Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr. HAGEL), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1182

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1182, supra.

S. 1182

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Delaware (Mr. BIDEN), and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1182, supra.

S. 1185

At the request of Mr. THOMAS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Idaho (Mr. CRAPO), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1185, a bill to amend title XVIII of the Social Security Act and the Public Health Service Act to improve outpatient health care for medicare beneficiaries who reside in rural areas, and for other purposes.

S. CON. RES. 48

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution supporting the goals and ideals of ''National Epilepsy Awareness Month'' and urging funding for epilepsy research and service programs.

S. RES. 159

At the request of Mr. PRYOR, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 159, a resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1206. A bill to amend title XVIII of the Social Security Act to provide for special treatment for certain drugs and biologicals under the prospective payment system for hospital outpatient department services under the medicare program; to the Committee on Finance.

Mr. BOND. Mr. President, today I rise to introduce a bill that will ensure that cancer patients continue to have access to the treatment and care they desperately need in their communities.

In Missouri alone, the number of new cancer patients is estimated to reach almost 30,000 this year. For the Nation, we're talking well over 1.3 million. And the numbers continue to climb every year. These numbers are in addition to patients currently living with cancer. Many of them are surviving—and thriving—because of new tests, new treatments, and care they receive in community cancer centers across the country.

Many of these patients will turn to hospitals in their communities for lifesaving treatment. Hospital outpatient departments are a critical part of the cancer care delivery system that provide a significant portion of the cancer care across the country.

However, this vital care is in jeopardy because this year, the Centers for Medicare and Medicaid Services, CMS, has implemented drastic reductions in reimbursements for cancer services, including chemotherapy. These cuts are forcing cancer centers across the country to reconsider how they are providing care or accept reimbursement that fails to cover their costs.

I was recently contacted by Wes Thompson, Director of Radiology at Ray County Memorial Hospital in Richmond, MO. For those of you unfamiliar with Missouri, Richmond is a small town with a population of about 6,100 approximately 50 miles east of Kansas City. Ray County Memorial Hospital is the sole referral center for chemotherapy treatment for the rural residents outside of Kansas City.

In 1999, Wes' wife died of cancer at the age of 26. She happened to be a patient of the pharmacist, Robert Courtney, who has been convicted of diluting thousands of chemotherapy treatments for profit over the last several years. Wes will be receiving a monetary settlement from the legal proceeding involving Robert Courtney and he would like to donate it to the Ray County's oncology program in his wife's name. Unfortunately, cuts in reimbursements by Medicare for chemotherapy treatment will force Ray County Memorial Hospital to discontinue outpatient cancer treatment on January 1, 2004. And, that is devastating news to the community.

This is a department that treats over 250 patients a year across three counties. 60–70 percent of their patients are Medicare beneficiaries and about 40 percent of their patients are indigent. Many of these cancer patients would receive no care at all if Ray County Memorial closed the doors of the cancer program. And yet, that's exactly what they are considering. Their cancer program can't stay afloat when every chemotherapy treatment they give is reimbursed by Medicare at less than their costs. There are a lot of expensive drugs involved in the treatment of cancer. The heavy dependence on drugs has a lot to do with why the cuts are devastating to cancer care in particular.

At Ray County Memorial, the first round of cuts last year meant that hospital overall took a loss of over $150,000. This year's cuts will result in the loss of approximately $200,000–$300,000 for oncology services alone.

As of January 1 of next year 250 patients in rural Missouri will be forced to drive to Kansas City to receive cancer treatment. Oncologists at Ray County Memorial Hospital estimate that 40 percent of the patients they treat will be unable to make the trip to Kansan City area facilities to receive their treatment—either because they lack the transportation or the help to get there and back, or they are too sick or too weak to endure that trip. As a result of this cancer center closing, 80–100 people will die from cancer with no treatment and no hope. Of course Ray Memorial Hospital will continue to give these people loving care and try to make them as comfortable as possible, but they will be unable to treat their cancer anymore.

This is not a problem unique to Ray County Memorial Hospital. Due to cuts in Medicare reimbursement for cancer treatments hospitals across Missouri and across the county that provide outpatient cancer care—large or small, rural or urban—are struggling to continue to provide this care. These cancer centers work every day to ensure that the thousands of Americans diagnosed with cancer are receiving the best care possible.

I also have the privilege of representing Truman Medical Center, distinguished in its own way—for providing free care to so many. While Truman Medical Center sees only about 300–350 newly diagnosed cancer patients each year, about 70–75 percent of them are indigent. For these patients, they provide some 1,500–2,000 treatments of chemotherapy each year . . . and starting in January of this year, Medicare is reimbursing for many of these at levels dramatically below Truman's costs. And there are so many others.

In rural areas, where it is often hard to recruit physicians, it is the community cancer centers that provide all the chemotherapy and other services that help ensure that cancer patients don't have to travel long distances for the care they need. This is particularly important in cancer treatment, where life saving treatments often result in difficult side effects in the short term.

These cancer centers are also often the early adopters of some of the newest and most complicated drug regimens that cancer patients need today. And not only are they a ''safety net'' for rural patients, they are often the safety net for Medicaid and uninsured patients.

And yet, these are the very institutions that have been suffering under

what is essentially an experiment underway by the Centers for Medicare and Medicaid Services, CMS. I know that this isn't anyone's favorite agency, but I expect more under a Republican Administration.

For a number of years now, CMS has been trying to bring a new payment system to these hospitals. Each year this experiment brings a new set of rules and payments—for the hospitals to sort through and try to implement.

But this isn't just an administrative burden that takes our caregivers away from their payments. In the last two years, this payment system has resulted in significant payment reductions for a setting of care that can now barely meet its costs.

My own Missouri institutions tell me they're considering closing their indigent care programs or worse, closing their doors altogether.

My office is hearing stories from around the country, about hospital administration arming their doctors with lists of the most expensive drugs and what CMS is now reimbursing them. Why do this if you aren't trying to influence a doctor's decision about what to prescribe? Pharmacists are under pressure to review dosing regimens to see where they can cut corners. Some drugs are just not being given in these community centers. Others that used to be given free of charge until their Medicare codes were assigned now aren't given at all.

In some cases, hospitals are sending patients to the nearest physician's office, where inexplicably, Medicare is paying more for the same drugs. But sometimes theses offices aren't nearby. Other times, hospitals are getting patients returned to them with complications that have arisen—and now have to be admitted for overnight stays and close monitoring.

How scary for a cancer patient? Sometimes with only months to live, to be told that it could take nine months before the next breakthrough drug can be given because it's just too expensive. To be told that the hospital where you've gotten to know your doctors and nurses after weeks of chemotherapy is now closing its doors. To be told that you now have to drive miles for care, away from friends and family who have helped care for you when you return feeling nauseous and weak from treatments.

These stories are accumulating—all because of a failed CMS experiment. So should we terminate the experiment and start over with a payment system that actually reflects that cost of providing this care? Yes, of course.

But that would take time—and while the time honored tradition here in Washington of debate and compromise for long term reform is a worthy one—these community cancer centers around the country continue to rack up the stories of compromised care and reduced access for patients, and time is one luxury many cancer patients simply do not have.

And this brings me to my legislation, which is measured, timely, and focused on the most immediate of needs. And, written so as to recognize the budgetary constraints facing us.

This legislation would set a payment floor for some of the most costly drugs given in the outpatient community centers today. This bill isn't limited to cancer drugs. But cancer is one of those diseases that relies so heavily on new drugs for treatment that tend to be costly drugs, so the impact of this experiment has been felt here more. The bill provides this relief immediately—so that in January 2004, these hospitals can start receiving increased payments that at least cover more of their costs.

This payment floor, by the way, was set not on the basis of these centers' true costs. Instead, recognizing the little time they have and the immediacy of their need, they have settled for payment rates advocated by various members of Congress over the last year—as it began to be clear how devastating an impact this experiment could have.

This bill, for example, wouldn't help them cover the costs of the pharmacy services they provide, so critical to ensuring safe and effective care in the hospitals. Again, these costs are especially significant for cancer patients, where mixing highly toxic chemotherapeutic agents using special equipment and wearing protective gear, reviewing protocols and checking for patient risks and side effects are all more intensive efforts. It recognizes these services by asking for a study of these costs, so that they may be recognized in longer term solutions that we develop over the next year or so.

The legislation I introduce today will provide hospitals like Ray County Memorial Hospital and Truman Medical Center, and so many around Missouri and across the country the immediate relief they need to be able to treat their patients.

I look forward to working with my Finance Committee colleagues to ensure that the provisions of this legislation and the immediate relief that it provides are incorporated in anything we do on Medicare.

