STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. DEWINE, and Mr. SMITH of Oregon):

S. 1412. A bill to amend the Internal Revenue Code of 1986 to limit the reporting requirements regarding higher education tuition and related expenses, and for other purposes; to the Committee on Finance.

HIGHER EDUCATION REPORTING RELIEF ACT

Ms. COLLINS. Mr. President, today I rise to introduce The Higher Education Reporting Relief Act of 1999, which will reduce the burdensome reporting requirements placed on educational institutions by the Hope Scholarship and Lifetime Learning Tax Credits. I am pleased to be joined by my principal cosponsor, Senator DEWINE, who has been a leader on this and many other education issues, and by one colleague Senator GORDON SMITH, who shares our concern for the reporting burden we are placing on our institutions of higher education.

When Congress created the Hope Scholarship and the Lifetime Learning Tax Credits, it unfortunately imposed a burdensome and costly reporting requirement on our universities, colleges and proprietary schools. If implemented, the regulations will require schools to provide the IRS with information on their students that is difficult to obtain, including the taxpayer identification number of the individual who will actually claim the tax credit generated by the student. In many cases, this individual will not be the student but rather his or her parent or parents.

In the words of the President of the University of Maine at Farmington:

> At a time when we are working to increase access and to contain college costs, new government reporting requirements are working against us. We will need to add personnel, not in support of our educational functions but to comply with new IRS regulations. This is not sensible and it is definitely not in the interests of the people we are here to serve.

I think that her words say it very well.

Already, the University of Maine System has been forced to spend $112,000 to meet the Hope Scholarship reporting requirement, and the most burdensome requirements have not yet become mandatory. In total, these reporting requirements are estimated to cost America's postsecondary educational institutions as much as $125 million. This burden does not make sense.

Last year, by passing the Collins-DeWine amendment to the Internal Revenue Service Restructuring and Reform Act, the Senate eliminated one of the most difficult reporting requirements. Our amendment freed schools from the requirement to report financial aid received by a student from a third party and held them responsible for only informing the IRS about financial aid that a school actually administered. In addition, the conference report on the act recognized the problem faced by schools and deferred the implementation of full reporting requirements until the IRS had issued final guidelines. Since the final reporting requirements have not been issued, this deferral remains in effect for tax year 1999.

The conference report further urged the IRS to modernize its computer systems to include the capacity to match a dependent student's taxpayer identification number with the return of the person claiming the student as a dependent. This is the true answer to this problem. Unfortunately, this has not yet been done. If this step is not taken, institutions of higher education will be required to provide this burdensome & costly information to the IRS—a very difficult process.

The legislation we introduce today will defer the implementation of the reporting requirements for three years—through tax year 2001. Further, it will require the IRS to upgrade its data processing systems along the lines recommended by the conference report. Today, as I mention, the IRS has not done this. The IRS will be required to make this change in time for processing tax returns for the year 2002. We have included this delay to give the IRS 2 years after it has been completed dealing with any data processing problems caused by the year 2000 problem.

The rationale for the Hope and the Lifetime Learning credits is to make postsecondary education more affordable and therefore more accessible. What Congress has given with one hand it has taken away in part with its regulatory hand. The cost of conforming to the regulatory requirements will inevitably result in increases in tuition, chipping away at the benefit of the tax credits. We need to correct this problem. The $112,000 that the University of Maine has already been forced to spend to comply with the law clearly is going to be passed on to the students in increased tuitions.

Last year, Senator DEWINE and I introduced the Higher Education Reporting Relief Act that would have completely repealed the reporting requirements imposed on educational institutions. Because of the cost of that approach, we have reworked last year's bill in a way that will accomplish its most important objectives while substantially reducing its potential costs to the Treasury. Our legislation would still leave a reporting burden on the schools but a much more modest and reasonable one that takes into account who is best equipped to report the information that the IRS needs to administer the law.

I hope our colleagues will join us in supporting the Higher Education Reporting Relief Act of 1999.

