; Now, therefore, be it

Resolved by the Senate, That it is the Sense of the Senate that it—

(1) condemns the actions which occurred in Laramie, Wyoming, as unacceptable and outrageous;

(2) urges each member of Congress and every citizen of the United States, in his or her own way, through his or her church, synagogue, mosque, workplace, or social organization, to join in denouncing and encouraging others to denounce this outrageous murder of another human being;

(3) pledges to join in efforts to bring an end to such crimes, and to encourage all Americans to dedicate themselves to ending violence in the United States; and

(4) pledges to do everything in its power to fight prejudice and intolerance that leads to the murder of innocent people.

SENATE RESOLUTION 314—EX-PRESSING THE SENSE OF THE SENATE REGARDING SKILLED NURSING FACILITIES

Mr. HATCH submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 314

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING AUTHORITY OF SECRETARY, COLLECTION OF DATA, AND REPORT TO CONGRESS.

(a) **AUTHORITY.**—It is the sense of the Senate that the Secretary of Health and Human Services, in making payments under the prospective payment system for skilled nursing facilities pursuant to section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), has the authority under section 1888(e)(4)(G)(i) of such Act to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring the provision of non-therapy ancillary services (such as respiratory therapy, pharmacy, laboratory, X-ray, and parenteral and enteral services, and covered durable medical supplies).

(b) **DATA.**—It is the sense of the Senate that the Secretary of Health and Human Services should gather sufficient data on the provision of non-therapy ancillary services by skilled nursing facilities that are paid under the prospective payment system pursuant to section 1888(e) of the Social Security Act in order to develop the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of such Act.

(c) **REPORT TO CONGRESS.**—It is the sense of the Senate that the Secretary of Health and Human Services should periodically report to Congress on the development of the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of the Social Security Act which reflects a patient's medical needs requiring the provision of non-therapy ancillary services.

Mr. HATCH. Mr. President, today I introduce S. Res. 314 which expresses the sense of the Senate regarding the authority of the Secretary of Health and Human Services to make adjustments in payments made to skilled nursing facilities under the Medicare program.

As my colleagues are aware, pursuant to the Balanced Budget Act of 1997, Congress directed the Health Care Financing Administration to create a new prospective payment system, or PPS, for Medicare-certified skilled nursing facilities, or SNFs, as they are called.

Skilled nursing facilities are now in the process of moving from the historical cost-based reimbursement system to the new prospective payment system.

This new system combines costs associated with nursing services, capital investment, and other medical services bundled together and then adjusted to reflect the needs of the patients.

Congress rightly sought this new system as a way of getting skilled nursing facility operators to manage both the quality and costs of health care for seniors qualified under Medicare.

As this system has been developed quickly since the enactment of the BBA, there has been a problem identified with adjustments for services considered "non-therapy" services.

These include respiratory therapy, pharmaceutical products, parenteral and enteral products, laboratory and x-ray services, and other covered medical supplies.

While I believe that HCFA has done a remarkable job in getting this system in place over the past year, I am concerned that the adjustment in payment for these specific services has not yet been developed.

This is especially true for a patient who is very ill—those with multiple disease conditions treated in a SNF. There is simply not adequate provisions for ensuring that the prospective payment made each day appropriately reflects the higher medical costs that these patients may need.

As a result of this new system, many nursing homes cannot afford to treat certain types of patients. That was never our intent.

HCFA officials have acknowledged that they needed more data to fix the problem. They commissioned a study last year to assist them to make corrections.

However, the data was not yet available in time for the first year to implement some corrections. While I am certain that HCFA will correct this system, I want to ensure that services to our most vulnerable seniors in nursing homes getting complex medical services will continue to get their care.

I do not want bureaucratic delays in any way to impede their care.

The PPS theory of paying according to average does not work when the rates are not based on solid data and the case-mix adjustment for non-therapy ancillaries is based on very little data. This is obviously not what Congress intended with the BBA.

In March, the Medicare Payment Assessment Commission advised the Congress that "the RUG-III system may not adequately differentiate among Medicare SNF patients . . . this may lead to significant overpayment and under payment for patients within a RUG group."

In September, the Appropriations Committee report for the Department of Health and Human Services included the following:

The Committee has heard concerns regarding the equity of the new Medicare SNF prospective payment system as it relates to nontherapy ancillaries. The demonstration upon which the new system was based did not include this class of items and services. Due to the lack of sufficient data to make these changes, the new system may provide a windfall for some providers while seriously impairing the ability of others to treat patients requiring more intensive care. Therefore, the Committee urges HCFA to reexamine this policy and make budget-neutral changes this year to assure continued access to services for high cost patients pending the gathering of sufficient data on which to base permanent reforms.

Mr. President, unless relief is provided and this anomaly in the payment

system is corrected, a major impediment will remain for certain patients with high non-therapy ancillary costs to receive Medicare services in nursing facilities.

An immediate transitional modification is needed before irreparable harm is done to quality care and access for high costs patients. Some facilities have already begun PPS coverage although HCFA apparently will not begin making actual PPS payments until December, or later. However, on January 1 about 60 percent of the SNFs will begin coverage under the PPS.

We must, therefore, develop longer term solutions for these crucial services, but first we must do no harm in the interim.

Providers can quickly change operations to maximize light care and minimize heavy care. Specialty staff, such as respiratory therapists, will be let go; special physical plant and equipment, such as air flow equipment for "clean room" level infection control will be dismantled; and hospital referral arrangements will be changed.

Accordingly, I am submitting today S. Res. 314 expressing the sense of the Senate that the Secretary, pursuant to section 1888(e)(4)(G)(i), has the authority to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring non-therapy ancillary services.

HCFA has acknowledged the shortcomings of the current RUG-III system. The RUG-III demonstration project had treated these costs as a pass-through because the system did not have the data available to include such costs.

My resolution will clarify and reaffirm Congressional intent that the Secretary has the administrative flexibility to make appropriate adjustments to the case-mix of SNFs to reflect the costs of these services.

One approach, which accommodates HCFA's operational impediment of Year 2000 computer software problems, would be to make payment adjustments to reflect the relative resource utilization of non-therapy ancillaries by different patient types based on a SNF's cost report for the first year under the PPS.

The resolution calls upon the Secretary to gather sufficient data on the provisions of non-therapy ancillaries in order to develop the appropriate adjustments. And, it also urges the Secretary to periodically report to Congress on the development of the appropriate adjustment.

Mr. President, this issue is one of quality and access for America's seniors to community based skilled care.

And, while it was my hope that the Senate could pass this resolution today, I trust my remarks and the language of the resolution will serve to further define the complex issues associated with this important matter.

I am encouraged that the distinguished Chairman of the Finance Committee, Senator ROTH, and the distinguished Minority Member, Senator