

midwives to effectively serve the Medicare-eligible population. In particular, CNMs serve as faculty members of medical schools. For over 20 years, they have supervised and trained interns and residents. The bill guarantees payment for graduate medical education and includes technical corrections that will clarify the reassignment of billing rights for CNMs who are employed by others. Finally, my bill would establish recognition for a certified midwife (CM) to provide services under Medicare. Despite the fact that CNMs and CMs provide the same services, Medicare has yet to recognize CNs as eligible providers. My bill would change this.

This bill will enhance access to “well woman” care for thousands of women in underserved communities and make several needed changes to improve access to midwives. I urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 369—EX-PRESSING THE SENSE OF THE SENATE IN HONORING THE SERVICE OF THE MEN AND WOMEN WHO SERVED IN THE ARMED FORCES OF THE UNITED STATES DURING WORLD WAR II

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

S. RES. 369

Whereas during the dark days of World War II, the United States, the world, and the very future of freedom were threatened by nazism, fascism, and tyranny;

Whereas a generation of Americans stepped forward to confront this scourge, accepting the call to duty to fight the Axis Powers, to defend freedom, and to put their lives on the line so that future generations could live in peace and freedom;

Whereas during World War II, the brave men and women of the Armed Forces of the United States fought alongside allies from more than 30 other nations to vanquish the tyranny and oppression of the Axis Powers on the sea, on the land, and in the air in distant lands in every part of the globe;

Whereas more than 16,000,000 Americans served in the Armed Forces of the United States during World War II, hailing from every corner of the United States and its territories;

Whereas more than 671,000 Americans were wounded and over 105,000 Americans were held as prisoners of war in that terrible conflict;

Whereas more than 400,000 members of the Armed Forces of the United States made the ultimate sacrifice, giving their lives to defeat the evils of nazism, fascism, and tyranny, and to preserve the United States and the ideals the people of the United States hold true;

Whereas by the end of World War II, the members of the Armed Forces of the United States had become symbols of hope for the victors, the liberated peoples of the world, and their former adversaries;

Whereas the victory of the Allied Powers in World War II paved the way for the growth of democracy and freedom in the de-

feated nations of Germany and Japan, and laid the foundation for the West to confront, and eventually defeat, the threat of Communism;

Whereas the people of the United States can never fully express their gratitude to all the members of the Armed Services, including the “Greatest Generation” of World War II, who have dedicated themselves to protecting the people of the United States and to defending the ideals and principles of our great country;

Whereas 114 veterans of World War II have served in the Senate, including 6 who are currently serving: Senator Akaka of Hawaii, Senator Hollings of South Carolina, Senator Inouye of Hawaii, Senator Lautenberg of New Jersey, Senator Stevens of Alaska, and Senator Warner of Virginia; and

Whereas the Senate, on the occasion of the dedication of the World War II Memorial and the 60th Anniversary of the D-day landings in Normandy, France, is proud to honor its Members, past and present, who served in World War II: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its eternal appreciation for the veterans of the Armed Forces of the United States who fought and toiled to protect the United States and preserve the freedom and way of life of the United States during World War II;

(2) honors the brave men and women who made the ultimate sacrifice and gave their lives in defense of liberty and the United States during that global conflict; and

(3) proudly commends the 108 former Members and 6 current Members of the Senate who are veterans of World War II, including Senator Akaka, Senator Hollings, Senator Inouye, Senator Lautenberg, Senator Stevens, and Senator Warner, for their leadership and service to the United States both in war and in peace.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3257. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3258. Mr. GRAHAM, of South Carolina (for himself, Mr. DASCHLE, Mrs. CLINTON, Ms. CANTWELL, Mr. DAYTON, Mr. ALLEN, Ms. MURKOWSKI, Mr. LOTT, Mr. COLEMAN, Mr. DEWINE, Mr. LEAHY, Mrs. LINCOLN, Mr. CORZINE, Mr. DORGAN, Mr. BINGAMAN, Mrs. MURRAY, and Ms. LANDRIEU) proposed an amendment to the bill S. 2400, *supra*.

SA 3259. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3260. Mr. WARNER (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 2400, *supra*.

TEXT OF AMENDMENTS

SA 3257. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, between lines 16 and 17, insert the following:

Subtitle F—Public-Private Competitions

SEC. 856. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

“(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

“(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A-76, as implemented on May 29, 2003;

“(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of \$10,000,000 or 10 percent of the most efficient organization’s personnel-related costs for performance of that activity or function by Federal employees;

“(iv) provides no advantage to an offeror in the cost comparison process for a proposal to reduce costs for the Department of Defense by not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of such function under a contract; and

“(v) provides no advantage to an offeror in the cost comparison process for a proposal to reduce costs for the Department of Defense by offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than that which is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5.

