

109TH CONGRESS  
2D SESSION

# S. 2244

To provide funding and incentives for caregiver support and long-term care assistance.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2006

Mr. MENENDEZ (for himself, Mr. LAUTENBERG, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide funding and incentives for caregiver support and long-term care assistance.

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 “Caregiver Assistance  
5 and Relief Effort Act of 2006” or as the “CARE Act of  
6 2006”.

7 **SEC. 2. INCREASED FUNDING FOR NATIONAL FAMILY**  
8 **CAREGIVER SUPPORT PROGRAM.**

9 (a) IN GENERAL.—Section 303(e)(1) of the Older  
10 Americans Act of 1965 (42 U.S.C. 3023(e)(1)) is amend-

1 ed by striking “\$125,000,000 for fiscal year 2001” and  
 2 inserting “\$250,000,000 for fiscal year 2006”.

3 (b) NATIVE AMERICANS.—Section 643(2) of the  
 4 Older Americans Act of 1965 (42 U.S.C. 3057n(2)) is  
 5 amended by striking “\$5,000,000 for fiscal year 2001”  
 6 and inserting “\$10,000,000 for fiscal year 2006”.

7 **SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
 8 **NEEDS.**

9 (a) IN GENERAL.—Subpart C of part IV of sub-  
 10 chapter A of chapter 1 of the Internal Revenue Code of  
 11 1986 (relating to refundable credits) is amended by redes-  
 12 ignating section 36 as section 37 and by inserting after  
 13 section 35 the following new section:

14 **“SEC. 36. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
 15 **NEEDS.**

16 “(a) ALLOWANCE OF CREDIT.—

17 “(1) IN GENERAL.—There shall be allowed as a  
 18 credit against the tax imposed by this chapter for  
 19 the taxable year an amount equal to the applicable  
 20 amount multiplied by the number of applicable indi-  
 21 viduals with respect to whom the taxpayer is an eli-  
 22 gible caregiver for the taxable year.

23 “(2) APPLICABLE AMOUNT.—For purposes of  
 24 paragraph (1), the applicable amount shall be deter-  
 25 mined in accordance with the following table:

<b>“In the case of taxable years beginning in:</b>	<b>The applicable amount is:</b>
2006 .....	\$2,500
2007 .....	\$2,750
2008 or thereafter .....	\$3,000.

1       “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
2 COME.—

3               “(1) IN GENERAL.—The amount of the credit  
4 allowable under subsection (a) shall be reduced (but  
5 not below zero) by \$100 for each \$1,000 (or fraction  
6 thereof) by which the taxpayer’s modified adjusted  
7 gross income exceeds the threshold amount. For  
8 purposes of the preceding sentence, the term ‘modi-  
9 fied adjusted gross income’ means adjusted gross in-  
10 come increased by any amount excluded from gross  
11 income under section 911, 931, or 933.

12               “(2) THRESHOLD AMOUNT.—For purposes of  
13 paragraph (1), the term ‘threshold amount’ means  
14 \$75,000 (twice such amount in the case of joint re-  
15 turn).

16               “(3) INDEXING.—In the case of any taxable  
17 year beginning in a calendar year after 2006, the  
18 \$75,000 amount contained in paragraph (2) shall be  
19 increased by an amount equal to the product of—

20               “(A) such dollar amount, and

1           “(B) the medical care cost adjustment de-  
 2           termined under section 213(d)(10)(B)(ii) for  
 3           the calendar year in which the taxable year be-  
 4           gins, determined by substituting ‘2005’ for  
 5           ‘1996’ in subclause (II) thereof.

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

9           “(c) DEFINITIONS.—For purposes of this section—  
 10          “(1) APPLICABLE INDIVIDUAL.—

11           “(A) IN GENERAL.—The term ‘applicable  
 12           individual’ means, with respect to any taxable  
 13           year, any individual who has been certified, be-  
 14           fore the due date for filing the return of tax for  
 15           the taxable year (without extensions), by a phy-  
 16           sician (as defined in section 1861(r)(1) of the  
 17           Social Security Act) as being an individual with  
 18           long-term care needs described in subparagraph  
 19           (B) for a period—

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

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

24           Such term shall not include any individual oth-  
 25           erwise meeting the requirements of the pre-

ceding 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 consulta-

tion 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 deter-

1           mined under regulations promulgated  
2           by the Secretary), or

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

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

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

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

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

24                          “(iv) The individual is under 2 years  
25          of age and—

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

8 “(II) has a level of disability  
 9 similar to the level of disability de-  
 10 scribed in subclause (I) (as deter-  
 11 mined under regulations promulgated  
 12 by the Secretary), or

13 “(III) has a complex medical con-  
 14 dition (as defined by the Secretary)  
 15 that requires medical management  
 16 and coordination of care.

