

Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes (Rept. No. 105-256).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with amendments:

H.R. 1836: A bill to amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes (Rept. No. 105-257).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FAIRCLOTH:

S. 2332. A bill to limit the ability of prisoners to challenge prison conditions; to the Committee on the Judiciary.

S. 2333. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. MCCONNELL:

S. 2334. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

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

S. 2335. A bill to amend title XVIII of the Social Security Act to improve efforts to combat medicare fraud, waste, and abuse; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2336. A bill to amend chapter 5 of title 28, United States Code, to transfer Schuylkill County, Pennsylvania, from the Eastern Judicial District of Pennsylvania to the Middle Judicial District of Pennsylvania; to the Committee on the Judiciary.

By Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, and Mr. MACK):

S. 2337. A bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of non-immigrant agricultural workers, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. SPECTER):

S. 2338. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, and Mr. KERRY):

S. 2339. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FAIRCLOTH:

S. 2332. A bill to limit the ability of prisoners to challenge prison conditions; to the Committee on the Judiciary.

### CRIME DOESN'T PAY PRISON ACT

• Mr. FAIRCLOTH. Mr. President, today I am introducing the Crime Doesn't Pay Prison Act, a bill to curb the flood of frivolous prisoner lawsuits over prison conditions.

The primary purpose of this act is to articulate an objective national standard for measuring the minimum decency of prison conditions. The Constitution does not dictate a minimum standard of living for inmates, much less an enjoyable comfortable level of living. This should be Congress' job.

In addition to the initial goal of a national prison standard, this bill has other purposes. It would ensure that State governments are required to spend only that amount necessary to achieve the minimum standard for conditions of confinement mandated by the Constitution. It would further ensure that the Federal courts require only that prison conditions do not constitute the unnecessary infliction of pain or neglect upon inmates, such that they are deprived of the minimum civilized measure of life's basic necessities.

Absent a national standard, convicted criminals enjoy a standard of living higher than that of the law-abiding, working poor. According to the federal government, the standard of living for the law-abiding poor is \$8,000 a year. Yet for a convicted criminal, the average expenditure per prisoner amounts to an unbelievably high \$23,000 a year.

Absent a national standard, the standard of living in prison will continue to escalate. Since 1960, the average total state expenditure per inmate has increased almost twice as fast as median income, and more than twice as fast as the poverty threshold. This is unacceptable.

Many unnecessary amenities, such as regulation softball fields, video games, and premium pay cable channels are provided to criminals, contribute to the increasing standard of living in prisons. Other amenities include expensive musical instruments for traveling "choirs," not to mention martial arts training and boxing. Perhaps here is a primary cause of prison violence. How can one counter the violence if taxpayers' dollars are being spent on the very classes which teach and encourage it?

Absent a national standard, criminals will continue to fight for their "right" to amenities in prison, claiming that denial of same "violates" their Eighth Amendment right against "cruel and unusual punishment." Any violation of our Bill of Rights is, most assuredly, a vital concern and should not be tolerated.

Nor, however, should frivolous claims which do nothing but clog our court systems and deny our citizens speedy access to justice for legitimate cases. Several actual cases demonstrate this. One includes a Utah criminal who claimed that his Eighth Amendment rights were violated when he was provided with Converse tennis shoes, rather than L.A. Gear or Reebok. Another case dealt with an Arkansas criminal who was appalled that he was given paper napkins during meals instead of cloth napkins. Yet another ludicrous example involves a Missouri criminal, who claimed cruel and unusual punishment when he was not provided with salad bars or brunches on weekends. This is absolutely preposterous.

The benefits of this "Crime Doesn't Pay Prison" Act are extensive. As of right now, 25% of the state and federal courts' civil dockets are comprised of inmate challenges to conditions of confinement. This bill would reduce this number considerably. It also frees state Attorneys General to pursue litigation on behalf of the citizenry.

The bill would drastically reduce the increasing cost of incarceration, allowing the money saved thereby to be used instead for the expansion of existing prisons.