We have learned our lessons the hard way in home health. This crisis in community cancer centers promises to reach similar proportions if we don't act now.

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By Mr. TALENT:

S. 1207. A bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the ''Walt Disney Post Office Building''; to the Committee on Governmental Affairs.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1207

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

**SECTION 1. WALT DISNEY POST OFFICE BUILDING.**

(a) REDESIGNATION.—The facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, and known as the Marceline Main Office, shall be known and designated as the ''Walt Disney Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Walt Disney Post Office Building.

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By Ms. COLLINS (for herself and Mr. REED):

S. 1208. A bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. COLLINS. Mr. President, the people of Maine have always been faithful stewards of their forest lands because we understand and appreciate its tremendous value to our economy and to our way of life.

From the vast tracts of undeveloped land in the north, to the small woodlots in the south, forest land has helped to shape the character and the heritage of my State.

While our commitment to stewardship has preserved the forests for generations, there is a new and troubling thereat to Maine's forest lands that requires a fresh approach. This threat is suburban sprawl. It has already consumed tens of thousands of acres of forest land in the southern part of my State. Sprawl occurs because the economic value of forests or crop land cannot compete with the value of developed land.

This problem is particularly acute in southern Maine where there has been more than a 100-percent increase in urbanized sprawl over the past two decades. This has resulted in the labeling of the greater Portland area as the ''sprawl capital of the Northeast.''

I am alarmed by the amount of working forest land and open space in southern and coastal Maine that has given way to strip malls and cul-de-sacs. Our State is working to respond to this challenge because once that land is paved over, it is gone forever. Those forest lands and those small woodlots are lost forever once that land is developed.

The people of Maine in response to this concern have approved a $50 million bond issue to preserve land through the Land for Maine's Future Board. They have also worked hard supporting local efforts to preserve open space. And they have contributed their time, their energy, and their money to the work done by our State's 88 land trusts.

The people of my State are dedicated to preserving our working forests and protecting our communities from sprawl. It is now time for the Federal

Government to lend a helping hand in support of those efforts.

Today, I am introducing the Suburban Community Forestry and Open Space Act. This legislation, which was drafted with the advice of landowners, conservation groups, and the Maine State Forester, establishes a $50 million grant program within the U.S. Forest Service to support locally driven projects that will preserve our working forests. Local governments and nonprofit organizations would compete for funds to purchase land outright or to buy conservation easements to keep the forest land threatened by development in their traditional use.

Projects funded under this legislation must be targeted at lands located in parts of the country that are threatened by sprawl. The legislation requires that Federal funds be matched dollar for dollar by State, local, or private resources so that it is a true partnership to preserve this open space and working forests.

This grant program would help to promote sustainable forestry as well as public access to our forest lands. My legislation protects the rights of property owners with the inclusion of a ''willing seller'' provision, which requires the consent of a landowner if a parcel of land is eligible to participate in the program.

The grant program would also allow nonprofits and municipalities, but not the Federal Government, to hold title to the land or the easements purchased under this program. The $50 million is a modest amount but it would help to achieve a number of stewardship objectives.

First, my legislation would help prevent forest fragmentation and preserve our working forests, helping to maintain the supply of timber that fuels Maine most significant industry.

Second, the resources made available by my legislation would be a valuable tool for communities that are struggling to manage growth and prevent sprawl. Currently, if a community trying to cope with the effects of sprawl turns to the Federal Government for help, they would find that no assistance is available.

The Forest Legacy Program, which has been critical in preserving undeveloped forest land in my State and many others, is really not suitable for the kinds of projects my bill envisions. My bill would change that by making the Federal Government an active partner in preserving forest lands and managing sprawl, while leaving the decisionmaking at the State and local level where it belongs.

Last year, this legislation was included in the forestry title of the Senate-approved version of the farm bill which passed this Senate by a vote of 58–40. Unfortunately, the forestry title was stripped out of the farm bill conference report, despite bipartisan support for provisions such as my legislation.

There is a great deal that needs to be done to protect our working forests for the next generation. I believe the legislation I am reintroducing today will help advance that goal. I am grateful for the support of many of the people and organizations that are leading the effort to support this legislation. By enacting the Suburban and Community Forestry and Open Space Act, Congress can provide a real boost to local conservation initiatives, help prevent sprawl, and help sustain the vitality of natural resource-based industries.

Mr. President, I would like to submit for the Record several letters of support for my legislation. They are from the National Association of State Foresters, the New England Forestry Foundation, The Trust for Public Land, and the Pacific Forest Trust. I ask unanimous consent that those letters of support be printed in the RECORD.

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

NATIONAL ASSOCIATION
OF STATE FORESTERS,
*Washington, DC, June 5, 2003.*

Hon. SUSAN M. COLLINS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the National Association of State Foresters, I would like to thank you for your efforts to reduce the impacts of urban and suburban sprawl on private and tribal forestlands in the U.S. Your bill to protect Suburban and Community Forestry and Open Space demonstrates your commitment to minimizing conversion of suburban forestlands to non-forest uses. Maintaining working forests in suburban environments is consistent with the goals of NASF, and we appreciate your efforts to develop a program that can be implemented by the States.

As the USDA Forest Service's Southern Forest Resource Assessment clearly demonstrates, one of the major threats to forestland is urban sprawl. The provisions in Section 1 of your bill will enable private landowners to keep their land in trees and sustain the public benefits that their forests provide. Your bill provides another tool to address this critical concern.

Thank you for your commitment to sustainable forest management and to reducing suburban sprawl. We look forward to continuing our work with you on the details of the entire bill.

Sincerely,

JAMES L. SLEDGE, Jr,
*President.*

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NEW ENGLAND
FORESTRY FOUNDATION,
*June 3, 2003.*

Senator SUSAN M. COLLINS,
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR COLLINS: The New England Forestry Foundation applauds Senator Collins' leadership and initiative in sponsoring the Suburban and Community Forestry and Open Space Program, designed to help towns and communities across America's suburban landscape combat sprawl, and preserve open space. This legislative package is exactly what is needed to provide an incentive for local governments and land trusts across the country to unite and partner to address an issue of national importance.

Congratulations!

Sincerely,

AMOS ENO,
*Executive Director.*

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THE TRUST FOR PUBLIC LAND,
*Boston, MA, June 4, 2003.*

Hon. SUSAN M. COLLINS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the Trust for Public Land, I am pleased to express our support for the Suburban and Community Forestry and Open Space Act. This legislation will provide a much-needed focus on working forests that provide important resources in and around Maine's towns and cities that are facing significant development pressures. We applaud your foresight in addressing this issue.

As the Trust for Public Land pursues its mission of protecting land for people in Maine, we are acutely aware of the difficult choices many landowners face as land values rise and development pressures intensify. The forest lands that lie in the path of development are incredibly important to local residents for a variety of resources, including recreation, wildlife habitat, water quality and open space. The Suburban and Community Forestry and Open Space Act will allow these critical lands to remain intact as community assets by focusing federal assistance to landowners in areas affected by suburban sprawl. This is a much-needed addition to the resource conservation efforts that states, localities and non-governmental partners are already undertaking and will provide the extra funding leverage needed to successfully meet the challenges of the future.

Our work with willing sellers across the state leads us to believe that your legislation will provide new resource protection opportunities for many Maine communities that will leave them in good shape for future generations. Maine's forest resources are absolutely critical to ensuring a decent quality of life for residents and visitors alike, and proposals like yours will ensure that we address the conservation of those resources wisely.

Thank you for your leadership on this and many other issues affecting Maine. We look forward to working with you on this legislation and for the long-term protection of Maine's outstanding natural resources.

Sincerely,

WHITNEY HATCH,
*Regional Director.*

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JUNE 3, 2003.

Hon. SUSAN COLLINS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR COLLINS: The Pacific Forest Trust (PFT) strongly supports your proposed legislation, which will encourage and facilitate the preservation of our nation's privately owned forestlands. Your amendment to the Forest Legacy Program will increase the flexibility of states in the administration of the Program, which will, in turn, lead to greater preservation of private forestland.

For over ten years, PFT, a non-profit organization, has worked to preserve, restore and enhance the privately owned productive forestlands in the United States. We currently hold roughly 35,000 acres under easement and have been instrumental in ensuring the preservation of private land valued at over $115,000,000. We have provided oral and written testimony to Congress regarding proposed policies to protect and enhance our private forestlands and have written extensively on this issue.

The legislation is critical to the preservation of private forestlands throughout the

United States. Between 1982 and 1997, the United States lost over 20 million acres of private forestlands to other uses. States as diverse as California and Georgia have lost over 60,000 acres annually to development alone. Similar statistics are reflected among privately owned forestland in other areas of the United States, especially in the most productive timber areas.