I yield the reminder of my time to Senator DEWINE.

The PRESIDING OFFICER. The distinguished Senator from Ohio is recognized.

Mr. DEWINE. I am delighted to again join with my distinguished colleague from the State of Maine to try to give some relief to colleges and universities. As she has pointed out, this burden placed by Congress was unintended. I seriously doubt if anyone thought that aspect of the legislation through or fully understood what kind of costs this would impose on our colleges.

The Senator has indicated that Maine, for example, has already been hit with over $100,000 in costs. We could multiply that around the country for every university and every college. This ultimately, of course, will go where all costs go, to the students and the parents.

This is something we should deal with and we should deal with very quickly. I join this morning with my colleague from Maine to introduce the Higher Education Reporting Relief Act. As she has indicated, this is the second time she and I have introduced legislation to provide some very much needed paperwork relief for the colleges and universities of our country.

A compromise version of the legislation we introduced last year was passed by Congress as part of the IRS reform bill. Senator COLLINS and I are here today to complete that very important work and to do what has remained undone from last year.

As my colleague from Maine has indicated, what prompted the need for this legislation was the Hope scholarship and the Lifetime Learning tax credit. This legislation required colleges and universities to comply with very burdensome and costly regulations. Schools were required to issue annual reports to students and the Internal Revenue Service detailing the students' tuition payments. The IRS planned to use the reports to monitor the eligibility of students who apply for the education tax credits. These reporting requirements require colleges and universities to spend millions of dollars to implement and maintain.

The legislation Senator COLLINS and I were able to pass last year eliminated many of the most burdensome reporting requirements, yet there are burdensome requirements that still remain law. It is time, we believe, to finish the job we started last year.

Our bill will further reduce the reporting requirements by making two very commonsense changes to our Tax Code. First, the IRS will be prohibited from imposing any new reporting requirements on colleges and universities prior to the year 2002. No school of higher education should have additional IRS requirements imposed while it is still developing its reporting system.

Second, the IRS will be required to update its computer system by the end of 2002. The IRS computer system would be updated to make it capable of matching the IRS taxpayer identification number of the student with the person claiming this child as a dependent. This update would greatly reduce the reporting burden of the Hope scholarship.

After this update, when a parent uses the Hope scholarship, the IRS will be able to electronically verify that a family was qualified to use this deduction. This process will eliminate a great deal of costly and time-consuming paperwork for the colleges and universities of our Nation. This legislation brings a simple, fair, commonsense solution to the unintentional barriers created by the reporting requirements of the Hope scholarship and the Lifetime Learning tax credit. It would represent significant savings to our colleges and to our universities.

I certainly hope the Senator from Maine and I will once again be successful this year, as we were last year, in bringing relief to institutions of higher education. I invite my colleagues in the Senate to join as cosponsors.

I, once again, thank my colleague from Maine for her leadership on this legislation. She is a true leader in the area of education and has done a great deal of work in this area. This bill is one more example of her true understanding of how the real world works—what happens in our home States when Congress takes actions that, frankly, result in unintended consequences. The unintended consequences in this case are added burdens on our colleges, costs that our colleges have to bear, costs that our colleges then have to turn around and impose on parents and students.

Again, I thank my colleague from Maine for once again being a true leader in this area.

By Mr. DURBIN (for himself and Mr. DORGAN):

S. 1413. A bill to amend the Internal Revenue Code of 1986 to increase the deduction from the estate tax for family-owned business interest; to the Committee on Finance.

FAMILY-OWNED BUSINESS ESTATE TAX RELIEF ACT

Mr. DURBIN. Mr. President, I am pleased to be joined by Senator DORGAN today introducing legislation which would make it easier for a family to hold onto a small business or farm when the head of the family passes away. I am especially pleased to be joined by Senator DORGAN on this bill as he has been a good friend and colleague for almost two decades and a real leader on small business issues since his election to Congress in 1980.