17 “(v) The individual has 5 or more  
 18 chronic conditions (as defined in subpara-  
 19 graph (C)) and is unable to perform (with-  
 20 out substantial assistance from another in-  
 21 dividual) at least 1 activity of daily living  
 22 (as so defined) due to a loss of functional  
 23 capacity.

24 “(C) CHRONIC CONDITION.—For purposes  
 25 of this paragraph, the term ‘chronic condition’



1 means a condition that lasts for at least 6 con-  
2 secutive months and requires ongoing medical  
3 care.

4 “(2) ELIGIBLE CAREGIVER.—A taxpayer shall  
5 be treated as an eligible caregiver for any taxable  
6 year with respect to the taxpayer and the taxpayer’s  
7 spouse and dependents. A taxpayer shall not be  
8 treated as an eligible caregiver with respect to him-  
9 self for any taxable year beginning in any calendar  
10 year if any other person is an eligible caregiver with  
11 respect to the taxpayer for a taxable year which be-  
12 gins in such calendar year.

13 “(d) IDENTIFICATION REQUIREMENT.—No credit  
14 shall be allowed under this section to a taxpayer with re-  
15 spect to any applicable individual unless the taxpayer in-  
16 cludes the name and taxpayer identification number of  
17 such individual, and the identification number of the phy-  
18 sician certifying such individual, on the return of tax for  
19 the taxable year.

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

25 (b) CONFORMING AMENDMENTS.—

1           (1) Section 6213(g)(2) of the Internal Revenue  
 2           Code of 1986 is amended by striking “and” at the  
 3           end of subparagraph (L), by striking the period at  
 4           the end of subparagraph (M) and inserting “, and”,  
 5           and by inserting after subparagraph (M) the fol-  
 6           lowing new subparagraph:

7                   “(N) an omission of a correct TIN or phy-  
 8           sician identification required under section  
 9           36(d) (relating to credit for taxpayers with  
 10          long-term care needs) to be included on a re-  
 11          turn.”.

12          (2) The table of sections for subpart C of part  
 13          IV of subchapter A of chapter 1 of such Code is  
 14          amended by redesignating the item relating to sec-  
 15          tion 36 as an item relating to section 37 and by in-  
 16          serting before such item the following new item:

“Sec. 36. Credit for taxpayers with long-term care needs.”.

17          (3) Section 1324(b)(2) of title 31, United  
 18          States Code, is amended by inserting “or 36” after  
 19          “section 35”.

20          (c) EFFECTIVE DATE.—The amendments made by  
 21          this section shall apply to taxable years beginning after  
 22          December 31, 2005.

1 **SEC. 4. 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 redesignig-  
 6 nating section 224 as section 225 and by inserting after  
 7 section 223 the following new section:

8 **“SEC. 224. 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 and the taxpayer’s spouse and dependents under a quali-  
 16 fied long-term care insurance contract (as defined in sec-  
 17 tion 7702B(b)).

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

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

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

6           “(3) ONLY COVERAGE AFTER 2005 TAKEN INTO  
7       ACCOUNT.—Only coverage for periods after Decem-  
8       ber 31, 2005, 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) CONFORMING AMENDMENTS.—

2 (1) Section 62(a) of the Internal Revenue Code  
3 of 1986 is amended by inserting before the last sen-  
4 tence the following new paragraph:

5 “(21) PREMIUMS ON QUALIFIED LONG-TERM  
6 CARE INSURANCE CONTRACTS.—The deduction al-  
7 lowed by section 224.”.

8 (2) The table of sections for part VII of sub-  
9 chapter B of chapter 1 of such Code is amended by  
10 redesignating the item relating to section 224 as an  
11 item relating to section 225 and by inserting before  
12 such item the following new item:

“Sec. 224. Premiums on qualified long-term care insurance contracts.”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2005.

16 **SEC. 5. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**  
17 **TERM CARE INSURANCE.**

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

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

1 “(i) MODEL REGULATION.—The fol-  
2 lowing requirements of the model regula-  
3 tion:

4 “(I) Section 6A (relating to guar-  
5 anteed renewal or noncancellability),  
6 other than paragraph (5) thereof, and  
7 the requirements of section 6B of the  
8 model Act relating to such section 6A.

