

106TH CONGRESS
1ST SESSION

H. R. 2102

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums and a credit for individuals with long-term care needs, to provide for an individual and employer educational campaign concerning long-term care insurance, and to amend title XIX of the Social Security Act to expand State long-term care partnerships by exempting 75 percent of partnership assets from Medicaid estate recovery.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1999

Mrs. JOHNSON of Connecticut (for herself, Mrs. THURMAN, Mrs. KELLY, Mrs. MORELLA, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums and a credit for individuals with long-term care needs, to provide for an individual and employer educational campaign concerning long-term care insurance, and to amend title XIX of the Social Security Act to expand State long-term care partnerships by exempting 75 percent of partnership assets from Medicaid estate recovery.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Long-Term Care and
 5 Retirement Security Act of 1999”.

6 **SEC. 2. DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-**
 7 **TERM CARE INSURANCE CONTRACTS.**

8 (a) IN GENERAL.—Part VII of subchapter B of chap-
 9 ter 1 of the Internal Revenue Code of 1986 (relating to
 10 additional itemized deductions) is amended by redesign-
 11 nating section 222 as section 223 and by inserting after
 12 section 221 the following new section:

13 **“SEC. 222. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**
 14 **SURANCE CONTRACTS.**

15 “(a) IN GENERAL.—In the case of an individual,
 16 there shall be allowed as a deduction an amount equal to
 17 the applicable percentage of the amount of eligible long-
 18 term care premiums (as defined in section 213(d)(10))
 19 paid during the taxable year for coverage for the taxpayer,
 20 his spouse, and dependents under a qualified long-term
 21 care insurance contract (as defined in section 7702B(b)).

22 “(b) APPLICABLE PERCENTAGE.—For purposes of
 23 subsection (a)—

24 “(1) IN GENERAL.—Except as otherwise pro-
 25 vided in this subsection, the applicable percentage

1 shall be determined in accordance with the following
 2 table based on the number of years of continuous
 3 coverage (as of the close of the taxable year) of the
 4 individual under a qualified long-term care insurance
 5 contract (as defined in section 7702B(b)):

“If the number of years of continuous coverage is—	The applicable long-term care percentage is—
Less than 1	50
At least 1 but less than 2	60
At least 2 but less than 3	70
At least 3 but less than 4	80
At least 4 but less than 5	90
At least 5	100.

6 “(2) SPECIAL RULES FOR INDIVIDUALS WHO
 7 HAVE ATTAINED AGE 60.—In the case of an indi-
 8 vidual who has attained age 60 as of the close of the
 9 taxable year, the following table shall be substituted
 10 for the table in paragraph (1).

“If the number of years of continuous coverage is—	The applicable long-term care percentage is—
Less than 1	60
At least 1 but less than 2	70
At least 2 but less than 3	85
At least 3	100.

11 “(3) ONLY COVERAGE AFTER 1999 TAKEN INTO
 12 ACCOUNT.—Only coverage for periods after Decem-
 13 ber 31, 1999, shall be taken into account under this
 14 subsection.

15 “(4) CONTINUOUS COVERAGE.—An individual
 16 shall not fail to be treated as having continuous cov-
 17 erage if the aggregate breaks in coverage during any
 18 1-year period are less than 60 days.

1 “(c) EXCLUSION OF SUBSIDIZED COVERAGE.—Sub-
 2 section (a) shall not apply to any taxpayer for any cal-
 3 endar month for which the taxpayer participates in any
 4 group health plan of an employer or any other entity if
 5 less than 50 percent of the cost of the taxpayer’s coverage
 6 under such plan is borne by the taxpayer.

7 “(d) SPECIAL RULES.—

8 “(1) COORDINATION WITH MEDICAL DEDUC-
 9 TION, ETC.—Any amount paid by a taxpayer for any
 10 qualified long-term care insurance contract shall not
 11 be taken into account in computing the amount al-
 12 lowable to the taxpayer as a deduction under section
 13 213(a).

