May 27, 1999

CONGRESSIONAL RECORD—SENATE 11365

By Mr. DODD:

S. 1167. A bill to amend the Pacific Northwest Management and Coordination Council Act of 1992 to authorize the Department of Interior, through the use of itsexisting authority, to acquire nonfederal lands during fiscal years 1999 through 2004 for inclusion in the National Natural Resources and Conservation Service's Northwest Forest Plan, to the Committee on Agriculture, Nutrition, and Forestry.

S. 1171. A bill to block assets of narcotics traffickers, their family and close associates, and extradiary threat to the national security, foreign policy, and economy of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TORRICELLI:

S. 1172. A bill to provide a patent term restoration review procedure for certain drug products; to the Committee on the Judiciary.

S. 1173. A bill to provide for a teacher quality enhancement and incentive program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 1174. A bill to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1175. A bill to amend title 49, United States Code, to require that fuel economy labels for new automobiles include air pollution information that consumers can use to help communities meet Federal air quality standards; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. WARNER, and Mr. SARBANES):

S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

By Mr. HARKIN (for himself, Mr. KERREY, and Mr. GRASSLEY):

S. 1177. A bill to amend the Food Security Act of 1985 to permit the harvesting of crops on land subject to conservation reserve contracts for recovery of biomass used in energy production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE:

S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Buntz Reservoir and Pierce Canal facilities of the Oahe Irrigation Project, South Dakota, to the Commission on Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and to the Committee on Energy and Natural Resources.

By Mr. BOXER:

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, delivery, or other transfer of any type of firearm to a juvenile, with certain exceptions; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BROWNBACK, Mrs. LANDRIEU, Mr. LIEBERMAN, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINDOLM, Mr. MIYUKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. MURPHY, Mr. NICHOLS, Mr. NICHOLS, Mr. ROBB, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. TORRICELLI, Mr. WARNER, Mr. WYDEN, Mr. BACUS, Mr. BROWNBACK, Mr. BURKAN, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. ALLARD, Mr. BIDEN, and Mr. EDWARDS):

S. Res. 110. A resolution designating June 5, 1999, as “National Race for the Cure Day”; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. BURNS, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. BOND, Mr. DASCHLE, Mr. DEWINE, Mr. ROBERTS, Mr. SPICHTER, Ms. MIKULSKI, Mr. MACK, Mr. THURMOND, Mr. VINOYCHI, Mr. TORRICELLI, Mr. CRAIG, Mr. JOHNSON, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. SNOWE, Mr. LEVIN, Mr. WARNER, Mr. ROSS, Mr. ENZI, Mr. LUTENBERG, Mr. CRAPO, Mr. AKAKA, Mr. GORTON, Mr. DODD, Mr. DOMENICI, and Mr. JOHNSTON, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINDOLM, Mr. MIYUKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICHOLS, Mr. REID, Mr. ROBB, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. TORRICELLI, Mr. WARNER, Mr. WYDEN, Mr. BACUS, Mr. BROWNBACK, Mr. BURKAN, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. ALLARD, Mr. BIDEN, and Mr. EDWARDS):

S. Res. 109. A resolution relating to the activities of the National Islamic Front government in Sudan; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself, Mrs. FEINSTEIN, Mr. LOTT, Mr. DASCHLE, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BROWNBACK, Mrs. BOXER, Mr. BREAUX, Mr. BRYAN, Mr. BURNING, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. DEWINE, Mr. DURING, Mr. ENGROSS, Mr. GRAHAM, Mr. GRASSLEY, Mr. HELMS, Mr. HUTCHISON, Mr. LUGAR, and Mr. COCHRAN):

S. 1185. A bill to provide for the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

By Mr. NICKLES:

S. 1186. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas transported for foreign trade income; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. SMITH of Oregon, and Mr. CRAIG):

S. 1167. A bill to amend the Pacific Northwest Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; to the Committee on Energy and Natural Resources.

By Mr. McCAIN:

S. 1188. A bill to eliminate the social security earnings test for individuals who have attained retirement age, to protect and preserve the social security trust funds, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. COCHRAN, and Mr. BURNS):

S. 1169. A bill to require that certain multilateral development banks and other lending institutions implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

By Mr. TORRICELLI:

S. 1170. A bill to provide demonstration grants to local educational agencies to enable them to extend the length of the school year; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COVERDELL (for himself, Mrs. PERDUE, Mr. HELMS, Mr. LOTT, Mr. TORRICELLI, Mr. CRAIG, Mr. GRAHAM, and Mr. REID):

S. 1171. A bill to appropriate funds to carry out the commodity supplemental food program and the emergency food assistance program during fiscal year 2000; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to allow more veterans the honor and choice of being buried in the cemetery; to the Committee on Veterans Affairs.
By Mr. FEINGOLD:

S. Res. 111. A resolution designating June 6, 1999, as "National Child's Day"; considered and agreed to.

By Mr. FEINGOLD:

S. Res. 112. A resolution designating June 5, 1999, as "Safe Night USA"; considered and agreed to.

By Mr. SCHUMER (for himself, Mr. MOYNIHAN, Mr. BROWNBACK, Mr. MACK, and Mr. LIEBERMAN):

S. Con. Res. 36. A concurrent resolution condemning Palestinian efforts to revive the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian partition on the basis of the original Palestine partition plan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI, for herself, Mr. DODD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mrs. MURRAY, and Mr. WILLSTONE:

S. 1142. A bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SENORS' ACCESS TO CONTINUING CARE ACT OF 1999

Ms. MIKULSKI. Mr. President, I rise today to introduce the "Seniors' Access to Continuing Care Act of 1999", a bill that seniors’ access to treatment in the setting of their choice and to ensure that seniors who reside in continuing care communities, and nursing and other facilities have the right to return to that facility after a hospitalization.