The amendment to the Forest Legacy Program will provide states with the option to permit qualified non-profit organizations, such as land trusts, to hold easements that are purchased, in part or in whole, with Forest Legacy funds. Currently, land trusts may only hold easements through Forest Legacy if such easements are donated. Thus, this amendment will give states the opportunity and flexibility to expand their pool of landowners participating in the Program and as a result, protect more private forestlands.

While many landowners acknowledge the need to preserve their forestlands, they are not comfortable having a governmental agency own a partial interest in their property, which is the current requirement of the Program where the easements are purchased. This amendment enables landowners to work with a private, voluntary qualified land trust organization at the option of the state. At the same time, states retain full decision-making control over the selection of Forest Legacy projects.

Furthermore, this legislation will provide essential flexibility for states to work with partner organizations that can often leverage additional funding into Forest Legacy projects. It will open the door so that many more landowners can participate in the Program nationwide and therefore, will expand the opportunity to reverse the trend of forestland loss.

Thank you for your continued leadership in private forestland conservation. This is necessary and timely legislation.

Sincerely,

LAURIE A. WAYBURN,
*President, The Pacific Forest Trust.*

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By Mr. BENNETT:

S. 1209. A bill to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, today I am introducing a bill which will bring to a close the Federal acquisition of an important piece of privately held land, located within the federally designated desert tortoise reserve in Washington County, UT.

As some of my colleagues are aware, this is not the first time legislation has been introduced in an attempt to resolve this issue. In July of 2000, I introduced S. 2873, which was referred to and reported favorably by the Senate committee on Energy and Natural Resources. In addition, similar legislation was twice approved by the other body, both in the 106th and 107th Congresses. Nevertheless, we have been unable to bring this issue to resolution in the full Senate. For nearly a decade, the private property addressed by this bill has been under Federal control during which time the Federal Government has been enjoying the benefits of the private property without compensating the landowner. It is my hope that the time has come to finally resolve this issue.

In March of 1991, the desert tortoise was listed as an endangered species under the Endangered Species Act. Government and environmental researchers determined that the land immediately north of St. George, UT, was prime desert tortoise habitat. Consequently, in February 1996, nearly five years after the listing, the United States Fish and Wildlife Service, USFWS, issued Washington County a section 10 permit under the Endangered Species Act which paved the way for the adoption of a habitat conservation plan, HCP, and an implementation agreement. Under the plan and agreement, the Bureau of Land Management, BLM, committed to acquire all private lands in the designated habitat area for the formation of the Red Cliffs Reserve for the protection of the dessert tortoise.

One of the private land owners within the reserve is Environmental Land Technology, Limited, ELT, which had begun acquiring lands from the State of Utah in 1981 for purposes of residential and recreational development several years prior to the listing of the species. Moreover, in the years preceding the listing of the desert tortoise and the adoption of the habitat conservation plan, ELT completed appraisals, cost estimates, engineering studies, site plans, surveys, utility layouts, and right-of-way negotiations. They staked out golf courses, and obtained water rights for the development of this land. Prior to the adoption of the HCP, it was not clear which lands the Federal and local governments would set aside for the desert tortoise, although it was assumed that there were sufficient surrounding Federal lands to provide adequate habitat. However, when the HCP was adopted in 1996, the decision was made to include ELT's lands within the boundaries of the reserve primarily because of the high concentrations of tortoises. The tortoises on ELT land also appeared to be one of, if not the only population without an upper respiratory disease that afflicted all of the other populations. As a consequence of the inclusion of the ELT lands, the development efforts were halted.

With assurances from the Federal Government that the acquisition of the ELT development lands was a high priority, the owner negotiated with, and entered into, an assembled land exchange agreement with the BLM in anticipation of intrastate land exchanges. The private land owner then began a costly process of identifying comparable federal lands within the state that would be suitable for an exchange for his lands in Washington County. Over the last seven years, BLM and the private land owners, including ELT, have completed several exchanges, and the Federal Government has acquired, through those exchanges or direct purchases, nearly all of the private property located within the reserve, except for approximately 1,516 acres of the ELT development land. However, with the creation of the Grand Staircase-Escalante National Monument in September 1996, and the subsequent land exchanges between the state of Utah and the Federal Government to consolidate federal lands within that monument, there are no longer sufficient comparable federal lands within Utah to complete the originally contemplated intrastate exchanges for the remainder of the ELT land.

Faced with this problem, and in light of the high priority the Department of the Interior has placed on acquiring these lands, BLM officials recommended that the ELT lands be acquired by direct purchase: During the FY 2000 budget process, BLM proposed that $30 million be set aside to begin acquiring the remaining lands in Washington County. Unfortunately, because this project involves endangered species habitat and the USFWS is responsible for administering activities under the Endangered Species Act, the Office of Management and Budget shifted the $30 million from the BLM budget request to the USFWS's Cooperative Endangered Species Conservation Fund budget request. Ultimately, however, none of those funds were made available for BLM acquisitions within the Federal section of the reserve. Instead, the funds in that account were made available on a matching basis for the use of individual states to acquire wildlife habitat. The result of this bureaucratic fumbling has resulted in extreme financial hardship for ELT.

The lands within the Red Cliffs Reserve are ELT's main asset. The establishment of the Washington County HCP has effectively taken this property and prevented ELT from developing or otherwise disposing of the property. ELT has been brought to the brink of financial ruin as it has exhausted its resources in an effort to hold the property while awaiting the compensation to which it is entitled. ELT has had to sell its remaining assets, and the private land owner has also had to sell assets, including his home, to simply hold the property. This has become a financial crisis for the landowner. It is simply wrong for the Federal Government to expect the landowner to continue to bear the cost of the government's efforts to provide habitat for an endangered species. That is the responsibility of the Federal Government. Moreover, while the landowner is bearing these costs, he continues to pay taxes on the property. This situation is made more egregious by the failure of the Department of the Interior to request any acquisition funding for FY 2004, even though this acquisition has been designated a high priority by the agency. Over the past several years, ELT has pursued all possible avenues to complete the acquisition of these lands. The private land owner has spent millions of dollars pursuing both intrastate and interstate land exchanges and has worked cooperatively with the Department of the Interior. Unfortunately, all of these efforts have thus far been fruitless.

The bill that I am introducing today will finally bring this acquisition to a close. In my view, a legislative taking should be an action of last resort. But, if ever a case warranted legislative condemnation, this is it. This bill will transfer all right, title, and interest in the ELT development property within the Red Cliffs Reserve, including an additional 34 acres of landlocked real property owned by ELT adjacent to the land within the reserve, to the federal government. It provides an initial payment to ELT to pay off existing debts accrued in holding the property, and provides 90 days during which ELT and the Department of the Interior can attempt to reach a negotiated settlement on the remaining value of the property. I am aware that one of the difficulties in solving this issue is the high value of the lands to be acquired. Due to the absence of comparable lands within the state for exchange, the legislation also authorizes an interstate land exchange as a means of acquiring the property. In the absence of a negotiated amount, the Secretary of the Interior will be required to bring an action in the Federal District Court for the District of Utah to determine a value for the land. Payment for the land, whether negotiated or determined by the court, will be made from the permanent judgment appropriation or any other appropriate account, or, at the option of the land owner, the Secretary of the Interior will credit a surplus property account, established and maintained by the General Services Administration, which the land owner can then use to bid on surplus government property.

Unfortunately, when this bill has been introduced in the past, there has been occasional misunderstanding regarding the inclusion of the bill's reference to section 309(f) of Public Law 104–333, which requires all Federal appraisals and acquisitions of land within Washington County to be conducted ''without regard'' to the presence of an endangered species. This references does not create a new appraisal standard but rather restates the existing standard for all Federal land acquisition in Washington County, UT. Since its enactment, and without exception, the Department of the Interior has applied this standard to all its acquisitions in the county. This language was originally adopted to allay concerns that local landowners would not receive fair compensation for their property which was being acquired for government purposes. Some have supposed the inclusion of this language would constitute preferential treatment. To the contrary, the absence of this language would unfairly treat this landowner differently than every other landowner in the reserve whose land has thus far been acquired by the Federal Government. Moreover, its omission at this point would likely lead the Justice Department to argue that Congress did not intend for this statutory standard to apply.