Mr. President, ownership is a powerful force. Anyone who has gone from renting to owning a home will tell you how much more work you put in as an owner. Suddenly, problems with the plumbing or the roof that used to be the landlord's problems are now your problems. Developments in the neighborhood take on new meaning and you tend to spend more time working with neighbors to figure out ways to make your community stronger.

The trade-off for all this work is that whatever improvements we make to our homes and our communities, they're ours. And if our homes increase in value, we get to keep the difference.

The same is true for small businesses and family farms. Most people who have gone from being an employee to owning a small business or farm will tell you that they work harder as an owner, save more, and take more pride in their work. As with homeowners, small businesspeople and farmers are willing to put in the extra work it takes to run a business because they know it will come back to them in the form of more customers and higher profits. It is this industrious spirit that has defined our nation for more than two centuries and allowed us to enjoy a level of prosperity unknown in any other part of the world, in any other era of human history.

The bill we are introducing today makes a simple change in the tax code that will help families pass down the legacy of business ownership from one generation to the next.

Mr. President, the federal estate tax is one of the most controversial provisions of the tax code. Whatever the merits or shortcomings of the estate tax, I believe most of my colleagues would agree that a family should not have to sell a small business or family farm just because the head of the family passes away. Unfortunately, small business owners face a very real concern that the estate tax may force their families to do just that, particularly families whose business' principal assets consist of machinery, real estate, equipment, and inventory . Those families fortunate enough to avoid selling their business or farm are often frustrated by having to finance their estate tax burden at the expense of needed investments in the business.

Recognizing this problem, Congress worked on a bipartisan basis in 1997 to include provisions in the Taxpayer Relief Act which provide targeted assistance to estates with family-owned businesses and farms. Among its provisions, the Taxpayer Relief Act provided an immediate increase in the estate tax exemption from $600,000 to $1.3 million for estates with businesses that are kept in the family, and improved the terms for installment payments made by estates with businesses by reducing the interest rate from 4 percent to 2 percent for the first $1 million in taxable value of the business in excess of the $1.3 million exemption.

The bill that Senator DORGAN and I are introducing today builds on the 1997 Taxpayer Relief Act by simply doubling the $1.3 million exemption for family-owned businesses and farms to $2.6 million. This new level would mean that a typical business with up to 25 employees would face no estate tax liability if the business is kept in the family after the owner dies. Somewhat larger businesses would enjoy a significant reduction in their estate tax burden.

Mr. President, we should be doing what we can to promote small business and farm ownership in America. This bill does just that by simply making it easier for families to continue their tradition of small business ownership. I urge all my colleagues to join Senator DORGAN and me in supporting this legislation.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTIOIN 1. INCREASE IN ESTATE TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTEREST.

(a) IN GENERAL.—Section 2057(a)(2) of the Internal Revenue Code of 1986 (relating to maximum deduction) is amended by striking ''$675,000'' and inserting ''$1,975,000''.

(b) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) of the Internal Revenue Code of 1986 (relating to coordination with unified credit) is amended by striking ''$675,000'' each place it appears in the text and heading and inserting ''$1,975,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

Mr. DORGAN. Mr. President, today I'm pleased to join Senator DURBIN in introducing estate tax relief legislation to boost immediately to $2.6 million the amount of family business assets that can be transferred to the next generation without loading up that family business with a large tax debt. I feel strongly that we must prevent our estate tax laws from hindering the transfer of family farms, ranches and other small businesses to the next generation of family members who would continue to operate them. We made some important changes to the estate tax laws in the last Congress to make it easier for children to take over a family business when a parent dies and keep the business going. But these changes did not go far enough.

Family-owned enterprises are a source of social stability and cohesion in this country. They generate jobs and wealth. Yet in far too many cases, the estate tax laws exert pressure on the children and grandchildren who inherit a modestly-sized family business to sell it, or a large part of it, to pay off those taxes. Our tax laws should encourage enterprises to stay in family ownership, with all the benefits that brings to our communities and to the nation. Yet frequently today the estate tax laws do the opposite.

