

107TH CONGRESS  
1ST SESSION

# S. 627

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mr. GRASSLEY (for himself and Mr. GRAHAM) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

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 2001”.

1 **SEC. 2. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**  
 2 **TERM CARE INSURANCE CONTRACTS.**

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

8 **“SEC. 222. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
 9 **SURANCE CONTRACTS.**

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

17 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 18 subsection (a)—

19 “(1) IN GENERAL.—Except as otherwise pro-  
 20 vided in this subsection, the applicable percentage  
 21 shall be determined in accordance with the following  
 22 table based on the number of years of continuous  
 23 coverage (as of the close of the taxable year) of the  
 24 individual under any qualified long-term care insur-  
 25 ance contracts (as defined in section 7702B(b)):

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

1           “(2) SPECIAL RULES FOR INDIVIDUALS WHO  
2       HAVE ATTAINED AGE 55.—In the case of an indi-  
3       vidual who has attained age 55 as of the close of the  
4       taxable year, the following table shall be substituted  
5       for the table in paragraph (1).

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

6           “(3) ONLY COVERAGE AFTER 2000 TAKEN INTO  
7       ACCOUNT.—Only coverage for periods after Decem-  
8       ber 31, 2000, shall be taken into account under this  
9       subsection.

10          “(4) CONTINUOUS COVERAGE.—An individual  
11       shall not fail to be treated as having continuous cov-  
12       erage if the aggregate breaks in coverage during any  
13       1-year period are less than 60 days.

14          “(c) COORDINATION WITH OTHER DEDUCTIONS.—  
15       Any amount paid by a taxpayer for any qualified long-  
16       term care insurance contract to which subsection (a) ap-  
17       plies shall not be taken into account in computing the  
18       amount allowable to the taxpayer as a deduction under  
19       section 162(l) or 213(a).”.

1 (b) LONG-TERM CARE INSURANCE PERMITTED TO  
 2 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE  
 3 SPENDING ARRANGEMENTS.—

4 (1) CAFETERIA PLANS.—Section 125(f) of the  
 5 Internal Revenue Code of 1986 (defining qualified  
 6 benefits) is amended by inserting before the period  
 7 at the end “; except that such term shall include the  
 8 payment of premiums for any qualified long-term  
 9 care insurance contract (as defined in section  
 10 7702B) to the extent the amount of such payment  
 11 does not exceed the eligible long-term care premiums  
 12 (as defined in section 213(d)(10)) for such con-  
 13 tract”.

14 (2) FLEXIBLE SPENDING ARRANGEMENTS.—  
 15 Section 106 of such Code (relating to contributions  
 16 by an employer to accident and health plans) is  
 17 amended by striking subsection (c).

18 (c) CONFORMING AMENDMENTS.—

19 (1) Section 62(a) of the Internal Revenue Code  
 20 of 1986 is amended by inserting after paragraph  
 21 (17) the following new item:

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

“Sec. 223. Cross reference.”.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2002.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

23           “(a) ALLOWANCE OF CREDIT.—

1           “(1) IN GENERAL.—There shall be allowed as a  
 2           credit against the tax imposed by this chapter for  
 3           the taxable year an amount equal to the applicable  
 4           credit amount multiplied by the number of applica-  
 5           ble individuals with respect to whom the taxpayer is  
 6           an eligible caregiver for the taxable year.

7           “(2) APPLICABLE CREDIT AMOUNT.—For pur-  
 8           poses of paragraph (1), the applicable credit amount  
 9           shall be determined in accordance with the following  
 10          table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable credit amount is—</b>
2001 .....	\$1,000
2002 .....	1,500
2003 .....	2,000
2004 .....	2,500
2005 or thereafter .....	3,000.

11          “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 12          COME.—

13           “(1) IN GENERAL.—The amount of the credit  
 14           allowable under subsection (a) shall be reduced (but  
 15           not below zero) by \$100 for each \$1,000 (or fraction  
 16           thereof) by which the taxpayer’s modified adjusted  
 17           gross income exceeds the threshold amount. For  
 18           purposes of the preceding sentence, the term ‘modi-  
 19           fied adjusted gross income’ means adjusted gross in-  
 20           come increased by any amount excluded from gross  
 21           income under section 911, 931, or 933.