The bill includes language to allow, as part of the legislative taking, for the landowner to recover reasonable costs, interest, and damages. It is important to understand that while Federal acquisitions should be completed on the basis of fair market value, when the Federal Government makes the commitment to acquire private land, the landowner should not have to be driven into financial ruin while waiting upon the federal government to discharge its obligation. While the Federal Government has never disputed its obligation to acquire the property, it has had the benefit of the private land for all these years without having to pay for it. The private landowner should not have to bear the costs of this Federal foot-dragging.

This legislation is consistent with the high priority the Department of the Interior has repeatedly placed on this land acquisition, and is a necessary final step towards an equitable resolution. The time for pursuing other options has long since expired and it is unfortunate that it requires legislation action. Without commenting on the Endangered Species Act itself, it would seem that if it is the government's objective to provide habitat for the benefit of an endangered species, then the government ought to bear the costs, rather than forcing them upon the landowner. It is also time to address this issue so that the Federal agencies may be single minded in their efforts to recover the desert tortoise which remains the aim of the creation of the reserve. It is time to right this wrong and get on with the efforts to recover the species and I encourage my colleagues to support the timely enactment of this important legislation.

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By Mr. JEFFORDS (for himself and Mr. VOINOVICH):

S. 1210. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Madam President, I rise today to introduce the ''Marine Turtle Conservation Act of 2003''.

Marine turtles were once abundant, but now they are in serious trouble. Six of the seven recognized species are listed as threatened or endangered under the Endangered Species Act, and all seven species have been included in Appendix I of the Convention on International Trade in Endangered Species of Wild Flora and Fauna, CITES. Because marine turtles are long-lived, late-maturing, and highly migratory, they are particularly vulnerable to the impacts of human exploitation and habitat loss. In addition, for some species, illegal trade seriously threatens wild populations. Because of the immense challenges facing marine turtles, the resources available to date have not been sufficient to cope with the continued loss of nesting habitat due to human activities and the resulting diminution of marine turtle populations.

The Marine Turtle Conservation Act of 2003 is modeled after the successful Asian Elephant Conservation Act, the African Elephant Conservation Act, and the Rhinoceros and Tiger Conservation Act. These acts have established programs within the Department of the Interior to assist in the conservation and preservation of these species around the world. More than 300 projects have been funded and generated millions of dollars in private matching funds from sponsors representing a diverse group of conservation organizations. The projects range from purchasing anti-poaching equipment for wildlife rangers to implementing elephant conservation plans to aerial monitoring of the Northern white rhinoceros.

The Marine Turtle Conservation Act of 2003 will assist in the recovery and protection of marine turtles by supporting and providing financial resources for projects to conserve nesting habitats of marine turtles in foreign countries and marine turtles while they are found in such habitats, to prevent illegal trade in marine turtle parts and products, and to address other threats to the survival of marine turtles. The bill authorizes $5 million annually to implement the program.

This legislation will help to preserve this ancient and distinctive part of the world's biological diversity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1210

*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 ''Marine Turtle Conservation Act of 2003''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) PURPOSE.—The purpose of this Act is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) CONSERVATION.—The term ''conservation'' means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) FUND.—The term ''Fund'' means the Marine Turtle Conservation Fund established by section 5.

(4) MARINE TURTLE.—

(A) IN GENERAL.—The term ''marine turtle'' means any member of the family Cheloniidae or Dermochelyidae.

(B) INCLUSIONS.—The term ''marine turtle'' includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) MULTINATIONAL SPECIES CONSERVATION FUND.—The term ''Multinational Species Conservation Fund'' means the fund established under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 4. MARINE TURTLE CONSERVATION ASSISTANCE.**

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) REQUIRED ELEMENTS.—A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this Act, shall be made available to the public.

**SEC. 5. MARINE TURTLE CONSERVATION FUND.**

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund a separate account to be known as the ''Marine Turtle Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 6; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 4.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(c) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 4. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

**SEC. 6. ADVISORY GROUP.**

(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2005 through 2009.

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By Mr. DOMENICI:

S. 1211. A bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Madam President, in the United States, especially when you live in the eastern United States, you take water and the availability of water for granted. Probably the only thing that is ever thought about is: Do we have a big enough reservoir? Or are those aqueducts getting too old that feed New York and northeastern America?

But I am here to suggest there are parts of these great United States where there is a huge shortage of the kind of water we need day by day for our daily activities: to drink, to use for our families, and for the everyday use of our people.

First, I show you a little chart with blue and white areas on it. All of the blue areas on this chart of the United States, believe it or not, are areas in these United States where saline—that is, salty—aquifers exist; that is, salty water either in large ponds or underground in large pools.

So while we are running out of water, at the same time we have been blessed in that we have plenty of water available if we do something about it. And I propose that we do something about it. I have a bill that I hope will do something about it.

This second chart shows what would be a proposed Tularosa Basin desalination facility. I show it because this is not a new concept. As a matter of fact, this Tularosa Basin is a huge underground water basin in New Mexico. Much of it is very salty, large quantities are not so salty, and then large quantities are of minor salt content.

The legislation I am introducing is to try to make a leap of technology for it directs the Secretary of the Interior to undertake at this program, for lack of a better way to do it, what we call a demonstration program, but it would be one that would be easily adopted anywhere. We ask that it have a capability of 100,000 gallons so that the research would not be carried out at an academic level but really usable.

The Secretary is supposed to work with the greatest laboratories in the Nation that have access in this regard to develop new desalination technology and a plan. The facility should be completed within 3 years. The water from this facility will be disposed of to communities in and around this basin and in and around the county of Otero. We authorize the money necessary for it. I have a detailed statement indicating why we are doing this along with the bill and an extra bill which goes to the desk, one for reference and one for retention.

I am quite confident that a new method of desalination beyond that one that we all hear about is going to be forthcoming. I believe one of the laboratories—probably Sandia National Laboratory in Albuquerque, but not certain, but probably—will make the breakthrough so that we will not be using the old system that we might have been trying for as long now as the occupant of the chair is of age. I even remember that system being used when I first came to the Senate. We were experimenting with it in the city of Roswell under a Government program, and we stopped the program because it was too farfetched.

We have come a long way. Just as we have serious problems cleaning water of other pollutants, and we have old-fashioned ways of doing it, very modern technology is being applied. As an example, we all know there is a big problem in some parts of America where arsenic which is found in the normal topography, normal ground of the surrounding area and has been consumed by whoever lived there for years with no harm—we are going to have to remove it now to some very minuscule content per thousand gallons. In order to do that the old-fashioned way, the costs are enormous. But believe it or not, because of science, we might be able to do that job—albeit some of it should not have to be done at all—for a tenth of the cost.

We are hopeful that same new breed of technology will apply to taking salt out of inland water or ocean water.

Mr. President, as I say, I rise today to introduce a bill that has the potential to supply vast quantities of water to a thirsty New Mexico and a number of Western States. New Mexico and the West face a critical lack of water, but through the program contained in my bill, the faucets could be ready to flow.

Most Western States already have large quantities of water. However, the water contains such high levels of salt that it is simply unusable. My bill proposes to turn untapped resource into potable water that cities, towns, farmers, industry, and nature can use to meet their needs. This bill provides the opportunity for use to utilize brand new technology that may save the West.

This piece of legislation directs the Secretary of the Interior to undertake a desalination demonstration program in the Tularosa Basin located in southern New Mexico. Additionally, it requires collaboration between the Bureau of Reclamation, an established leader in desalination research and development, and the Department of Energy. Our national laboratories are at the forefront of science in many areas including water technology. The collaboration between these two departments would bring together the best minds and the most experienced technicians. This bill would further task the Bureau of Reclamation and the Department of Energy with evaluating current technology, advising on how to proceed with additional research, developing a research plan and confirming project and operation costs in a real-world application. Finally, the bill authorizes the building of a facility where advances in technology could be tested.

The bill authorizes appropriations of $1.5 million for development of a desalination technology plan which will utilize the experiences of present facilities and programs to build the facility and guide its research. It further authorizes $30 million to construct the desalination facility, $6 million for each of fiscal years 2004 through 2010 for research programs at Sandia National Lab associated with the facility, and $10 million for each of the fiscal years 2004 through 2010 for research and development of desalination technologies.

Only 3 percent of the world's water is fresh and much of that is stored in the ice that caps the Earth's poles. We must develop the technology to economically utilize the rest of that water. Today, most of the world's desalination plants are applied to sea water. As I states before, much of the west and, indeed, the Nation, sits on saline aquifers. The facility I propose will develop and test the technologies to best access and utilize this inland water.

Currently, Sandia National Lab and the Department of the Interior are looking for optimum sites to locate the facility and are developing a feasibility study for the program. The sites are all in or around the city of Alamogordo, NM. The designers envision a 13,000 square foot facility that can process up

to 100,000 gallons of water per day. It will draw researchers from around the country and play an essential role in alleviating the pressures on our water resources.