“(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

“(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

“(D) The cost savings requirement specified in subparagraph (A) does not apply to any contract for special studies and analyses, medical services, scientific and technical services related to (but not in support of) research and development, depot-level maintenance and repair services, or services

performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(E) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

“(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

“(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

“(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.”

(b) **INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.**—(1) Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1444; 10 U.S.C. 2461 note).

SEC. 857. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) **GUIDELINES.**—(1) The Secretary of Defense shall prescribe and enforce guidelines for ensuring that Federal Government employees can compete through the public-private process pursuant to Office of Management and Budget Circular A-76 on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) The guidelines prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) **NEW REQUIREMENTS.**—(1) No public-private competition may be required under Office of Management and Budget Circular A-76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A-76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) **USE OF FLEXIBLE HIRING AUTHORITY.**—The Secretary shall include the use of the

flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) **INSPECTOR GENERAL REPORT.**—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) **DEFINITIONS.**—In this section:

(1) The term “National Security Personnel System” means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term “inherently governmental function” has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 112 Stat. 2384; 31 U.S.C. 501 note).

SEC. 858. COMPETITIVE SOURCING REPORTING REQUIREMENT.

Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees—

(A) to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions); and

(B) to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors.

SA 3258. Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mrs. CLINTON, Ms. CANTWELL, Mr. DAYTON, Mr. ALLEN, Ms. MURKOWSKI, Mr. LOTT, Mr. COLEMAN, Mr. DEWINE, Mr. LEAHY, Mrs. LINCOLN, Mr. CORZINE, Mr. DORGAN, Mr. BINGAMAN, Mrs. MURRAY, and Ms. LANDRIEU) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Beginning on page 134, strike line 18 and all that follows through page 141, line 12, and insert the following:

SEC. 706. EXPANDED ELIGIBILITY OF READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) **UNCONDITIONAL ELIGIBILITY.**—Subsection (a) of section 1076b of title 10, United States Code, is amended by striking “is eligible, subject to subsection (h), to enroll in TRICARE” and all that follows through “an employer-sponsored health benefits plan” and inserting “, except for a member who is enrolled or is eligible to enroll in a health benefits plan under chapter 89 of title 5, is eligible to enroll in TRICARE, subject to subsection (h)”.

(b) **PERMANENT AUTHORITY.**—Subsection (1) of such section is repealed.

(c) **CONFORMING REPEAL OF OBSOLETE PROVISIONS.**—Such section is further amended—

(1) by striking subsections (i) and (j); and

(2) by redesignating subsection (k) as subsection (i).

SEC. 707. CONTINUATION OF NON-TRICARE HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED OR ORDERED TO ACTIVE DUTY AND THEIR DEPENDENTS.

(a) **REQUIRED CONTINUATION.**—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

“§ 1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty

“(a) **PAYMENT OF PREMIUMS.**—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for the members of the family of an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (j).

“(b) **ELIGIBLE MEMBER; FAMILY MEMBERS.**—(1) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

“(2) For the purposes of this section, the members of the family of an eligible reserve component member include only the member’s dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

“(c) **QUALIFIED HEALTH BENEFITS PLAN COVERAGE.**—For the purposes of this section, health benefits plan coverage for the members of the family of a reserve component member called or ordered to active duty is qualified health benefits plan coverage if—

“(1) the coverage was in force on the date on which the Secretary notified the reserve component member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

“(2) on such date, the coverage applied to the reserve component member and members of the family of the reserve component member; and

“(3) the coverage has not lapsed.

“(d) **APPLICABLE PREMIUM.**—The applicable premium payable under this section for continuation of health benefits plan coverage for the family members of a reserve component member is the amount of the premium payable by the member for the coverage of the family members.

“(e) **MAXIMUM AMOUNT.**—The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for the family members of a reserve component member under this section in a fiscal year may not exceed the amount determined by multiplying—

“(1) the sum of one plus the number of the family members covered by the health benefits plan, by

“(2) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

“(f) **BENEFITS COVERAGE CONTINUATION PERIOD.**—The benefits coverage continuation period under this section for qualified health benefits plan coverage for the family members of an eligible reserve component member called or ordered to active duty is the period that—

“(1) begins on the date of the call or order; and

“(2) ends on the earlier of—

“(A) the date on which the reserve component member’s eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section; or

“(B) the date on which the reserve component member elects to terminate the continued qualified health benefits plan coverage of the member’s family members.