It puts an end to the injustice of convicted criminals enjoying a higher standard of living, by mere virtue of their imprisonment, than the law-abiding working poor.

In addition to giving the prison administrators the flexibility to find that medium of good order and discipline within the prisons, perhaps most importantly, this bill would demonstrate to prisoners that criminal behavior will not be rewarded with luxuries beyond the reach of law-abiding, poor Americans.

I strongly urge my colleagues to support this bill. •

### MEDICARE WASTE TAX REDUCTION ACT OF 1998

• Mr. HARKIN. Mr. President, today I am introducing with my colleague from South Carolina, Senator HOLLINGS, an important piece of legislation that will help to protect and preserve Medicare. The bill is entitled the Medicare Waste Tax Reduction Act of 1998.

For nearly ten years now, I have worked to combat fraud, waste and abuse in the Medicare program. As Chairman and now Ranking Member of the Senate Appropriations Subcommittee with oversight of the administration of Medicare, I've held hearing after hearing and released report after report documenting the extent of this problem. While virtually no one was paying attention to our effort for many years, we've succeeded in bringing greater attention and focus to this problem in the past several years.

Part of our effort has been to try to quantify the scope of the problem. Several years ago, the General Accounting Office reported that up to 10 percent of Medicare funds could be lost to fraud, waste and abuse each year.

Many questioned that estimate as too large. They said the problem existed, but it wasn't nearly as big as 10 percent. Then, as you know, last year the Inspector General conducted the first-ever detailed audit of Medicare payments. That Chief Financial Officer Act audit found that fully 14 percent of Medicare payments in 1996, or \$23 billion, had been made improperly.

That's a \$23 billion "waste tax" on the American people. And the purpose of today's summit to figure out the best way to cut that tax. So, how do you cut this tax? I know there are no "magic-wand" solutions—this is a complex problem with many components. But basically, you need four things: well thought out laws, adequate resources, effective implementation and the help of seniors and health providers. We've made progress on each of these fronts over the last couple of years, but much more remains to be done.

First, the reforms embodied in the Health Insurance Portability Act and the Balanced Budget Act must be effectively implemented. Effective implementation of these new reforms are vital and must be given high priority. And, Medicare, the Inspector General and the Justice Department must continue to aggressively use new authority to crack down on Medicare fraud.

The Medicare Waste Tax Reduction Act I am introducing today will take a number of important steps to stop the ravaging of Medicare.

This Bill for example, would direct HCFA to double and better target audits and reviews to detect and discourage mispayments. Currently only a tiny fraction of Medicare claims are reviewed before being paid and less than 2 percent of providers receive a comprehensive audit annually. We must have the ability to separate needed care from bill padding and abuse.

It would also require Medicare to aggressively use its newly improved "inherent reasonableness" authority. It is vitally important that Medicare carriers be held accountable for their performance in protecting the program from abuse. Preventing abuse and other inappropriate payments should be the most important performance criteria these entities are measured by.

Our bill would also expand the Medicare Senior Waste Patrol Nationwide. Seniors are our front line of defense against Medicare fraud, waste and abuse. However, too often, seniors don't have the information they need to detect and report suspected mistakes and fraud. By moving the Waste Patrol nationwide, implementing important BBA provisions and assuring seniors have access to itemized bills we will strike an important blow to Medicare waste.

The bill would also give Medicare the authority to be a more prudent purchaser. As passed by the Senate, the Balanced Budget Act gave Medicare the authority to quickly reduce Part B payment rates (except those made for physician services) it finds to be grossly excessive when compared to rates

paid by other government programs and the private sector. In conference, the provision was limited to reductions of no more than 15 percent. This bill would restore the original Senate language. In addition, to assure that Medicare gets the price it deserves given its status as by far the largest purchaser of medical supplies and equipment, Medicare would pay no more than any other government program for these items. Finally, overpayments for prescription drugs and biologicals would be eliminated by lowering Medicare's rate to the lowest of either the actual acquisition cost or 95% of the wholesale cost.