9 “(II) Section 6B (relating to pro-  
10 hibitions on limitations and exclu-  
11 sions) other than paragraph (7) there-  
12 of.

13 “(III) Section 6C (relating to ex-  
14 tension of benefits).

15 “(IV) Section 6D (relating to  
16 continuation or conversion of cov-  
17 erage).

18 “(V) Section 6E (relating to dis-  
19 continuance and replacement of poli-  
20 cies).

21 “(VI) Section 7 (relating to unin-  
22 tentional lapse).

23 “(VII) Section 8 (relating to dis-  
24 closure), other than sections 8F, 8G,  
25 8H, and 8I thereof.

1 “(VIII) Section 11 (relating to  
2 prohibitions against post-claims un-  
3 derwriting).

4 “(IX) Section 12 (relating to  
5 minimum standards).

6 “(X) Section 13 (relating to re-  
7 quirement to offer inflation protec-  
8 tion).

9 “(XI) Section 25 (relating to pro-  
10 hibition against preexisting conditions  
11 and probationary periods in replace-  
12 ment policies or certificates).

13 “(XII) The provisions of section  
14 26 relating to contingent nonforfeiture  
15 benefits, if the policyholder declines  
16 the offer of a nonforfeiture provision  
17 described in paragraph (4).

18 “(ii) MODEL ACT.—The following re-  
19 quirements of the model Act:

20 “(I) Section 6C (relating to pre-  
21 existing conditions).

22 “(II) Section 6D (relating to  
23 prior hospitalization).

24 “(III) The provisions of section 8  
25 relating to contingent nonforfeiture

1                   benefits, if the policyholder declines  
2                   the offer of a nonforfeiture provision  
3                   described in paragraph (4).

4                   “(B) DEFINITIONS.—For purposes of this  
5 paragraph—

6                   “(i) MODEL PROVISIONS.—The terms  
7                   ‘model regulation’ and ‘model Act’ mean  
8                   the long-term care insurance model regula-  
9                   tion, and the long-term care insurance  
10                  model Act, respectively, promulgated by  
11                  the National Association of Insurance  
12                  Commissioners (as adopted as of October  
13                  2000).

14                  “(ii) COORDINATION.—Any provision  
15                  of the model regulation or model Act listed  
16                  under clause (i) or (ii) of subparagraph  
17                  (A) shall be treated as including any other  
18                  provision of such regulation or Act nec-  
19                  essary to implement the provision.

20                  “(iii) DETERMINATION.—For pur-  
21                  poses of this section and section 4980C,  
22                  the determination of whether any require-  
23                  ment of a model regulation or the model  
24                  Act has been met shall be made by the  
25                  Secretary.”.



1 (b) EXCISE TAX.—Paragraph (1) of section  
 2 4980C(c) of the Internal Revenue Code of 1986 (relating  
 3 to requirements of model provisions) is amended to read  
 4 as follows:

5 “(1) REQUIREMENTS OF MODEL PROVISIONS.—

6 “(A) MODEL REGULATION.—The following  
 7 requirements of the model regulation must be  
 8 met:

9 “(i) Section 9 (relating to required  
 10 disclosure of rating practices to consumer).

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

13 “(iii) Section 15 (relating to reporting  
 14 requirements).

15 “(iv) Section 22 (relating to filing re-  
 16 quirements for marketing).

17 “(v) Section 23 (relating to standards  
 18 for marketing), including inaccurate com-  
 19 pletion of medical histories, other than  
 20 paragraphs (1), (6), and (9) of section  
 21 23C.

22 “(vi) Section 24 (relating to suit-  
 23 ability).

24 “(vii) Section 29 (relating to standard  
 25 format outline of coverage).

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

3 The requirements referred to in clause (vi) shall  
4 not include those portions of the personal work-  
5 sheet described in Appendix B relating to con-  
6 sumer protection requirements not imposed by  
7 section 4980C or 7702B.

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

10 “(i) Section 6F (relating to right to  
11 return).

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

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

16 “(iv) Section 6J (relating to policy  
17 summary).

18 “(v) Section 6K (relating to monthly  
19 reports on accelerated death benefits).

20 “(vi) Section 7 (relating to incontest-  
21 ability period).

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

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

○