

108TH CONGRESS
1ST SESSION

S. 1214

To provide a partially refundable tax credit for caregiving related expenses.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2003

Ms. MIKULSKI (for herself, Mrs. CLINTON, Mr. CORZINE, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. DAYTON, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide a partially refundable tax credit for caregiving related expenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Caregiver Re-
5 lief Act of 2003”.

6 **SEC. 2. LONG-TERM CARE TAX CREDIT.**

7 (a) ALLOWANCE OF CREDIT.—

8 (1) IN GENERAL.—Paragraph (1) of section
9 24(a) of the Internal Revenue Code of 1986 (relat-

ing to allowance of child tax credit) is amended to
read as follows:

“(1) IN GENERAL.—There shall be allowed as a
credit against the tax imposed by this chapter for
the taxable year an amount equal to the sum of—

“(A) the per child amount multiplied by
the number of qualifying children of the tax-
payer, plus

“(B) the sum of the eligible expenses of
the taxpayer, not compensated by insurance or
otherwise, for each applicable individual with
respect to whom the taxpayer is an eligible
caregiver for the taxable year.”.

(2) LIMITATION.—Section 24(b) of such Code
is amended by redesignating paragraphs (1), (2),
and (3) as paragraphs (2), (3), and (4), respectively,
and by inserting before paragraph (2) (as redesign-
ated by this paragraph) the following new para-
graph:

“(1) IN GENERAL.—The credit allowed under
subsection (a)(1)(B) shall not exceed \$5,000 for any
taxable year.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 24(d)(1) of such Code is
amended by striking “subsection (b)(3)” each

1 place it appears and inserting “subsection
2 (b)(4)”.

3 (B) The heading for section 24 of such
4 Code is amended to read as follows:

5 **“SEC. 24. FAMILY CARE CREDIT.”.**

6 (C) The table of sections for subpart A of
7 part IV of subchapter A of chapter 1 of such
8 Code is amended by striking the item relating
9 to section 24 and inserting the following new
10 item:

“Sec. 24. Family care credit.”.

11 (b) **ELIGIBLE EXPENSES.—**

12 (1) **IN GENERAL.—**Section 24 of the Internal
13 Revenue Code of 1986 is amended by redesignating
14 subsections (b) through (f) as subsections (c)
15 through (g), respectively, and by inserting after sub-
16 section (a) the following new subsection:

17 **“(b) ELIGIBLE EXPENSES.—**For the purposes of this
18 section—

19 **“(1) IN GENERAL.—**The term ‘eligible expenses’
20 means expenses incurred by the taxpayer for—

21 **“(A)** medical care (as defined in section
22 213(d)(1) without regard to subparagraph (D)
23 thereof),

24 **“(B)** lodging away from home in accord-
25 ance with section 213(d)(2),

1 “(C) adult day care,
 2 “(D) custodial care,
 3 “(E) respite care, and
 4 “(F) other specialized services for children,
 5 including day care for children with special
 6 needs.

7 “(2) ADULT DAY CARE.—The term ‘adult day
 8 care’ means care provided for adults with functional
 9 or cognitive impairments through a structured, com-
 10 munity-based group program which provides health,
 11 social, and other related support services on a less
 12 than 24-hour per day basis.

13 “(3) CUSTODIAL CARE.—The term ‘custodial
 14 care’ means reasonable personal care services pro-
 15 vided to assist with daily living and which do not re-
 16 quire the skills of qualified technical or professional
 17 personnel.

18 “(4) RESPITE CARE.—The term ‘respite care’
 19 means planned or emergency care provided to an ap-
 20 plicable individual in order to provide temporary re-
 21 lief to an eligible caregiver.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 24(e)(1) of such Code (relating
 24 to portion of credit refundable), as redesignated
 25 by paragraph (1) and as amended by subsection

1 (a)(3)(A), is amended by striking “subsection
 2 (b)(4)” each place it appears and inserting
 3 “subsection (c)(4)”.

4 (B) Section 501(c)(26) of such Code is
 5 amended by striking “section 24(c)” and insert-
 6 ing “section 24(d)”.