Mr. President, let me also say that I have a broader vision for what can be accomplished with desalination. This is only the first step. This is a serious issue, not only for New Mexico, but the world. More than half the world's population will face severe water shortages in the next 50 years. We must get started on this problem.

I have no doubt that this legislation will help to push forward the state of the art to ensure that we have access to the most precious of resources. Let's take the first step.

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

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

S. 1211

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

SEC. 1. (a) TULAROSA BASIN FACILITY.—In furtherance of the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600, 4663; 43 U.S.C. 390h), the Secretary of the Interior (''Secretary'') shall construct, manage, and maintain a test and evaluation facility (''facility'') at the Tularosa Basin, located in Otero County in the State of New Mexico capable of processing at least 100,000 gallons of water per day.

(b) OBJECTIVES OF FACILITY.—The facility shall be used to carry out research on, and to test, demonstrate, and evaluate new desalination technologies to produce potable water from saline or other unsuitable water, including analysis of effects on energy consumption, byproduct disposal, and operations and maintenance costs to determine the most technologically-efficient and cost-effective means to produce potable water from saline or other unsuitable water using desalination technologies.

(c) TECHNOLOGY PLAN DEVELOPMENT.—The Secretary shall contract with Sandia National Laboratory (''Sandia'') to develop a desalination technology plan (''plan'') within one year from the date when funds are made available for the purposes of this Act. The plan shall—

(1) be developed in consultation with the Secretary and the Secretary of Energy;

(2) consider the experience of similar facilities and research programs operated by the Federal government and by other research institutions; and

(3) include recommendations for the siting and configuration of the facility and the research and development program to be undertaken at the facility.

(d) REVIEW OF PLAN.—The Secretary shall review the plan and may modify or change any recommendation after consultation with the Secretary of Energy.

(e) CONSTRUCTION OF FACILITY.—Within three years from the date of completion of the plan, the Secretary shall construct the facility in accordance with the recommendations contained in the plan, including any modifications or changes. The Secretary may contract with other Federal agencies, State agencies, educational institutions, and private entities for construction of the facility.

(f) MEMORANDUM OF AGREEMENT FOR OPERATION.—The Secretary and the Secretary of Energy shall enter into a Memorandum of Agreement for the operation of the facility and the conduct of research under this Act. Research may be conducted at the facility and may also be carried out at any laboratory facility determined to be suitable by Sandia. The Secretary and the Secretary of Energy shall establish a technical advisory panel drawn from Federal or State agencies, academic institutions, and private or public entities to provide program guidance and technical assistance in the operation of the facility and conduct of research.

(g) PROVISION OF WATER.—The Secretary shall dispose of all water produced by the facility under contract with one or more communities located in Otero County, New Mexico where the water would be supplementary to water provided by public water systems or wells in the communities and only after Sandia notifies the Secretary that the water is of a consistent, reliable quality. The water shall be provided at no cost to the local community except for the costs of conveyance and delivery.

SEC. 2. RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary and the Secretary of Energy may undertake research and development of desalination technologies in addition to the program carried out at the facility directly or by contract, interagency agreement, cooperative agreement, or grant. Any agreement or grant may be made only on the basis of a competitive, merit-reviewed process. The Secretary and the Secretary of Energy may carry out the program at a location outside the United States after consultation with and approval by the Secretary of State.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.—Appropriations may be made to the Secretary and to the Secretary of Energy. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed—

(1) $1,500,000 for development of the plan under section 1(c);

(2) $30,000,000 (January 2003 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the construction of the facility;

(3) $6,000,000 for each of fiscal years 2004 through 2010 for transfer to Sandia to carry out research programs associated with the facility; and

(4) $10,000,000 for each of fiscal years 2004 through 2010 for research and development activities under section 2 of which not more than $1,500,000 in any fiscal year may be for research undertaken directly by the Secretary and not more than $1,000,000 in any fiscal year may be for grants to institutions of higher education (including United States-Mexico binational research foundations and interuniversity research programs established by the 2 countries).

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By Mrs. CLINTON (for herself, Mr. SPECTER, and Mr. JOHNSON):

S. 1212. A bill to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes; to the Select Committee on Intelligence.

Mrs. CLINTON. Mr. President, I also Unanimous Consent that the text of the bill, to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes, be printed in the RECORD.

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

S. 1212

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

**SECTION 1. IDENTIFICATION OF KEY RESOURCES.**

Section 201 of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following:

''(i) DEFINITION.—In this section, the term 'key resources' includes National Park Service sites identified by the Secretary of the Interior as being so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including—

''(1) the Statue of Liberty National Monument in New York Harbor;

''(2) Independence Hall and the Liberty Bell in Philadelphia, Pennsylvania;

''(3) the Gateway Arch in St. Louis, Missouri;

''(4) Mount Rushmore National Memorial in Keystone, South Dakota; and

''(5) memorials and monuments in the District of Columbia.''.

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By Mr. SPECTER (by request):

S. 1213. A bill to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1213, a proposed bill to improve the benefits for Filipino veterans of World War II and survivors of such veterans and for other purposes. The Secretary of Veterans Affairs has submitted this proposed legislation to the President of the Senate by letter dated May 12, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and a section-by-section analysis which accomplished it.

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

S. 1213

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

**SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.**

(a) SHORT TITLE.—This Act may be cited as the ''Filipino Veterans' Benefits Act of 2003''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SEC. 2. ELIGIBILITY OF FILIPINO VETERANS FOR HEALTH CARE IN THE UNITED STATES.**

HEALTH CARE.—Section 1734 is amended as follows:

''(a) The Secretary, within the limits of Department facilities, shall furnish hospital and nursing home care and medical services to an individual identified in subsection (b) in the same manner as provided for under section 1710 of this title.

''(b) An individual covered under subsection (a) of this section includes:

''(1) a Commonwealth Army veteran; and

''(2) a new Philippine Scout.

''who is residing in the United States and is a citizen of, or an alien lawfully admitted for permanent residence in, the United States.''

**SEC. 3. RATE OF PAYMENT OF BENEFITS FOR CERTAIN FILIPINO VETERANS AND THEIR SURVIVORS RESIDING IN THE UNITED STATES.**

(a) RATE OF PAYMENT.—Section 107 is amended—

(1) in the second sentence of subsection (b), by striking ''Payments'' and inserting ''Except as provided in subsection (c), payments''; and

(2) in subsection (c)—

(A) by inserting ''and subchapter II of chapter 13 (except section 1312(a)) of this title'' after chapter 11 of this title'';

(B) by striking ''in subsection (a)'' and inserting ''in subsection (a) or (b)''; and

(C) by striking ''of subsection (a)'' and inserting ''of the applicable subsection''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to benefits paid for months beginning after that date.

**SEC. 4. EXTENSION OF AUTHORITY TO OPERATE REGIONAL OFFICE IN THE PHILIPPINES.**

Subsection (b) of section 315 is amended by striking ''2003'' and inserting ''2008''.

**SEC. 5. BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.**

(a) BENEFIT ELIGIBILITY.—Section 107 is amended—

(1) in subsection (b)(2)—

(A) by striking ''and'' and inserting a comma; and

(B) by inserting '', 23, and 24 (to the extent provided for in section 2402(8))'' after ''(except section 1312(a))'';

(2) in the second sentence of subsection (b), as amended by section 3 of this Act, by inserting ''or (d)'' after ''subsection (c)'';

(3) in subsection (d)(1), by inserting ''or (b), as otherwise applicable,'' after ''subsection (a)''; and

(4) in section (d)(2), by inserting ''or whose service is described in subsection (b) and who dies after the date of the enactment of the Filipino Veterans Benefits Act of 2003,'' after ''November 1, 2000,''.

(b) NATIONAL CEMETERY INTERMENT.—Section 2402(8) is amended by inserting ''or (b)'' after ''section 107(a)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to deaths occurring after the date of the enactment of this Act.

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THE SECRETARY OF VETERANS AFFAIRS,
*Washington, DC, May 12, 2003.*

Hon. RICHARD B. CHENEY,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are transmitting a draft bill, ''To amend title 38, United States Code, to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes.'' We request that it be referred to the appropriate committee for prompt consideration and enactment.

The draft bill would extend health care benefits to certain Filipino veterans residing legally in the United States. It would also eliminate an inequity in statutory payment rates between Filipino veterans and their survivors who legally reside in the United States and other veterans and their survivors living in the United States.