Congress took some steps in a major tax bill in 1997, which I supported, to enable family farms, ranches, and other small family businesses to be passed along to the next generation without being loaded up with massive estate tax debt. The 1997 bill changes estate taxes in two basic ways. First, the legislation increased the unified estate and gift tax exemption from $600,000 to $1 million over a period of years. Second, it provided a new exemption from estate taxes for qualifying family businesses, valued up to $1.3 million, that are passed down to the children and grandchildren who will operate the farm or business. This new exclusion is the result of a bipartisan effort in Congress to encourage business enterprise that is based on the family unit.

However, Senator DURBIN and I believe that the $1.3 million family business exclusion needs to be substantially increased, and we suspect that a number of our colleagues in the Senate share this view. We are proposing such an increase today.

Our legislation is simple and straightforward. It doubles the dollar value from $1.3 million to $2.6 million of a family business that may be transferred to inheriting family members without an estate tax obligation. This will be a great help to families that want to pass along a small business, which might have been the family's major asset for decades, to the kids to operate following the death of a parent.

Estate tax relief for family businesses is not a partisan issue. It is important for the survival of our nation's family businesses, and it should be a priority for any tax cuts that Congress enacts.

This is not however a proposal to reduce estate taxes for every rich person in America. We see no need to enact a big new benefit for the nation's trust fund babies. It should go to where the need is greatest, and where the economic and social benefits will be greatest as well. That means small family businesses.

In the end, we hope that some additional estate tax relief will be enacted to sustain family-owned businesses and farms, which make up the backbone of our economy. We believe that our approach takes a large step in that direction. We urge our colleagues to cosponsor this much-needed legislation.

By Mr. MACK:

S. 1414. A bill to amend title XVIII of the Social Security Act to restore access to home health services covered under the Medicare Program, and to protect the Medicare Program from financial loss while preserving the due process rights of home health agencies to the Committee on Finance.

MEDICARE HOME HEALTH BENEFICIARY EQUITY AND PAYMENT SIMPLIFICATION ACT OF 1999

Mr. MACK. Mr. President today I am pleased to join my colleague, Mr. BREAUX, in sponsoring The Medicare Home Health Beneficiary Equity and Payment Simplification Act of 1999.

This legislation sets forth a fully developed prospective payment system for Medicare home health benefits that can be implemented easily using currently available data and can be accurately monitored to prevent fraud and abuse. Most importantly, the bill restores access to covered services for the sickest, most frail Medicare beneficiaries while providing incentives for efficient treatment of all patients regardless of the acuity of their medical condition.

The bill provides for a simple four-category prospective payment system for home health services (similar to the four-category system which has been in place for hospice services since 1983) which is based on data from a 1997 study conducted by the Kaiser Family Foundation on characteristics of Medicare patients in need of covered home health services. The Kaiser Foundation study found that Medicare patients in need of home health services historically have fallen into one of the following categories:

1. Post-hospital, short stay beneficiaries
2. Medically stable, long-stay beneficiaries
3. Medically complex, long-stay beneficiaries
4. Medically unstable and complex, extremely high use beneficiaries

Beneficiaries who meet all eligibility and coverage requirements for Medicare will be assigned to the appropriate category by a physician who does not have a prohibited relationship with the home health agency as defined in the ''Stark II'' law. Beneficiaries who do not clearly fit in one of the four categories will be placed in the first, lowest rate category.

Payment rates for each of the categories is the average cost of treating patients in that category in 1994 as determined by the Kaiser Foundation study. Those rates are adjusted for wage variations in different parts of the country and updated by the home health market basket for each fiscal year. The Secretary of HHS is given the authority to provide additional payments to certain agencies that have higher costs due to reasons beyond their control.