7 (C) Section 6211(b)(4)(A) of such Code is
 8 amended by striking “section 24(d)” and in-
 9 serting “section 24(e)”.

10 (D) Section 6213(g)(2)(I) of such Code is
 11 amended by striking “section 24(e)” and insert-
 12 ing “section 24(f)”.

13 (c) DEFINITIONS.—Subsection (d) of section 24 of
 14 the Internal Revenue Code of 1986, as redesignated by
 15 subsection (b)(1), is amended to read as follows:

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFYING CHILD.—

18 “(A) IN GENERAL.—The term ‘qualifying
 19 child’ means any individual if—

20 “(i) the taxpayer is allowed a deduc-
 21 tion under section 151 with respect to such
 22 individual for the taxable year,

23 “(ii) such individual has not attained
 24 the age of 17 as of the close of the cal-

endar year in which the taxable year of the taxpayer begins, and

“(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

“(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term ‘qualifying child’ shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows ‘resident of the United States’.

“(2) APPLICABLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

“(i) which is at least 180 consecutive days, and

“(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

“(i) The individual is at least 18 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the

1 extent provided in regulations pre-
2 scribed by the Secretary (in consulta-
3 tion with the Secretary of Health and
4 Human Services), is unable to engage
5 in age appropriate activities.

6 “(ii) The individual is at least 6 but
7 not 18 years of age and—

8 “(I) is unable to perform (with-
9 out substantial assistance from an-
10 other individual) at least 3 activities
11 of daily living (as defined in section
12 7702B(c)(2)(B)) due to a loss of
13 functional capacity,

14 “(II) requires substantial super-
15 vision to protect such individual from
16 threats to health and safety due to se-
17 vere cognitive impairment and is un-
18 able to perform at least 1 activity of
19 daily living (as so defined) or to the
20 extent provided in regulations pre-
21 scribed by the Secretary (in consulta-
22 tion with the Secretary of Health and
23 Human Services), is unable to engage
24 in age appropriate activities,

1 “(III) has a level of disability
2 similar to the level of disability de-
3 scribed in subclause (I) (as deter-
4 mined under regulations promulgated
5 by the Secretary), or

6 “(IV) has a complex medical con-
7 dition (as defined by the Secretary)
8 that requires medical management
9 and coordination of care.

10 “(iii) The individual is at least 2 but
11 not 6 years of age and—

12 “(I) is unable due to a loss of
13 functional capacity to perform (with-
14 out substantial assistance from an-
15 other individual) at least 2 of the fol-
16 lowing activities: eating, transferring,
17 or mobility,

18 “(II) has a level of disability
19 similar to the level of disability de-
20 scribed in subclause (I) (as deter-
21 mined under regulations promulgated
22 by the Secretary), or

23 “(III) has a complex medical con-
24 dition (as defined by the Secretary)

1 that requires medical management
2 and coordination of care.

3 “(iv) The individual is under 2 years
4 of age and—

5 “(I) requires specific durable
6 medical equipment by reason of a se-
7 vere health condition or requires a
8 skilled practitioner trained to address
9 the individual’s condition to be avail-
10 able if the individual’s parents or
11 guardians are absent,

12 “(II) has a level of disability
13 similar to the level of disability de-
14 scribed in subclause (I) (as deter-
15 mined under regulations promulgated
16 by the Secretary), or

17 “(III) has a complex medical con-
18 dition (as defined by the Secretary)
19 that requires medical management
20 and coordination of care.

21 “(v) The individual has 5 or more
22 chronic conditions (as defined in subpara-
23 graph (C)) and is unable to perform (with-
24 out substantial assistance from another in-
25 dividual) at least 1 activity of daily living

1 (as so defined) due to a loss of functional
2 capacity.

3 “(C) CHRONIC CONDITION.—For purposes
4 of this paragraph, the term ‘chronic condition’
5 means a condition that lasts for at least 6 con-
6 secutive months and requires ongoing medical
7 care.

8 “(3) ELIGIBLE CAREGIVER.—

9 “(A) IN GENERAL.—A taxpayer shall be
10 treated as an eligible caregiver for any taxable
11 year with respect to the following individuals:

12 “(i) The taxpayer.