More specifically, section 2 of the draft bill would amend 38 U.S.C. §1734 to require the Secretary, within the limits of Department facilities, to provide hospitals and nursing home care and medical services to Commonwealth Army veterans and to new Philippine Scouts in the same manner as provided under section 1710, if such individuals reside legally in the United States. Currently, both Commonwealth Army veterans and new Philippine Scouts are eligible for treatment of service-connected disabilities within the limit of Department facilities. However, Commonwealth Army veterans are also eligible for treatment of non service-connected disabilities in the same manner as a veteran, if they are in receipt of certain compensation and reside legally in the United States. The proposal would extend to new Philippine Scouts who reside legally in the United States the same eligibility for medical care and services of non service-connected disabilities that currently exists for Commonwealth Army veterans, while eliminating the receipt-of-compensation requirement for these veterans and scouts. It would also apply the facilities-resources limitation to all care furnished under this section. The Department estimates that costs associated with enactment of this proposal would be $16,228,000 for Fiscal Year 2004. The projected costs would be $73,678,000 over a five-year period, and $130,265,000 over a ten-year period. The Department will offset the discretionary costs of this proposal with available de-obligations of prior year Medical Care Collection Fund balances.

Section 3 of the draft bill would, in the case of compensation and dependency and indemnity compensation (''DIC'') paid by reason of service in the new Philippine Scouts, and in the case of DIC paid by reason of service in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units, remove the current $0.50 on-the-dollar limitation if the individual to whom the benefits are payable resides in the United States and is either a citizens of the United States or an alien lawfully admitted for permanent residence in the United States. The amendments made by section 3 would take effect on the date of enactment of the Act and apply to benefits paid for months beginning after that date.

Section 107(a) of title 38, United States Code, generally provides that service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerilla units, may in some circumstances be a basis for entitlement to disability compensation, DIC, monetary burial benefits, and certain other benefits under title 38, United States Code, but that payment of such benefits will be at the rate of $0.50 for each collar authorized. Similarly, 38 U.S.C. §107(b) generally provides that service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, i.e., service in the new Philippine Scouts, may be a basis for entitlement to disability compensation, DIC, and certain other benefits under title 38, United States Code, but that payment of such benefits will be at the rate of $0.50 for each dollar authorized.

These limitations on benefit payments to certain Filipino beneficiaries were intended to reflect the differing economic conditions in the Philippines and the United States. These limitations were not made contingent, in any respect, on the place of residence of the beneficiary, although, when the limitations were established, the great majority of affected individuals resided in the Philippines. Through the years, numerous Filipino veterans and their dependents and survivors have immigrated to this country, and many have become permanent residents or citizens. It became evident that the policy considerations underlying the restrictions on payment of compensation and DIC to the affected individuals are no longer relevant in the case of those who reside in the United States. VA realized that Filipino beneficiaries residing in the United States face living expenses comparable to United States veterans and that limiting the payment of these subsistence benefits to these individuals based on policy considerations applicable to Philippine residents is not only inequitable, but may result in undue hardships to these beneficiaries.

Section 501(a) of Public Law 106–377, enacted in October 2000, added subsection (c) to section 107, providing that, in the case of disability compensation paid by reason of service in the organized military forces of the Government of the commonwealth of the Philippines, including organized guerilla forces, the $0.50 on-the-dollar limitation would not apply if the individual to whom the benefits are payable resides in the United States and is either a citizen of the United States or an alien lawfully admitted for permanent residence. However, the statute left unchanged the $0.50 on-the-dollar limitation on the payment of DIC for all Filipino veterans and compensation for new Philippine Scouts regardless of the recipient's place of residence.

In the case of those Filipino veterans and their dependents and survivors who reside in the United States and therefore face living expenses comparable to United States veterans and their dependents and survivors, limiting the payment of subsistence benefits based on policy considerations applicable to Philippine residents is inequitable and may result in undue hardships to those beneficiaries. A change in law such as that provided in Public Law 106–377 is justified in the case of compensation and DIC payable to United States residents based on service in the new Philippine Scouts and DIC payable to United States residents based on service in the Philippine Commonwealth Army, including organized guerilla units. Thus, we propose that the $0.50-on-the-dollar limitation contained in section 107 be eliminated in the case of disability compensation and DIC payments to all Filipino veterans and their survivors who legally reside in the United States.

We estimate that section 3, if enacted, would increase benefit costs by $2.9 million in the first year and $45.6 million cumulatively for ten years. VA has determined that general-operating-expense costs for this proposal would be insignificant. This provision was included in the FY 2004 Budget.

Section 4 of the draft bill would extend until December 31, 2008, the authority of the Secretary of Veterans Affairs under 38 U.S.C. §315(b) to operate a regional office in the Republic of the Philippines. Under current law, that authority will expire on December 31, 2003. Congress has periodically extended this authority, most recently in Public Law 106–117.

Were VA to close the Manila regional office, veterans' assistance activities would

still be needed in the Philippines. A Federal Benefits Unit would have to be attached to the Department of State. Under such an arrangement, VA's control of costs and quality of service would be limited. Because a Federal Benefits Unit would assume responsibility only for disseminating information and assistance, but not processing benefits, there could be no assurance that the extensive fraud-preventive activities currently performed by the Manila regional office would continue. This provision was included in the FY 2004 Budget.

Section 5 of the draft bill would extend eligibility for national cemetery burial to new Philippine Scouts who lawfully reside in the United States. This section would also extend eligibility for other in-kind burial benefits and monetary burial benefits to new Philippine Scouts lawfully residing in the United states on the same basis as such benefits are provided under current law to persons who served in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerrilla units (Commonwealth Army veterans).

Under current 38 U.S.C. §107, Commonwealth Army veterans who lawfully reside in the United States are eligible for national cemetery burial and are eligible for monetary burial benefits at the full-dollar rate if at the time of death they are receiving VA disability compensation or would have been receiving VA pension but for their lack of qualifying service. Section 5 would extend these benefits to new Philippine Scouts who live in the United States. We believe provision of these same benefits to new Philippine Scouts who reside in the United States is equitable because the service of new Philippine Scouts is also worthy of recognition and new Philippine Scouts living in the Unites States face the same cost of living as other Filipino veterans who live in the United States. Enactment of this provision is consistent with VA's goal of achieving parity in the provision of veterans' benefits among similarly situated Filipino beneficiaries.

We estimate the cost associated with national-cemetery-burial eligibility for new Philippine Scouts would be $3,600 for one year, $16,700 for five years, and $35,300 for ten years. We estimate the costs of providing full-rate monetary burial benefits to new Philippine Scouts lawfully residing in the United States on the same basis as these benefits are provided to Commonwealth Army veterans would be $4,000 for one year, $16,000 for five years, and $32,000 for ten years.

The Office of Management and Budget advises that there is no objection to the transmission of this bill and that its enactment would be in accord with the Administration's program.

Sincerely yours,

ANTHONY J. PRINCIPI,

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SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1(a) of the draft bill would provide that the short title of this Act be the ''Filipino Veterans' Benefits Act of 2003''.

Section 1(b) would provide that amendments or repeals in this Act be considered references to a section or other provision of title 38, United States Code.

SECTION 2

Section 2 would amend 38 U.S.C. §1734 to require the Secretary, within the limits of Department facilities, to provide hospital and nursing home care and medical services to Commonwealth Army veterans and to new Philippine Scouts in the same manner as provided under section 1710, if such individuals reside legally in the United States. Currently, both Commonwealth Army veterans and new Philippine Scouts are eligible for treatment of service-connected disabilities within the limits of Department facilities. However, Commonwealth Army veterans are also eligible for treatment of non service-connected disabilities in the same manner as a veteran if they are in receipt of certain compensation and reside legally in the United States. The proposal would extend to new Philippine Scouts who reside legally in the United States the same eligibility for medical care and services that currently exists for Commonwealth Army veterans, while eliminating the receipt of compensation requirements for the veterans and scouts. It would also apply the facilities-resources limitation to all care furnished under this section. The Department estimates that costs associated with enactment of this proposal would be $16,228,000 for Fiscal Year 2004. The projected costs would be $73,678,000 over a five-year period, and $130,265,000 over a ten-year period.

SECTION 3

Section 3 would, in the case of compensation and dependency and indemnity compensation (''DIC'') paid by reason of service in the new Philippine Scouts, and in the case of DIC paid by reason of service in the organized military forces of the Government of the Commonwealth of the Philippines, including organized guerrilla units, remove the current $0.50 on-the-dollar limitation if the individual to whom the benefits are payable resides in the United States and is either a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. These amendments would take effect on the date of enactment of the Act and apply to benefits paid for months beginning after that date. This provision was included in the FY 2004 Budget.

