

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 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.