The Medicare Waste Tax reduction Act of 1998 would also ensure that Medicare does not pay for claims owed by other plans. Too often, Medicare pays claims that are owed by private insurers because it has no way of knowing a beneficiary is working and has private insurance that should pay first. This provision would reduce Medicare losses by requiring insurers to report any Medicare beneficiaries they insure. Also, Medicare would be given the authority to recover double the amount owed by insurers who purposely let Medicare pay claims they should have paid.

Additionally, coordination between Medicare and private insurers would be strengthened. Often, those ripping off Medicare are also defrauding private health plans. Yet, too little information on fraud cases is shared between Medicare and private plans. In order to encourage better coordination, health plans and their employees could not be held liable for sharing information with Medicare regarding health care fraud as long as the information is not false, or the person providing the information had no reason to believe the information was false.

Another critical component of any successful comprehensive plan to cut the Medicare waste tax is to focus on prevention. Most of our efforts now look at finding and correcting the problem after they occur. While this is important and we need to do even more of it, we all know that prevention is much more cost effective. The old adage "A stitch in time saves nine" was never more true. A major component of an enhanced prevention effort would be the provision of increased assistance and education for providers to comply with Medicare rules.

A good deal of the mis-payments made by Medicare are the result not of fraud or abuse, but of simple misunderstanding of Medicare billing rules by providers. Therefore, this bill provides \$10 million a year to fund a major expansion of assistance and education for providers on program integrity requirements. This bill would also ensure the reduction of paperwork and administrative hassle that could prove daunting to providers. Health professionals have to spend too much time completing paperwork and dealing with administrative hassles associated with Medicare and private health plans. In order to reduce this hassle and provide

more time for patient care, the Institute of Medicine would be charged with developing a comprehensive plan by no later than June 1, 1999. Their recommendations are to include the streamlining of variations between Medicare and other payers.

Mr. President, while we have made changes to Medicare in attempts to extend its solvency thru the next decade, we urgently need to take other steps to protect and preserve the program for the long-term. We should enact the reforms in this bill to weed out waste, fraud and abuse as a first priority in this effort. I urge all my colleagues to review this proposal and hope that they will join me in working to pass it yet this year.

Mr. President, I also ask unanimous consent a summary of my bill be printed in the RECORD.

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

S. 2335. A bill to amend title XVIII of the Social Security Act to improve efforts to combat Medicare fraud, waste, and abuse; to the Committee on Finance.

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

#### MEDICARE WASTE TAX REDUCTION ACT OF 1998—SUMMARY

Doubling and Better Targeting Audits and Reviews To Detect and Discourage Abuse. Only a tiny fraction of Medicare claims are reviewed before being paid and less than 2 percent of providers receive a comprehensive audit annually. In order to better detect mistakes and abuses and to provide a more significant deterrent to abuse, the number of medical, utilization and fraud reviews would be doubled. In addition, at least 15% of provider cost reports submitted by home health agencies, skilled nursing facilities and durable medical equipment would be subject to annual audits. The increased reviews would be targeted at services and providers most likely to be subject to abuse.

Expanding Medicare Senior Waste Patrol Nationwide—Seniors are our front line of defense against Medicare fraud, waste and abuse. However, too often, seniors don't have the information they need to detect and report suspected mistakes and fraud. A program to recruit and train retired nurses, doctors, accountants and others to serve as volunteer resources to meet this need at the local level was established as part of the FY 97 Labor-HHS appropriations bill. This 12 state program has proven successful and would be expanded nationwide.

Increased Assistance and Education for Providers to Comply with Medicare Rules—A good deal of the mispayments made by Medicare are the result not of fraud or abuse, but of simple misunderstanding of Medicare billing rules by providers. Therefore, this bill provides \$10 million a year to fund a major expansion of assistance and education for providers on program integrity requirements.

Reducing Paperwork and Administrative Hassle for Providers—Health professionals have to spend too much time completing paperwork and dealing with administrative hassles associated with Medicare and private health plans. In order to reduce this hassle and provide more time for patient care, the