SECTION 4

Section 4 would extend until December 31, 2008, the authority of the Secretary of Veterans Affairs under 38 U.S.C. §315(b) to operate a regional office in the Republic of the Philippines. This provision was included in the FY 2004 Budget.

SECTION 5

Section 5(a) would amend 38 U.S.C. §107 to extend eligibility for national cemetery burial to new Philippine Scouts who lawfully reside in the United States and to extend eligibility for other in-kind burial benefits and monetary burial benefits to new Philippine Scouts who lawfully reside in the United States on the same basis as such benefits are provided under current law to Commonwealth Army veterans. Section 5(b) makes a conforming amendment to section 38 U.S.C. §2402(8), which authorizes national cemetery burial for certain Filipino veterans. Section 5(c) provides that the amendments made by this section shall apply with respect to deaths occurring after the date of the enactment of this Act.

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By 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):

S. 1214. A bill to provide a partially refundable tax credit for caregiving related expenses; to the Committee on Finance.

Ms. MIKULSKI. Madam President, I rise to introduce the Family Caregiver Relief Act of 2003—my legislation to help those who face the crushing consequences of caring for a chronically ill family member. While we stand up for America, we must also stand up for what America stands for. That means strengthening the safety net for those who need it most. That means standing up for American families.

Families are hurting. The economy is weak. Many are holding down two jobs to make ends meet, going into debt to put kids through college, or finding and paying for health insurance.

Some families are facing extraordinary challenges. They are caring for a loved one with special needs which could be a child with autism, or cerebral palsy, a parent with alzheimer's, or a spouse with multiple sclerosis. These families struggle every day to take care of their loved ones.

I want to give help to those who practice self-help. My bill would provide a tax credit of up to $5,000 for family caregivers. This tax credit would help people pay for prescription drugs, home health care, specialized day care, respite care, transportation to chronic care or medical facilities, specialized therapy, including occupational, physical, or rehabilitational therapy, and other specialized services for children, including day care for children with special needs.

Family caregivers face so many stresses—emotional, physical, and financial stresses of caregiving. They face long days, supporting a family—while caring for a loved one with a chronic condition. A dad might have to work two jobs to meet the costs of care which places strains on marriage and relationships with other family members.

Caregivers also face high costs for medications, home health care, adult day care, physical therapy, durable medical equipment like a wheelchair, day care for children with special needs, and medical bills from care with specialists.

People who care for chronically ill family must patch together whatever care they can afford. Too often they go into debt, use their college accounts or their retirement savings or go without the care their loved ones need.

I have heard from families from around Maryland who are facing these strains, who are trying to make ends meet, and who are caring for a loved one who is chronically ill or needs assistance with activities of daily living.

The Hart family from Baltimore has a 2 year old son named Jackson who was born with severe brain abnormalities. He has the motor skill development of a 4 month old. He has daily seizures, so he needs total, round the clock care. The emotional cost of caring for a severely disabled child are incalculable and the financial costs are crushing. For the Harts, the costs include: $650 a month for day care for medically fragile children; $1,400 for a wheel chair; and, $700 for a special shower chair—since Jackson can't sit up in the bath. My proposal would help them meet these costs by providing them with a tax credit of $2,750.

I know of a a couple in Baltimore where the wife is in the final stages of Alzheimers. She was a school teacher and once spoke 5 languages. Now, she can only say a few words. She needs 24 hour-a-day care which costs almost three thousand dollars a month. Their retirement savings are gone though this couple is only in their early sixties. My bill would only provide a tax credit of five thousand to this couple. I know that this would help this couple as they face the challenges of her final days.

My last example is a woman in Potomac, MD who is caring for her husband who has multiple sclerosis. He can no longer talk, walk, stand or feed himself. She works full time to support them and cobbles together whatever home care she can afford. She is not able to afford respite care to run errands, or take herself to the doctor. This couple made a commitment in sickness or in health.

These are just a few examples of the stresses facing thousands of American families. One in five Americans has multiple chronic conditions. About 26 million people in this country care for a family members who is chronically ill or disabled.

My legislation is supported by groups who see everyday the human cost of family caregiving, including: Autism Society of America; Cystic Fibrosis Foundation; National Organization for Rare Disorders; Easter Seals; United Cerebral Palsy Associations; Arc of the United States; National Health Council; National Council on the Aging; Paralyzed Veterans of America; Family Voices; National Respite Coalition; National Family Caregivers Association; and National Alliance for Caregiving.

One of my first milestones in the Senate was the enactment of the Spousal Anti-Impoverishment Act to change the cruel rules of Medicaid so that families would not have to go bankrupt before Medicaid would pay for nursing home care for a spouse. Under this law, the spouse living in the community could keep the family home, keep a car, and keep some income each month to live on. This law helped one million people. But this was only a down payment.

Not much has been done since then except the National Family Caregiver Support Program and long-term care insurance for federal employees. I was proud to sponsor and work on both of these bills on a bipartisan basis to get them signed into law.

Now it is time to help family caregivers. They are the backbone of the long term care system in this country. They must be a priority in the Federal law books and the tax code.

I thank Senators CLINTON, CORZINE, SARBANES, JOHNSON, LAUTENBERG, MURRAY, KENNEDY, LANDRIEU, DAYTON, and HARKIN for cosponsoring the Family Caregiver Relief Act.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1214

*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 ''Family Caregiver Relief Act of 2003''.

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

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 24(a) of the Internal Revenue Code of 1986 (relating 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 taxpayer, 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 redesignated by this paragraph) the following new paragraph:

''(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 place it appears and inserting ''subsection (b)(4)''.

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

**''SEC. 24. FAMILY CARE CREDIT.''.**

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

''Sec. 24. Family care credit.''.

(b) ELIGIBLE EXPENSES.—

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

''(b) ELIGIBLE EXPENSES.—For the purposes of this section—

''(1) IN GENERAL.—The term 'eligible expenses' means expenses incurred by the taxpayer for—

''(A) medical care (as defined in section 213(d)(1) without regard to subparagraph (D) thereof),

''(B) lodging away from home in accordance with section 213(d)(2),

''(C) adult day care,

''(D) custodial care,

''(E) respite care, and

''(F) other specialized services for children, including day care for children with special needs.

''(2) ADULT DAY CARE.—The term 'adult day care' means care provided for adults with functional or cognitive impairments through a structured, community-based group program which provides health, social, and other related support services on a less than 24-hour per day basis.

''(3) CUSTODIAL CARE.—The term 'custodial care' means reasonable personal care services provided to assist with daily living and which do not require the skills of qualified technical or professional personnel.

''(4) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to an applicable individual in order to provide temporary relief to an eligible caregiver.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(e)(1) of such Code (relating to portion of credit refundable), as redesignated by paragraph (1) and as amended by subsection (a)(3)(A), is amended by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (c)(4)''.

(B) Section 501(c)(26) of such Code is amended by striking ''section 24(c)'' and inserting ''section 24(d)''.

(C) Section 6211(b)(4)(A) of such Code is amended by striking ''section 24(d)'' and inserting ''section 24(e)''.

(D) Section 6213(g)(2)(I) of such Code is amended by striking ''section 24(e)'' and inserting ''section 24(f)''.

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

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means any individual if—

''(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(ii) such individual has not attained the age of 17 as of the close of the calendar 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 extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 6 but not 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,

''(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 extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

''(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

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

''(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(iv) The individual is under 2 years of age and—

''(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent,

''(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

''(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

''(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

''(C) CHRONIC CONDITION.—For purposes of this paragraph, the term 'chronic condition' means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

''(3) ELIGIBLE CAREGIVER.—

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

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

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

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as such individual's principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

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

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).''.

(d) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(f) of the Internal Revenue Code of 1986 (relating to identification requirement), as redesignated by subsection(b)(1), is amended by adding at the end the following new sentence: ''No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.''.

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

(A) by inserting ''or physician identification'' after ''correct TIN'', and

(B) by striking ''child tax'' and inserting ''family care''.

(e) DENIAL OF DOUBLE BENEFIT.—

(1) IN GENERAL.—Section 213(e) of the Internal Revenue Code of 1986 (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting ''or section 24'' after ''section 21''.

(2) CONFORMING AMENDMENT.—The heading of section 213(e) of such Code is amended by inserting ''LONG-TERM CARE OR'' after ''FOR''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the later of December 31, 2003, or the date of the enactment of this Act.

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By Mr. ENZI (for himself and Ms. MIKULSKI):

S. 1217. A bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, walking—climbing the stairs—reaching for an object or a needed item on a shelf. They're all things we do and take for granted every day. But for many of our nation's elderly, they are a constant source of anxiety and apprehension.