14 “(2) COORDINATION WITH DEDUCTION FOR
 15 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
 16 DIVIDUALS.—Any amount paid by a taxpayer for
 17 any qualified long-term care insurance contract
 18 which taken into account in computing the amount
 19 allowable to the taxpayer as a deduction under sec-
 20 tion 162(l) shall not be taken into account under
 21 this section.”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (a) of section 62 of such Code
 24 is amended by inserting after paragraph (17) the
 25 following new item:

“(18) PREMIUMS ON QUALIFIED LONG-TERM
CARE INSURANCE CONTRACTS.—The deduction al-
lowed by section 222.”

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

“Sec. 222. Premiums on qualified long-term care insurance contracts.

“Sec. 223. Cross reference.”

8 (c) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 1999.

11 SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE
12 NEEDS.

13 (a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Section 24(a) of the Internal Revenue Code of 1986 (relating to allowance of child tax credit) is amended to read as follows:

17 “(a) ALLOWANCE OF CREDIT.—There shall be al-
18 lowed as a credit against the tax imposed by this chapter
19 for the taxable year an amount equal to the sum of—

20 “(1) \$500 multiplied by the number of quali-
21 fying children of the taxpayer, plus

22 “(2) \$1,000 multiplied by the number of appli-
23 cable individuals with respect to whom the taxpayer
24 is an eligible caregiver for the taxable year.”

1 (2) ADDITIONAL CREDIT FOR TAXPAYER WITH
 2 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much
 3 of section 24(d) of such Code as precedes paragraph
 4 (1)(A) thereof is amended to read as follows:

5 “(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3
 6 OR MORE SEPARATE CREDIT AMOUNTS.—

7 “(1) IN GENERAL.—If the sum of the number
 8 of qualifying children of the taxpayer and the num-
 9 ber of applicable individuals with respect to which
 10 the taxpayer is an eligible caregiver is 3 or more for
 11 any taxable year, the aggregate credits allowed
 12 under subpart C shall be increased by the lesser
 13 of—”.

14 (3) CONFORMING AMENDMENTS.—

15 (A) The heading for section 32(n) of such
 16 Code is amended by striking “CHILD” and in-
 17 serting “FAMILY CARE”.

18 (B) The heading for section 24 is amended
 19 to read as follows:

20 **“SEC. 24. FAMILY CARE CREDIT.”**

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

 “Sec. 24. Family care credit.”.

1 (b) DEFINITIONS.—Section 24(c) of such Code (de-
2 fining qualifying child) is amended to read as follows:

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFYING CHILD.—

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

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

10 “(ii) such individual has not attained
11 the age of 17 as of the close of the cal-
12 endar year in which the taxable year of the
13 taxpayer begins, and

14 “(iii) such individual bears a relation-
15 ship to the taxpayer described in section
16 32(c)(3)(B).

17 “(B) EXCEPTION FOR CERTAIN NONCITI-
18 ZENS.—The term ‘qualifying child’ shall not in-
19 clude any individual who would not be a de-
20 pendent if the first sentence of section
21 152(b)(3) were applied without regard to all
22 that follows ‘resident of the United States’.

23 “(2) APPLICABLE INDIVIDUAL.—

24 “(A) IN GENERAL.—The term ‘applicable
25 individual’ means, with respect to any taxable

1 year, any individual who has been certified, be-
2 fore the due date for filing the return of tax for
3 the taxable year (without extensions), by a phy-
4 sician (as defined in section 1861(r)(1) of the
5 Social Security Act) as being an individual with
6 long-term care needs described in subparagraph
7 (B) for a period—

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

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

12 Such term shall not include any individual oth-
13 erwise meeting the requirements of the pre-
14 ceding sentence unless within the 39½ month
15 period ending on such due date (or such other
16 period as the Secretary prescribes) a physician
17 (as so defined) has certified that such indi-
18 vidual meets such requirements.

19 “(B) INDIVIDUALS WITH LONG-TERM CARE
20 NEEDS.—An individual is described in this sub-
21 paragraph if the individual meets any of the fol-
22 lowing requirements:

23 “(i) The individual is at least 6 years
24 of age and—

1 “(I) is unable to perform (with-
2 out substantial assistance from an-
3 other individual) at least 3 activities
4 of daily living (as defined in section
5 7702B(c)(2)(B)) due to a loss of
6 functional capacity, or

7 “(II) requires substantial super-
8 vision to protect such individual from
9 threats to health and safety due to se-
10 vere cognitive impairment and is un-
11 able to preform, without reminding or
12 cuing assistance, at least 1 activity of
13 at least 1 activity of daily living (as so
14 defined) or to the extent provided in
15 regulations prescribed by the Sec-
16 retary (in consultation with the Sec-
17 retary of Health and Human Serv-
18 ices), is unable to engage in age ap-
19 propriate activities.