The bill would eliminate the 15% cut in Medicare home health reimbursement which is scheduled to go into effect on October 1, 2000. The bill would also simplify the reimbursement system by making payments based on the location of the agency rather than the residence of the patient. The bill is intended to provide a ''fail safe'' prospective payment mechanism in the event that HCFA falls behind in its schedule to implement a prospective payment system by October 1, 2000 that can be administered efficiently and monitored effectively.

I urge my colleagues to join us in cosponsoring this important piece of legislation.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1414

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 Home Health Beneficiary Equity and Payment Simplification Act of 1999''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Research has shown that medicare beneficiaries who are in need of home health services that are covered under the medicare program generally fall into 1 of the 4 following categories:

(A) Post-hospital, short-stay beneficiaries.

(B) Medically stable, long-stay beneficiaries.

(C) Medically complex, long-stay beneficiaries.

(D) Medically unstable and complex, extremely high-use beneficiaries.

(2) The interim payment system for home health services under the medicare program, enacted as part of the Balanced Budget Act of 1997 and amended by title V of the Tax and Trade Relief Extension Act of 1998 (contained in Division J of Public Law 105–277), is having the following unintended consequences:

(A) The sickest, most frail medicare beneficiaries are losing access to medically necessary home health services that are otherwise covered under the medicare program.

(B) Many high quality, cost-effective home health agencies have had per beneficiary limits under the interim payment system set so low that such agencies are finding it impossible to continue to provide home health services under the medicare program.

(C) Many home health agencies are being subjected to aggregate per beneficiary limits under the interim payment system that do not accurately reflect the current patient mix of such agencies, thereby making it impossible for such agencies to compete with similarly situated home health agencies.

(D) Medicare beneficiaries that reside in certain States and regions of the country have far less access to home health services under the medicare program than individuals who have identical medical conditions but reside in other States or regions of the country.

(E) The health status of home health beneficiaries varies significantly in different regions of the country, creating differing needs for home health services.

SEC. 3. PAYMENTS TO HOME HEALTH AGENCIES UNDER MEDICARE.

(a) REVISION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) (as amended by section 5101 of the Tax and Trade Relief Extension Act of 1998 (contained in Division J of Public Law 105–277)) is amended—

(A) in subsection (a), by striking ''for portions of cost reporting periods occurring on or after October 1, 2000'' and inserting ''for cost reporting periods beginning on or after October 1, 1999''; and

(B) in subsection (b), by striking the last sentence of paragraph (1) and all that follows and inserting the following:

''(2) PAYMENT BASIS.—

''(A) IN GENERAL.—The prospective payment amount to be paid to a home health agency under this section for all of the home health services (including medical supplies) provided to a beneficiary under this title during the 12-month period beginning on the date that such services are first provided by such agency to such beneficiary pursuant to a plan for furnishing such services (and for each subsequent 12-month period that services are provided under such plan) shall be an amount equal to the applicable amount specified in subparagraph (B) for the fiscal year in which the 12-month period begins.

''(B) APPLICABLE AMOUNT.—Subject to subparagraphs (C), (D), and (E) and paragraph (5), for purposes of this subsection, the applicable amount is equal to—

''(i) $2,603 for a beneficiary described in subparagraphs (A) and (E) of paragraph (3);

''(ii) $3,335 for a beneficiary described in paragraph (3)(B);

''(iii) $4,228 for a beneficiary described in paragraph (3)(C); and

''(iv) $21,864 for a beneficiary described in paragraph (3)(D).

''(C) ANNUAL UPDATE.—

''(i) IN GENERAL.—The applicable amount specified in subparagraph (B) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

''(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of clause (i), the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

''(D) AREA WAGE ADJUSTMENT.—

''(i) IN GENERAL.—The portion of the applicable amount specified in subparagraph (B) (as updated under subparagraph (C)) that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor for the area in which the home health agency is located.