13 “(ii) The taxpayer’s spouse.

14 “(iii) An individual with respect to
15 whom the taxpayer is allowed a deduction
16 under section 151 for the taxable year.

17 “(iv) An individual who would be de-
18 scribed in clause (iii) for the taxable year
19 if section 151(c)(1)(A) were applied by
20 substituting for the exemption amount an
21 amount equal to the sum of the exemption
22 amount, the standard deduction under sec-
23 tion 63(c)(2)(C), and any additional stand-
24 ard deduction under section 63(c)(3) which

1 would be applicable to the individual if
2 clause (iii) applied.

3 “(v) An individual who would be de-
4 scribed in clause (iii) for the taxable year
5 if—

6 “(I) the requirements of clause
7 (iv) are met with respect to the indi-
8 vidual, and

9 “(II) the requirements of sub-
10 paragraph (B) are met with respect to
11 the individual in lieu of the support
12 test of section 152(a).

13 “(B) RESIDENCY TEST.—The require-
14 ments of this subparagraph are met if an indi-
15 vidual has as such individual’s principal place of
16 abode the home of the taxpayer and—

17 “(i) in the case of an individual who
18 is an ancestor or descendant of the tax-
19 payer or the taxpayer’s spouse, is a mem-
20 ber of the taxpayer’s household for over
21 half the taxable year, or

22 “(ii) in the case of any other indi-
23 vidual, is a member of the taxpayer’s
24 household for the entire taxable year.

1 “(C) SPECIAL RULES WHERE MORE THAN
2 1 ELIGIBLE CAREGIVER.—

3 “(i) IN GENERAL.—If more than 1 in-
4 dividual is an eligible caregiver with re-
5 spect to the same applicable individual for
6 taxable years ending with or within the
7 same calendar year, a taxpayer shall be
8 treated as the eligible caregiver if each
9 such individual (other than the taxpayer)
10 files a written declaration (in such form
11 and manner as the Secretary may pre-
12 scribe) that such individual will not claim
13 such applicable individual for the credit
14 under this section.

15 “(ii) NO AGREEMENT.—If each indi-
16 vidual required under clause (i) to file a
17 written declaration under clause (i) does
18 not do so, the individual with the highest
19 modified adjusted gross income (as defined
20 in section 32(c)(5)) shall be treated as the
21 eligible caregiver.

22 “(iii) MARRIED INDIVIDUALS FILING
23 SEPARATELY.—In the case of married indi-
24 viduals filing separately, the determination
25 under this subparagraph as to whether the

1 husband or wife is the eligible caregiver
 2 shall be made under the rules of clause (ii)
 3 (whether or not one of them has filed a
 4 written declaration under clause (i)).”.

5 (d) IDENTIFICATION REQUIREMENTS.—

6 (1) IN GENERAL.—Section 24(f) of the Internal
 7 Revenue Code of 1986 (relating to identification re-
 8 quirement), as redesignated by subsection(b)(1), is
 9 amended by adding at the end the following new
 10 sentence: “No credit shall be allowed under this sec-
 11 tion to a taxpayer with respect to any applicable in-
 12 dividual unless the taxpayer includes the name and
 13 taxpayer identification number of such individual,
 14 and the identification number of the physician certi-
 15 fying such individual, on the return of tax for the
 16 taxable year.”.

17 (2) ASSESSMENT.—Section 6213(g)(2)(I) of
 18 such Code is amended—

19 (A) by inserting “or physician identifica-
 20 tion” after “correct TIN”, and

21 (B) by striking “child tax” and inserting
 22 “family care”.

23 (e) DENIAL OF DOUBLE BENEFIT.—

24 (1) IN GENERAL.—Section 213(e) of the Inter-
 25 nal Revenue Code of 1986 (relating to exclusion of

1 amounts allowed for care of certain dependents) is
2 amended by inserting “or section 24” after “section
3 21”.

4 (2) CONFORMING AMENDMENT.—The heading
5 of section 213(e) of such Code is amended by insert-
6 ing “LONG-TERM CARE OR” after “FOR”.

7 (f) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 the later of December 31, 2003, or the date of the enact-
10 ment of this Act.

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