1           “(2) THRESHOLD AMOUNT.—For purposes of  
2 paragraph (1), the term ‘threshold amount’ means—

3                   “(A) \$150,000 in the case of a joint re-  
4 turn, and

5                   “(B) \$75,000 in any other case.

6           “(3) INDEXING.—In the case of any taxable  
7 year beginning in a calendar year after 2001, each  
8 dollar amount contained in paragraph (2) shall be  
9 increased by an amount equal to the product of—

10                   “(A) such dollar amount, and

11                   “(B) the medical care cost adjustment de-  
12 termined under section 213(d)(10)(B)(ii) for  
13 the calendar year in which the taxable year be-  
14 gins, determined by substituting ‘August 2000’  
15 for ‘August 1996’ in subclause (II) thereof.

16 If any increase determined under the preceding sen-  
17 tence is not a multiple of \$50, such increase shall  
18 be rounded to the next lowest multiple of \$50.

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

20                   “(1) APPLICABLE INDIVIDUAL.—

21                   “(A) IN GENERAL.—The term ‘applicable  
22 individual’ means, with respect to any taxable  
23 year, any individual who has been certified, be-  
24 fore the due date for filing the return of tax for  
25 the taxable year (without extensions), by a phy-

sician (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 6 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



1                   7702B(c)(2)(B)) due to a loss of  
2                   functional capacity, or

3                   “(II) requires substantial super-  
4                   vision to protect such individual from  
5                   threats to health and safety due to se-  
6                   vere cognitive impairment and is un-  
7                   able to perform, without reminding or  
8                   cuing assistance, at least 1 activity of  
9                   daily living (as so defined) or to the  
10                  extent provided in regulations pre-  
11                  scribed by the Secretary (in consulta-  
12                  tion with the Secretary of Health and  
13                  Human Services), is unable to engage  
14                  in age appropriate activities.

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

21               “(iii) The individual is under 2 years  
22               of age and requires specific durable med-  
23               ical equipment by reason of a severe health  
24               condition or requires a skilled practitioner  
25               trained to address the individual’s condi-

tion to be available if the individual's parents or guardians are absent.

“(2) 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—

1 “(I) the requirements of clause  
2 (iv) are met with respect to the indi-  
3 vidual, and

4 “(II) the requirements of sub-  
5 paragraph (B) are met with respect to  
6 the individual in lieu of the support  
7 test of section 152(a).

8 “(B) RESIDENCY TEST.—The require-  
9 ments of this subparagraph are met if an indi-  
10 vidual has as his principal place of abode the  
11 home of the taxpayer and—

12 “(i) in the case of an individual who  
13 is an ancestor or descendant of the tax-  
14 payer or the taxpayer’s spouse, is a mem-  
15 ber of the taxpayer’s household for over  
16 half the taxable year, or

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

20 “(C) SPECIAL RULES WHERE MORE THAN  
21 1 ELIGIBLE CAREGIVER.—

22 “(i) IN GENERAL.—If more than 1 in-  
23 dividual is an eligible caregiver with re-  
24 spect to the same applicable individual for  
25 taxable years ending with or within the

1 same calendar year, a taxpayer shall be  
 2 treated as the eligible caregiver if each  
 3 such individual (other than the taxpayer)  
 4 files a written declaration (in such form  
 5 and manner as the Secretary may pre-  
 6 scribe) that such individual will not claim  
 7 such applicable individual for the credit  
 8 under this section.

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

16 “(iii) MARRIED INDIVIDUALS FILING  
 17 SEPARATELY.—In the case of married indi-  
 18 viduals filing separately, the determination  
 19 under this subparagraph as to whether the  
 20 husband or wife is the eligible caregiver  
 21 shall be made under the rules of clause (ii)  
 22 (whether or not one of them has filed a  
 23 written declaration under clause (i)).