As our population ages, more and more elderly will become residents of various long term care facilities. These include independent living, assisted living and nursing facilities, as well as continuing care retirement communities (CCRC’s), which provide the entire continuum of care. In Maryland alone, there are over 12,000 residents in 32 CCRCs and 24,000 residents in over 200 licensed nursing facilities.

More and more individuals and couples are choosing to enter continuing care communities because of the community environment they provide. CCRC’s provide independent living, assisted living and nursing care, usually on the same campus—the Continuum of Care. Residents find safety, security and peace of mind. They often prefer for the continuum of care. Couples can stay together, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by.

Most individuals entering a nursing facility do so because it is medically necessary, because they need a high level of care that they can no longer receive in their homes or in a more independent setting, such as assisted living. But residents are able to maintain their independence and continue to form relationships with other residents and staff and consider the facility their “home”. I have visited many of these facilities and have heard from both residents and operators. They have told me about a serious and unexpected problem encountered with returning to their facility after a hospitalization.

Hospitalization is traumatic for anyone, but particularly for our vulnerable seniors. We know that having comfort in surroundings and familiar faces can aid dramatically in the recovery process. So, we should do everything we can to make sure that recovery process is not hindered.

Today, more and more seniors are joining managed care plans. This trend is likely to accelerate given the expansion of managed care choices under the 1997 Balanced Budget Act. As more and more decisions are made based on financial considerations, choice often gets lost. Currently, a resident of a continuing care retirement community or a nursing facility who goes to the hospital has no guarantee that he or she will be allowed by the managed care organization (MCO) to return to the CCRC or nursing facility for post acute follow up care. The MCO can dictate that the resident go to a different facility that is in the MCO network for that follow up care, even if the home facility is able to and able to provide the needed care.

Let me give you a few examples:

In the fall of 1996, a resident of Applewood Estates in Freehold, New Jersey was hospitalized. Upon discharge, her HMO would not permit her to return to Applewood and sent her to another facility in Jackson. The following year, the same thing happened, but after strong protest, the HMO finally relented and permitted her to return to Applewood. She should not have had to protest, and many seniors are unable to assert themselves.

A Florida couple in their mid-80’s were separated by a distance of 20 miles after the wife was discharged from a hospital to an HMO-participating nursing home located on the opposite side of the county. This was a hardship for the husband who had difficulty for the wife who belonged to return to her home, a CCRC. The CCRC had room in its skilled nursing facility on campus. Despite pleas from all those involved, the HMO would not allow the wife to recuperate in a familiar setting, close to her husband and friends. She later died at the HMO nursing facility, without the benefit of frequent visits by her husband and friends.

Collington Episcopal Life Care Community, in my home state of Maryland, is dealing with patients who are frail and struggling to obtain psychiatric services, including medication monitoring, off campus, even though the services are available at Collington—how disruptive to good patient care!

Ms. MIKULSKI. Mr. President, I rise today to introduce the "Seniors' Access to Continuing Care Act of 1999", a bill that seniors’ access to treatment in the setting of their choice and to ensure that seniors who reside in continuing care communities, and nursing and other facilities have the right to return to their facility after a hospitalization.

Seniors coming out of the hospital should not be passed around like a baton. Their care should be decided based on what is clinically appropriate, NOT what is financially mandated. Why is that important? What are the consequences?

Residents consider their retirement community or long term care facility as their home. And being away from home for any reason can be very difficult. The trauma of the unfamiliar surroundings can increase recovery time. The staff of the resident’s “home” facility often knows best about the person’s chronic care and service needs. Being away from “home” separates the resident from his or her emotional support system. Refusal to allow a resident to return to his or her home takes away the person’s choice. All of this leads to greater recovery time and unnecessary trauma for the patient.

And should a woman’s husband have to hitch a ride or catch a cab in order to see his recovering spouse if the facility where they live can provide the care? NO. Retirement communities and other long term care facilities are not just health care facilities. They provide an entire living environment for their residents, in other words, a home. We need to protect the choice of our residents, and not just their choice for their residents, and not just their health care facility. And being away from “home” facility often knows best about the person’s chronic care and service needs. Being away from “home” separates the resident from his or her emotional support system. Refusal to allow a resident to return to his or her home takes away the person’s choice. All of this leads to greater recovery time and unnecessary trauma for the patient.

And should a woman’s husband have to hitch a ride or catch a cab in order to see his recovering spouse if the facility where they live can provide the care? NO. Retirement communities and other long term care facilities are not just health care facilities. They provide an entire living environment for their residents, in other words, a home. We need to protect the choice of our residents, and not just their choice for their “home” after a hospitalization. That is what my bill does.

It protects residents of CCRC’s and nursing facilities by: enabling them to return to their facility after a hospitalization; and requiring the resident’s insurer or MCO to cover the cost of the care, even if the insurer does not have a contract with the resident’s facility.

In order for the resident to return to the facility and have the services covered by the insurer or MCO: 1. The service to be provided must be a service that the insurer covers; 2. The resident must have resided at the facility before hospitalization, have a right to return and choose the care; 3. The facility must have the capacity to provide the necessary service and meet applicable licensing and certification requirements of the state; 4. The facility must be willing to accept substantially similar payment as under contract with the insurer or MCO.

My bill also requires an insurer or MCO to pay for a service to one of its