''(ii) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

''(E) MEDICAL SUPPLIES.—The applicable amount specified in subparagraph (B) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the percentage increase (as determined by the Secretary) in the average costs of medical supplies (as described in section 1861(m)(5)) for the fiscal year involved.

''(3) DESCRIPTION OF BENEFICIARIES.—

''(A) POST-HOSPITAL, SHORT-STAY BENEFICIARY.—A beneficiary described in this subparagraph is a beneficiary under this title who—

''(i) has experienced at least one 24-hour hospitalization within the 14-day period immediately preceding the date that the beneficiary is first provided services by the home health agency;

''(ii) suffers from 1 or more illnesses or injuries which are post-operative or post-trauma; and

''(iii) has a prognosis of a prompt and substantial recovery.

''(B) MEDICALLY STABLE, LONG-STAY BENEFICIARY.—A beneficiary described in this subparagraph is a beneficiary under this title who—

''(i) has not been admitted to a hospital within the 6-month period immediately preceding the date that the beneficiary is first provided services by the home health agency;

''(ii) suffers from 1 or more illnesses or injuries requiring acute medical treatment or management in the home; and

''(iii) is experiencing 1 or more impairments in activities of daily living.

''(C) MEDICALLY COMPLEX, LONG-STAY BENEFICIARY.—A beneficiary described in this subparagraph is a beneficiary under this title who—

''(i) has experienced 2 or more hospitalizations or admissions to skilled nursing facilities within the 12-month period immediately preceding the date that the beneficiary is first provided services by the home health agency;

''(ii) suffers from 1 or more illnesses or injuries requiring acute medical treatment or management in the home; and

''(iii) is experiencing 1 or more impairments in activities of daily living.

''(D) MEDICALLY UNSTABLE AND COMPLEX, EXTREMELY HIGH-USE BENEFICIARIES.—A beneficiary described in this subparagraph is a beneficiary under this title who—

''(i) has experienced 2 or more hospitalizations or admissions to skilled nursing facilities within the 6-month period immediately preceding the date that the beneficiary is first provided services by the home health agency;

''(ii) suffers from 1 or more illnesses or injuries requiring acute medical treatment or management in the home; and

''(iii) is experiencing 2 or more impairments in activities of daily living.

''(E) OTHER BENEFICIARIES.—A beneficiary described in this subparagraph is a beneficiary under this title who is not otherwise described in subparagraphs (A) through (D).

''(4) DETERMINATION.—

''(A) IN GENERAL.—The determination of which of the subparagraphs under paragraph (3) applies to a beneficiary under this title shall be based on the diagnosis and assessment of a physician who shall have no financial relationship with the home health agency that is receiving payments under this title for the provision of home health services to such beneficiary. For purposes of the preceding sentence, any financial relationship shall be determined under rules similar to the rules with respect to referrals under section 1877.

''(B) REGULATIONS.—The Secretary shall issues regulations to assist physicians in making the determination described in subparagraph (A).

''(5) ADDITIONAL PAYMENT AMOUNT.—The Secretary may increase the applicable amount specified in paragraph (2)(B) to be paid to a home health agency if the Secretary determines that such agency is—

''(A) experiencing higher than average costs for providing home health services as compared to other similarly situated home health agencies; or

''(B) providing home health services that are not reflected in the determination of the applicable amount.

''(6) NOTICE OF PROSPECTIVE PAYMENT RATE.—Not later than July 1 of each year (beginning in 2000), the Secretary shall publish in the Federal Register the applicable amount to be paid to home health agencies for home health services provided to a beneficiary under this title during the fiscal year beginning October 1 of the year.

''(7) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.''.

(2) CONFORMING AMENDMENTS.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) (as amended by section 5101 of the Tax and Trade Relief Extension Act of 1998 (contained in Division J of Public Law 105–277)) is amended—

(A) by amending subsection (c) to read as follows:

''(c) REQUIREMENT FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A).''; and

(B) by striking subsection (d).