Anyone who has an elderly parent, relative or friend who lives alone knows the concern that is often raised when a phone call placed to them goes unanswered. Our first and immediate reaction is often worry because we know that for many of our nation's elderly, a fall can produce a very serious injury. As the phone continues to ring we wonder if Mom is upstairs and can't hear the phone, or Dad is in his workshop, or our friend has just stepped outside to catch a breath of fresh air.

We hang up, wait a few minutes and place our call again, often with a greater sense of urgency.

This time, our concern becomes worry as we picture our loved one suffering from the effects of a fall, alone, with no one to help them.

Then, when the phone is answered, a huge rush of relief overcomes us as we realize our fears were misplaced.

Would that every story like that have such a happy ending. For too many of our Nation's elderly, however, it sometimes ends tragically as brittle bones and a reduction in our sense of balance becomes a formula for serious injury and a dramatic reduction in one's quality of life.

Although the physical healing process after a fall can be long and traumatic, it often pales in comparison to the psychological effects of a loss of confidence—and therefore activity—of an elderly individual who no longer takes for granted his or her ability to walk and safely navigate their world without assistance or support.

Fortunately, there are things that can be done to both reduce the number of these tragic falls and restore the confidence of our loved ones in their ability to once again lead a normal life.

In an effort to address this issue I am introducing legislation, together with my distinguished colleague form Maryland, Senator MIKULSKI, that would take a multi-faceted approach to solving this problem. The Elder Fall Prevention Act of 2003 will look at every aspect of this matter, from educating the elderly about how to ''fall-proof'' their home, to researching the causes of most falls and trying to find ways both to avoid them and to provide better treatment to those who are recovering from them.

In today's world, when so many of us are living longer, it is quite commonplace to hear of elderly friends and relatives who have fallen and faced the challenge of recovering from a broken bone. Almost all of us have had that experience, either with family or friends.

What is less well know is that 25 percent of the elderly who sustain a hip fracture die within one year. On an annual basis, 40,000 people over age 65

visit emergency departments with traumatic brain injuries suffered as a result of a fall; 16,000 of those people are hospitalized, and 4,000 die. By the year 2030, as the baby boomer generation is added to the ranks of the elderly, the number of people over age 65 will double, potentially doubling the current elder fall injury statistics.

There are also significant costs associated with such a large volume of fall-related injuries among our nation's senior citizens. Direct costs to the Medicaid and Medicare programs alone will exceed an estimated $32 billion in the year 2020.

The Elder Fall Prevention Act of 2003 takes a three-pronged approach to this problem. It will direct the Department of Health and Human Services to develop public education on fall prevention for the elderly, family members, caregivers, and others involved with the elderly. It further calls for an expansion of research on effective approaches to fall prevention and treatment. Finally, the Elder Fall Prevention Act requires an evaluation of the effect of falls on the costs of Medicare and Medicaid, as well as the potential for reducing those costs through education, prevention and early intervention.

A wide variety of groups support this legislation, including the National Safety Council, the Emergency Nurses Association, the Assisted Living Federation of America, the American Geriatrics Society, the Brain Injury Association, the American Health Care Association, and many more. All of these groups should and will be partners in this comprehensive effort to address one of the leading causes of death and disability in the elderly.

The largest generation in our nation's history is rapidly approaching retirement. Passing this bill into law will mean a better quality of life for them and for all our nation's elderly. It will also help us reduce the cost of the Medicaid and Medicare programs for all Americans.

I am looking forward to working on this bill in Committee and sending it on to the Senate floor for a vote. The sooner we act the sooner we can begin to work to prevent falls and help our nation's elderly live safely and in better health.

Ms. MIKULSKI. Mr. President, I am pleased to join Senator ENZI in introducing the Elder Fall Prevention Act of 2003. Falls are a serious public health problem that affect millions of seniors each year. This bill expands research and education on elder falls to help keep seniors safe and in their own homes longer.

The facts are staggering. One out of every three Americans over age 65 falls every year. In 2000, over 10,200 seniors died and approximately 1.6 million seniors visited an emergency department as a result of a fall. Falls are the leading cause of injury deaths among seniors, accounting for 64,000 traumatic brain injuries and 340,000 hip fractures each year. Falls can be financially disastrous for families, and falls place a serious financial strain on our health care system. By 2020, senior falls are estimated to cost the health care system more than $32 billion.

These facts do not begin to tell the story of what falls can mean for seniors and their loved ones. Falls don't discriminate. Kay Graham was the victim of a fall. Many of us have friends or relatives who have fallen. A fall can have a devastating impact on a person's physical, emotional, and mental health. If an older woman loses her footing on her front porch steps, falls, and suffer a hip fracture, she would likely spend about two weeks in the hospital, and there is a 50 percent chance that she would not return home or live independently as a result of her injuries.

Last year, I chaired a hearing of the Subcommittee on Aging on the problem of elder falls. The Subcommittee heard testimony from Lillie Marie Struchen, a 91-year-old woman who had recently fallen in her bathroom when she slipped on the tile. Lillie Marie could not reach the panic button in her apartment, and it took her some time before she could get to her feet and call for help. Lille Marie was lucky. She recovered from her fall and returned to her normal routines. She shared with the Subcommittee some steps that she and her family had taken to prevent future falls, knowing that she may not be so lucky next time.

These falls, like the ones that Lillie Marie and thousands of others suffer from each year, can be prevented. With some help, there are simple ways that seniors can improve the safety of their homes and make a fall far less likely. Home modifications like hand rails in the bathroom, rubber mats on slippery tile floors, and cordless telephones that seniors can keep nearby can make a big difference. Well-trained pharmacists can review medications to make sure that two drugs do not interact to cause dizziness and throw a senior off balance.

That's what this legislation is about—getting behind our Nation's seniors and giving help to those who practice self-help. This bill creates public education campaigns for seniors, their families, and health care providers about how to prevent falls. It expands research on elder falls to develop better ways to prevent falls and to improve the treatment and rehabilitation of elder falls victims. This legislation also requires an evaluation of the effect of falls on Medicare and Medicaid, to look at potentially reducing costs by expanding coverage to include fall-related services.

Reducing the number of falls will help seniors live longer, healthier, more independent lives. This bill has the strong support of the National Safety Council and has been supported in the past by over 30 national and local aging and safety organizations. I look forward to working with Senator ENZI and my colleagues on the Health, Education, Labor, and Pensions Committee to get this bill signed into law.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 162—HONORING TRADESWOMEN

Mrs. CLINTON (for herself, Mr. COLLINS, Mrs. MURRAY, Mr. KENNEDY, and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 162

Whereas women worked side by side with men for long shifts under dangerous conditions to rescue individuals, remove debris, and prepare the sites for future use at Ground Zero, the Pentagon, and in the Shanksville, Pennsylvania field after the September 11th terrorist attacks;

Whereas the number of tradeswoman has risen dramatically over the last 30 years, but remains startlingly low;

Whereas while the number of women carpenters has tripled since 1972, they still only represent 1.7 percent of workers in the occupation;

Whereas the number of electricians who are female has quadrupled over that same time period, yet women make up only 2.7 percent of electricians;

Whereas the number of women who are firefighters has increased by 6 fold, yet women account for only 3 percent of all firefighters;

Whereas the skilled trades industry is experiencing a significant labor shortage, which will be exacerbated over the next 2 decades as many skilled workers retire;

Whereas the United States Department of Labor projects job growth in the skilled trades industry at 12.3 percent through the year 2010;

Whereas the National Association of Manufacturers reports a projected need for 10,000,000 new skilled workers by 2020, and the Associated General Contractors predicts a shortage of 250,000 skilled workers per year;

Whereas the average age of a construction worker is 47;

Whereas many women are employed in jobs that pay only a minimum wage and do not provide benefits, such as health insurance;

Whereas 59 percent of women earn $8 per hour, and while women constitute 47 percent of the workforce, they make up 60 percent of the working poor;

Whereas 44 percent of women are reported to be the sole supporter of themselves or their families;

Whereas the majority of women are segregated into 20 out of 440 occupations;

Whereas women could increase their earnings significantly by obtaining skills that allow them to become tradeswomen, for example a journey level electrician will make over $1,000,000 more than a typical cashier in a 30-year career;

Whereas women make up 77 percent of all wait staff who earn $6.55 an hour, on average, and only 5 percent of truck drivers who make an average of $17.50 an hour; and

Whereas women need greater access to training and opportunities to participate in skilled trades occupations: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—

(1) there should be more attention paid to breaking down the barriers that women face in entering the skilled trades; and