“(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

“(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

“(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

“(h) NONDUPLICATION OF BENEFITS.—A member of the family of a reserve component member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of the reserve component member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

“(i) REVOCABILITY OF ELECTION.—A reserve component member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member’s family members shall become eligible for benefits under the TRICARE program as provided for under this chapter.

“(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.”

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

SA 3259. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. MODIFICATION OF AUTHORITY FOR LAND CONVEYANCE, EQUIPMENT AND STORAGE YARD, CHARLESTON, SOUTH CAROLINA.

Section 563(h) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 360) is amended to read as follows:

“(h) CHARLESTON, SOUTH CAROLINA.—

“(1) IN GENERAL.—The Secretary may convey all right, title, and interest of the United States in and to a parcel of real property of the Corps of Engineers, together with any improvements thereon, that is known as the Equipment and Storage Yard and is located on Meeting Street in Charleston, South Carolina, in as-is condition.

“(2) CONSIDERATION.—As consideration for the conveyance of property under paragraph (1), the party to which such property is conveyed shall provide the United States, whether by cash payment, exchange of property or facilities, or a combination thereof, an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary.

“(3) DISCHARGE OF AUTHORITY THROUGH DIVISION ENGINEER, SOUTH ATLANTIC DIVISION.—The Division Engineer, South Atlantic Division, may, on behalf of the United States, execute deeds of conveyance and accept the consideration described in paragraph (2) in connection with the conveyance of property under paragraph (1).

“(4) USE OF PROCEEDS.—Amounts received as consideration under this subsection may be used by the Corps of Engineers, Charleston District—

“(A) to cover costs associated with the lease, purchase, or construction of an office facility within the boundaries of Charleston, Berkeley, and Dorchester Counties, South Carolina, notwithstanding any requirements in the Plant Replacement and Improvement Program (PRIP), or existing PRIP balances;

“(B) to cover any of the costs previously incurred in connection with the move of the District Headquarters of the Charleston District; or

“(C) to cover any of the costs previously incurred in connection with the Equipment and Storage Yard.”

SA 3260. Mr. WARNER (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 239, between lines 2 and 3, insert the following:

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A CONTINGENT EMERGENCY RESERVE FUND FOR OPERATIONS IN IRAQ AND AFGHANISTAN.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2005, subject to subsections (b) and (c), \$25,000,000,000, to be available only for activities in support of operations in Iraq and Afghanistan.

(b) SPECIFIC AMOUNTS.—Of the amount authorized to be appropriated under subsection (a), funds are authorized to be appropriated in amounts for purposes as follows:

(1) For the Army for operation and maintenance, \$14,000,000,000.

(2) For the Navy for operation and maintenance, \$1,000,000,000.

(3) For the Marine Corps for operation and maintenance, \$2,000,000,000.

(4) For the Air Force for operation and maintenance, \$1,000,000,000.

(5) For operation and maintenance, Defense-wide activities, \$2,000,000,000.

(6) For military personnel, \$2,000,000,000.

(7) An additional amount of \$3,000,000,000 to be available for transfer to—

(A) operation and maintenance accounts;

(B) military personnel accounts;

(C) research, development, test, and evaluation accounts;

(D) procurement accounts;

(E) classified programs; and

(F) Coast Guard operating expenses.

(c) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent that a budget request for all or part of the amount authorized to be appropriated under such subsection for the purposes set forth in such subsection is transmitted by the President to Congress after the date of the enactment of this Act and includes a designation of the requested amount as an emergency and essential to support activities in Iraq and Afghanistan.

(d) TRANSFER AUTHORITY.—(1) Of the amount authorized to be appropriated under subsection (b)(7) for transfer, no transfer may be made until the Secretary of Defense consults with the Chairmen and Ranking Members of the congressional defense committees and then notifies such committees in writing not later than five days before the transfer is made.

(2) The transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(e) MONTHLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees each month a report on the use of funds authorized to be appropriated under this section. The report for a month shall include in a separate display for each of Iraq and Afghanistan, the activity for which the funds were used, the purpose for which the funds were used, the source of the funds used to carry out that activity, and the account to which those expenditures were charged.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 2, 2004, at 10:15 a.m., in closed session to receive a briefing on the situation in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 2, 2004, at 10 a.m., to conduct a hearing on “The Role of State Securities Regulators in Protecting Investors.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Commerce,