(3) CHANGE IN EFFECTIVE DATE.—Section 4603(d) of the Balanced Budget Act of 1997 (42 U.S.C. 1395fff note) (as amended by section 5101(c)(2) of the Tax and Trade Relief Extension Act of 1998 (contained in Division J of Public Law 105–277)) is amended by striking ''October 1, 2000'' and inserting ''October 1, 1999''.

(4) ELIMINATION OF CONTINGENCY 15 PERCENT REDUCTION.—Subsection (e) of section 4603 of the Balanced Budget Act of 1997 (42 U.S.C. 1395fff note) is repealed.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(b) PAYMENT RATES BASED ON LOCATION OF HOME HEALTH AGENCY RATHER THAN PATIENT.—

(1) CONDITIONS OF PARTICIPATION.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by striking subsection (g).

(2) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''service is furnished'' and inserting ''agency is located''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after October 1, 1999.

By Mr. HATCH:

S. 1415. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, today I am introducing legislation that would provide critical and direct improvements to the competitiveness of the over 2.1 million S corporations nationwide. The vast majority of S corporations operate as small businesses. By 1995, they comprised 48 percent of all corporations. In my home state of Utah, S corporations make up half of the 21,600 corporations in the state.

Despite the reforms that were enacted in 1996 and in previous years, the tax laws that currently govern S corporations remain too restrictive, complex, and burdensome, particularly in comparison with the laws that are imposed on other entities. As a result, Mr. President, many of these small businesses are unable to attract sufficient capital and to grow to their full potential.

For example, the inability to issue preferred stock denies S corporations access to badly needed senior equity. Capital is also eliminated by a requirement that prevents straight debt from being converted into stock. Substantial reforms need to be enacted to ensure better competition for small businesses in today's increasingly sophisticated and global economy.

Mr. President, the current law is threatening the multi-generational family business in our country. Law allows only for 75 shareholders under an S corporation, and each member of a family is currently treated as a single, distinct shareholder. In addition, nonresident aliens are not allowed as shareholders. This ban on nonresident alien shareholders is an outmoded restriction dating back to the creation of Subchapter S. Since that time, partnerships have been allowed to involve nonresidential aliens. And, as the economy becomes more global, S corporations will be at a disadvantage relative to the more flexible partnerships. Mr. President, this bill would eliminate these outdated provisions and allow for all family members to be counted as one shareholder for purposes of S corporation eligibility, as well as permitting nonresident aliens to be shareholders.

Mr. President, I urge my colleagues to review and support the Subchapter S Revision Act. This legislation will help American families pass their businesses from one generation to the next and to create a level playing field for small business. We should not allow the more than 10,000 S corporations in my home state, as well as the many others across the country, to be subject to rules and regulations that limit their competitiveness. I am looking forward to working with my fellow members of the Finance Committee in enacting this bill.

I ask that a description of the bill's provisions be in included in the RECORD.

The description follows:

TITLE 1—SUBCHAPTER S EXPANSION

SUBTITLE A—ELIGIBLE SHAREHOLDERS OF AN S CORPORATION

Sec. 101. Members of a family treated as one shareholder—All family members within seven generations who own stock could elect to be treated as one shareholder. The election would be made available to only one family per corporation, must be made with the consent of all shareholders of the corporation and would remain in effect until terminated. This provision is intended to keep S corporations within families that might span several generations.

Sec. 102. Nonresident Aliens—This section would provide the opportunity for aliens to invest in domestic S corporations and S corporations to operate abroad with a foreign shareholder by allowing nonresident aliens to own S corporation stock.

SUBTITLE B—QUALIFICATIONS AND ELIGIBILITY REQUIREMENTS OF S CORPORATIONS

Sec. 111. Issuance of preferred stock permitted—An S corporation would be allowed to issue either convertible or plain vanilla preferred stock. Holders of preferred stock would not be treated as shareholders; thus, ineligible shareholders like corporations or partnerships could own preferred stock interests in S corporations. Subchapter S corporations would receive the same recapitalization treatment as family-owned C corporations. This provision would afford S corporations and their shareholders badly needed access to senior equity.