24 “(d) IDENTIFICATION REQUIREMENT.—No credit  
 25 shall be allowed under this section to a taxpayer with re-

1 spect to any applicable individual unless the taxpayer in-  
 2 cludes the name and taxpayer identification number of  
 3 such individual, and the identification number of the phy-  
 4 sician certifying such individual, on the return of tax for  
 5 the taxable year.

6 “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
 7 YEAR.—Except in the case of a taxable year closed by rea-  
 8 son of the death of the taxpayer, no credit shall be allow-  
 9 able under this section in the case of a taxable year cov-  
 10 ering a period of less than 12 months.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 6213(g)(2) of the Internal Revenue  
 13 Code of 1986 is amended by striking “and” at the  
 14 end of subparagraph (K), by striking the period at  
 15 the end of subparagraph (L) and inserting “, and”,  
 16 and by inserting after subparagraph (L) the fol-  
 17 lowing new subparagraph:

18 “(M) an omission of a correct TIN or phy-  
 19 sician identification required under section  
 20 25B(d) (relating to credit for taxpayers with  
 21 long-term care needs) to be included on a re-  
 22 turn.”.

23 (2) The table of sections for subpart A of part  
 24 IV of subchapter A of chapter 1 of such Code is

1       amended by inserting after the item relating to sec-  
 2       tion 25A the following new item:

“Sec. 25B. Credit for taxpayers with long-term care needs.”.

3       (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to taxable years beginning after  
 5 December 31, 2000.

6       **SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**  
 7       **TERM CARE INSURANCE.**

8       (a) ADDITIONAL PROTECTIONS APPLICABLE TO  
 9 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and  
 10 (B) of section 7702B(g)(2) of the Internal Revenue Code  
 11 of 1986 (relating to requirements of model regulation and  
 12 Act) are amended to read as follows:

13               “(A) IN GENERAL.—The requirements of  
 14               this paragraph are met with respect to any con-  
 15               tract if such contract meets—

16               “(i) MODEL REGULATION.—The fol-  
 17               lowing requirements of the model regula-  
 18               tion:

19                       “(I) Section 6A (relating to guar-  
 20                       anteed renewal or noncancellability),  
 21                       and the requirements of section 6B of  
 22                       the model Act relating to such section  
 23                       6A.

1                   “(II) Section 6B (relating to pro-  
2                   hibitions on limitations and exclu-  
3                   sions).

4                   “(III) Section 6C (relating to ex-  
5                   tension of benefits).

6                   “(IV) Section 6D (relating to  
7                   continuation or conversion of cov-  
8                   erage).

9                   “(V) Section 6E (relating to dis-  
10                  continuance and replacement of poli-  
11                  cies).

12                  “(VI) Section 7 (relating to unin-  
13                  tentional lapse).

14                  “(VII) Section 8 (relating to dis-  
15                  closure), other than section 8F there-  
16                  of.

17                  “(VIII) Section 11 (relating to  
18                  prohibitions against post-claims un-  
19                  derwriting).

20                  “(IX) Section 12 (relating to  
21                  minimum standards).

22                  “(X) Section 13 (relating to re-  
23                  quirement to offer inflation protec-  
24                  tion), except that any requirement for  
25                  a signature on a rejection of inflation

1 protection shall permit the signature  
2 to be on an application or on a separate form.  
3

4 “(XI) Section 25 (relating to prohibition against preexisting conditions  
5 and probationary periods in replacement policies or certificates).  
6

7  
8 “(XII) The provisions of section  
9 26 relating to contingent nonforfeiture  
10 benefits, if the policyholder declines  
11 the offer of a nonforfeiture provision  
12 described in paragraph (4).

13 “(ii) MODEL ACT.—The following requirements of the model Act:  
14

15 “(I) Section 6C (relating to preexisting conditions).  
16

17 “(II) Section 6D (relating to prior hospitalization).  
18

19 “(III) The provisions of section 8  
20 relating to contingent nonforfeiture  
21 benefits, if the policyholder declines  
22 the offer of a nonforfeiture provision  
23 described in paragraph (4).