20 “(ii) The individual is at least 2 but
21 not 6 years of age and is unable due to a
22 loss of functional capacity to perform
23 (without substantial assistance from an-
24 other individual) at least 2 of the following
25 activities: eating, transferring, or mobility.

1 “(iii) The individual is under 2 years
2 of age and requires specific durable med-
3 ical equipment by reason of a severe health
4 condition or requires a skilled practitioner
5 trained to address the individual’s condi-
6 tion to be available if the individual’s par-
7 ents or guardians are absent.

8 “(3) ELIGIBLE CAREGIVER.—

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

12 “(i) The taxpayer.

13 “(ii) The taxpayer’s spouse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) IDENTIFICATION REQUIREMENTS.—

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

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

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

19 (B) by striking “child” and inserting
20 “family care”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1999.

1 **SEC. 4. LONG-TERM CARE EDUCATION CAMPAIGN.**

2 (a) INCLUDING INFORMATION WITH ANNUAL SOCIAL
3 SECURITY STATEMENTS.—Section 1143(c) of the Social
4 Security Act (42 U.S.C. 1320b–13(c)) is amended by add-
5 ing at the end the following:

6 “(3)(A) The Secretary shall include with the annual
7 statements under paragraph (2) for individuals who have
8 attained age 50 information about—

9 “(i) the limitation on long-term care benefits
10 provided through the medicare and medicaid pro-
11 grams under titles XVIII and XIX;

12 “(ii) what such individuals should look for in
13 purchasing private long-term care coverage; and

14 “(iii) the tax benefits that are available to those
15 who purchase qualified long-term care plans.

16 “(B) The information described in subparagraph (A)
17 shall be developed in cooperation with the Health Care Fi-
18 nancing Administration and representatives of providers
19 of long-term care services, of medicare and medicaid bene-
20 ficiaries, and of entities offering long-term care insurance
21 policies.

22 “(C) There are authorized to be appropriated from
23 the Federal Old-Age and Survivors Insurance Trust Fund
24 such sums as may be necessary to carry out this para-
25 graph and subsection (d).”.

1 (b) TRANSMITTAL OF INFORMATION TO EMPLOY-
 2 ERS.—Section 1143 of such Act (42 U.S.C. 1320b–13)
 3 is further amended by adding at the end the following:

4 “Dissemination of Information to Employers

5 “(d) The Commissioner of Social Security shall pro-
 6 vide for the transmittal to employers of information—

7 “(1) concerning the tax benefits available to
 8 employers for the provision of qualified long-term
 9 care insurance coverage; and

10 “(2) encouraging employers to offer coverage
 11 under qualified long-term care insurance contracts
 12 to their employees and to inform employees about
 13 the information described in subsection (c)(3)(A).”.

14 (c) EFFECTIVE DATES.—(1) The amendment made
 15 by subsection (a) applies to annual statements transmitted
 16 more than 1 year after the date of the enactment of this
 17 Act.

18 (2) The amendment made by subsection (b) takes ef-
 19 fect upon enactment.

20 **SEC. 5. EXPANSION OF STATE LONG-TERM CARE PARTNER-**
 21 **SHIPS BY EXEMPTING A PORTION OF PART-**
 22 **NERSHIP ASSETS FROM ESTATE RECOVERY.**

23 (a) IN GENERAL.—Section 1917(b)(1)(C) of the So-
 24 cial Security Act (42 U.S.C. 1396p(b)(1)(C)) is
 25 amended—

1 (1) in clause (i), by inserting “or clause (iii)”
2 after “such clause”; and

3 (2) by adding at the end the following new
4 clause:

5 “(iii) In the case of an individual who receives
6 medical assistance under a State plan not described
7 in clause (ii) of a State which has a State plan
8 amendment approved which provides for the dis-
9 regard of any assets or resources in the manner de-
10 scribed in such clause, clause (i) shall not apply to
11 75 percent of the amounts of the assets or resources
12 so disregarded.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 subsection (a) take effect on the date of the enactment
15 of this Act.

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