Sec. 112. Safe harbor expanded to include convertible debt—An S corporation is not considered to have more than one class of stock if outstanding debt obligations to shareholders meet the "straight debt" safe harbor. Currently, the safe harbor provides that straight debt cannot be convertible into stock. The legislation would permit a convertibility provision so long as that provision is substantially the same as one that could have been obtained by a person not related to the S corporation or S corporation shareholders.

Sec. 113. Repeal of excessive passive investment income as a termination event: This provision would repeal the current rule that terminates S corporation status for certain corporations that have both Subchapter C earnings and profits and that derive more than 25 percent of their gross receipts from passive sources for three consecutive years.

Sec. 114. Repeal passive income capital gain category—The legislation would retain the rule that imposes a tax on those corporations possessing excess net passive investment income, but, to conform to the general treatment of capital gains, it would exclude capital gains from classification as passive income. Thus, such capital gains would be subject to a maximum 20 percent rate at the shareholder level in keeping with the 1997 tax law change. Excluding capital gains also parallels their treatment under the PHC rules.

Sec. 115. Allowance of charitable contributions of inventory and scientific property—This provision would allow the same deduction for charitable contributions of inventory and scientific property used to care for the ill, needy, or infants for Subchapter S as for Subchapter C corporations. In addition, S corporations would no longer be disqualified from making "qualified research contributions" (charitable contributions of inventory property to educational institutions or scientific research organizations) for use in research or experimentation.

Sec. 116. C corporation rules to apply for fringe benefit purposes—The current rule that limits the ability of "more-than-two-percent" S corporation shareholder-employees to exclude certain fringe benefits from wages would be repealed for benefits other than health insurance.

SUBTITLE C—TAXATION OF S CORPORATION SHAREHOLDERS

Sec. 120. Treatment of losses to shareholders—A loss recognized by a shareholder in complete liquidation of an S corporation would be treated as an ordinary loss to the extent the shareholder's adjusted basis in the S corporation stock is attributable to ordinary income that was recognized as a result of the liquidation. Suspended passive activity losses from C corporation years would be allowed as deductions when and to the extent they would be allowed to C corporations.

SUBTITLE D—EFFECTIVE DATE

Sec. 130. Effective Date—Except as otherwise provided, the amendments made by this legislation shall apply to taxable years beginning after December 31, 1999.●

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 1416. A bill to amend the Agricultural Marketing Agreement of 1937 to allow a modified bloc voting by cooperative associations of milk producers in connection with the scheduled August referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

DEMOCRACY FOR DAIRY PRODUCERS ACT OF 1999

● Mr. FEINGOLD. Mr. President, I rise to introduce a measure that will begin to restore to many dairy farmers throughout the nation, part of the market power they have lost in recent years.

Mr. President, on March 31 of this year, Secretary Glickman put forth the Department of Agriculture's final rule on the Federal Milk Marketing Order system. As many of you know, that proposal consolidated federal orders and made changes to various pricing formulas in current law.

As mandated in last year's Omnibus Appropriations bill, this new federal policy is scheduled to take effect no later than October 1, 1999. However, prior to October, this nation's farmers will put USDA's proposal to a referendum. Farmers will have the opportunity to vote on their futures. Or at least that is what is supposed to happen.

Mr. President, most farmers in the country won't actually get to vote on this, the most significant change in dairy policy in sixty years. Their dairy marketing cooperatives will cast their votes for them.

This procedure is called bloc voting and it is used all the time. Basically, a Cooperative's Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. In the interest of time, but not always in the interest of their producer owner-members.

Mr. President, I do think that bloc voting can be a useful tool in some circumstances, but I have serious concerns about its use in the August referendum on USDA's plan. Farmers in Wisconsin and in other states tell me that they do not agree with their Cooperative's view on the upcoming vote.