24 “(B) DEFINITIONS.—For purposes of this  
25 paragraph—



1 “(i) MODEL PROVISIONS.—The terms  
 2 ‘model regulation’ and ‘model Act’ mean  
 3 the long-term care insurance model regula-  
 4 tion, and the long-term care insurance  
 5 model Act, respectively, promulgated by  
 6 the National Association of Insurance  
 7 Commissioners (as adopted as of Sep-  
 8 tember 2000).

9 “(ii) COORDINATION.—Any provision  
 10 of the model regulation or model Act listed  
 11 under clause (i) or (ii) of subparagraph  
 12 (A) shall be treated as including any other  
 13 provision of such regulation or Act nec-  
 14 essary to implement the provision.

15 “(iii) DETERMINATION.—For pur-  
 16 poses of this section and section 4980C,  
 17 the determination of whether any require-  
 18 ment of a model regulation or the model  
 19 Act has been met shall be made by the  
 20 Secretary.”.

21 (b) EXCISE TAX.—Paragraph (1) of section  
 22 4980C(c) of the Internal Revenue Code of 1986 (relating  
 23 to requirements of model provisions) is amended to read  
 24 as follows:

25 “(1) REQUIREMENTS OF MODEL PROVISIONS.—

1           “(A) MODEL REGULATION.—The following  
2 requirements of the model regulation must be  
3 met:

4                   “(i) Section 9 (relating to required  
5 disclosure of rating practices to con-  
6 sumer).”

7                   “(ii) Section 14 (relating to applica-  
8 tion forms and replacement coverage).

9                   “(iii) Section 15 (relating to reporting  
10 requirements), except that the issuer shall  
11 also report at least annually the number of  
12 claims denied during the reporting period  
13 for each class of business (expressed as a  
14 percentage of claims denied), other than  
15 claims denied for failure to meet the wait-  
16 ing period or because of any applicable  
17 preexisting condition.

18                   “(iv) Section 22 (relating to filing re-  
19 quirements for marketing).

20                   “(v) Section 23 (relating to standards  
21 for marketing), including inaccurate com-  
22 pletion of medical histories, other than  
23 paragraphs (1), (6), and (9) of section  
24 23C, except that—

1 “(I) in addition to such require-  
 2 ments, no person shall, in selling or  
 3 offering to sell a qualified long-term  
 4 care insurance contract, misrepresent  
 5 a material fact; and

6 “(II) no such requirements shall  
 7 include a requirement to inquire or  
 8 identify whether a prospective appli-  
 9 cant or enrollee for long-term care in-  
 10 surance has accident and sickness in-  
 11 surance.

12 “(vi) Section 24 (relating to suit-  
 13 ability).

14 “(vii) Section 29 (relating to standard  
 15 format outline of coverage).

16 “(viii) Section 30 (relating to require-  
 17 ment to deliver shopper’s guide).

18 The requirements referred to in clause (vi) shall  
 19 not include those portions of the personal work-  
 20 sheet described in Appendix B relating to con-  
 21 sumer protection requirements not imposed by  
 22 section 4980C or 7702B.

23 “(B) MODEL ACT.—The following require-  
 24 ments of the model Act must be met:

1 “(i) Section 6F (relating to right to  
 2 return), except that such section shall also  
 3 apply to denials of applications and any re-  
 4 fund shall be made within 30 days of the  
 5 return or denial.

6 “(ii) Section 6G (relating to outline of  
 7 coverage).

8 “(iii) Section 6H (relating to require-  
 9 ments for certificates under group plans).

10 “(iv) Section 6I (relating to policy  
 11 summary).

12 “(v) Section 6J (relating to monthly  
 13 reports on accelerated death benefits).

14 “(vi) Section 7 (relating to incontest-  
 15 ability period).

16 “(C) DEFINITIONS.—For purposes of this  
 17 paragraph, the terms ‘model regulation’ and  
 18 ‘model Act’ have the meanings given such terms  
 19 by section 7702B(g)(2)(B).”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to policies issued more than 1 year  
 22 after the date of the enactment of this Act.

○