

110TH CONGRESS  
1ST SESSION

# S. 2121

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

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IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2007

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 2007” or as the “CARE Act of  
6 2007”.

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

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

1           (1)     in     paragraph     (1),     by     striking  
 2     “\$160,000,000” and all that follows and inserting  
 3     “\$250,000,000 for fiscal year 2008.”; and

4           (2)     in     paragraph     (2),     by     striking  
 5     “\$166,500,000” and all that follows and inserting  
 6     “\$250,000,000 for each of fiscal years 2009 through  
 7     2011.”.

8           (b) NATIVE AMERICANS.—Section 643(2) of the  
 9 Older Americans Act of 1965 (42 U.S.C. 3057n(2)) is  
 10 amended by striking “\$6,500,000” and all that follows  
 11 and inserting “\$10,000,000 for each of fiscal years 2008  
 12 through 2011.”.

13 **SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
 14 **NEEDS.**

15           (a) IN GENERAL.—Subpart C of part IV of sub-  
 16 chapter A of chapter 1 of the Internal Revenue Code of  
 17 1986 (relating to refundable credits) is amended by redес-  
 18 ignating section 36 as section 37 and by inserting after  
 19 section 35 the following new section:

20 **“SEC. 36. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
 21 **NEEDS.**

22           “(a) ALLOWANCE OF CREDIT.—

23                   “(1) IN GENERAL.—There shall be allowed as a  
 24     credit against the tax imposed by this chapter for  
 25     the taxable year an amount equal to the applicable

1 amount multiplied by the number of applicable indi-  
 2 viduals with respect to whom the taxpayer is an eli-  
 3 gible caregiver for the taxable year.

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

2008 .....	\$2,500
2009 .....	\$2,750
2010 or thereafter .....	\$3,000.

7 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 8 COME.—

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

18 “(2) THRESHOLD AMOUNT.—For purposes of  
 19 paragraph (1), the term ‘threshold amount’ means  
 20 \$75,000 (twice such amount in the case of joint re-  
 21 turn).

22 “(3) INDEXING.—In the case of any taxable  
 23 year beginning in a calendar year after 2008, the

1       \$75,000 amount contained in paragraph (2) shall be  
 2       increased by an amount equal to the product of—

3               “(A) such dollar amount, and

4               “(B) the medical care cost adjustment de-  
 5       termined under section 213(d)(10)(B)(ii) for  
 6       the calendar year in which the taxable year be-  
 7       gins, determined by substituting ‘2007’ for  
 8       ‘1996’ in subclause (II) thereof.

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

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

13              “(1) APPLICABLE INDIVIDUAL.—

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

23              “(i) which is at least 180 consecutive  
 24      days, and

1 “(ii) a portion of which occurs within  
2 the taxable year.

3 Such term shall not include any individual oth-  
4 erwise meeting the requirements of the pre-  
5 ceding sentence unless within the 39½ month  
6 period ending on such due date (or such other  
7 period as the Secretary prescribes) a physician  
8 (as so defined) has certified that such indi-  
9 vidual meets such requirements.

10 “(B) INDIVIDUALS WITH LONG-TERM CARE  
11 NEEDS.—An individual is described in this sub-  
12 paragraph if the individual meets any of the fol-  
13 lowing requirements:

14 “(i) The individual is at least 18 years  
15 of age and—

16 “(I) is unable to perform (with-  
17 out substantial assistance from an-  
18 other individual) at least 3 activities  
19 of daily living (as defined in section  
20 7702B(c)(2)(B)) due to a loss of  
21 functional capacity, or

22 “(II) requires substantial super-  
23 vision to protect such individual from  
24 threats to health and safety due to se-  
25 vere cognitive impairment and is un-

1           able to perform at least 1 activity of  
2           daily living (as so defined) or to the  
3           extent provided in regulations pre-  
4           scribed by the Secretary (in consulta-  
5           tion with the Secretary of Health and  
6           Human Services), is unable to engage  
7           in age appropriate activities.

8           “(ii) The individual is at least 6 but  
9           not 18 years of age and—

10           “(I) is unable to perform (with-  
11           out substantial assistance from an-  
12           other individual) at least 3 activities  
13           of daily living (as defined in section  
14           7702B(c)(2)(B)) due to a loss of  
15           functional capacity,

16           “(II) requires substantial super-  
17           vision to protect such individual from  
18           threats to health and safety due to se-  
19           vere cognitive impairment and is un-  
20           able to perform at least 1 activity of  
21           daily living (as so defined) or to the  
22           extent provided in regulations pre-  
23           scribed by the Secretary (in consulta-  
24           tion with the Secretary of Health and

1 Human Services), is unable to engage  
2 in age appropriate activities,

3 “(III) has a level of disability  
4 similar to the level of disability de-  
5 scribed in subclause (I) (as deter-  
6 mined under regulations promulgated  
7 by the Secretary), or

8 “(IV) has a complex medical con-  
9 dition (as defined by the Secretary)  
10 that requires medical management  
11 and coordination of care.

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

14 “(I) is unable due to a loss of  
15 functional capacity to perform (with-  
16 out substantial assistance from an-  
17 other individual) at least 2 of the fol-  
18 lowing activities: eating, transferring,  
19 or mobility,

20 “(II) has a level of disability  
21 similar to the level of disability de-  
22 scribed in subclause (I) (as deter-  
23 mined under regulations promulgated  
24 by the Secretary), or

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

5 “(iv) The individual is under 2 years  
6 of age and—

7 “(I) requires specific durable  
8 medical equipment by reason of a se-  
9 vere health condition or requires a  
10 skilled practitioner trained to address  
11 the individual’s condition to be avail-  
12 able if the individual’s parents or  
13 guardians are absent,

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

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

23 “(v) The individual has 5 or more  
24 chronic conditions (as defined in subpara-  
25 graph (C)) and is unable to perform (with-



1 out substantial assistance from another in-  
2 dividual) at least 1 activity of daily living  
3 (as so defined) due to a loss of functional  
4 capacity.

5 “(C) CHRONIC CONDITION.—For purposes  
6 of this paragraph, the term ‘chronic condition’  
7 means a condition that lasts for at least 6 con-  
8 secutive months and requires ongoing medical  
9 care.

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

19 “(d) IDENTIFICATION REQUIREMENT.—No credit  
20 shall be allowed under this section to a taxpayer with re-  
21 spect to any applicable individual unless the taxpayer in-  
22 cludes the name and taxpayer identification number of  
23 such individual, and the identification number of the phy-  
24 sician certifying such individual, on the return of tax for  
25 the taxable year.

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

6       (b) CONFORMING AMENDMENTS.—

7           (1) Section 6213(g)(2) of the Internal Revenue  
 8 Code of 1986 is amended by striking “and” at the  
 9 end of subparagraph (L), by striking the period at  
 10 the end of subparagraph (M) and inserting “, and”,  
 11 and by inserting after subparagraph (M) the fol-  
 12 lowing new subparagraph:

13           “(N) an omission of a correct TIN or phy-  
 14 sician identification required under section  
 15 36(d) (relating to credit for taxpayers with  
 16 long-term care needs) to be included on a re-  
 17 turn.”.

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2007.

4 **SEC. 4. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**  
 5 **TERM CARE INSURANCE CONTRACTS.**

6 (a) IN GENERAL.—Part VII of subchapter B of chap-  
 7 ter 1 of the Internal Revenue Code of 1986 (relating to  
 8 additional itemized deductions) is amended by redesignig-  
 9 nating section 224 as section 225 and by inserting after  
 10 section 223 the following new section:

11 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
 12 **SURANCE CONTRACTS.**

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

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

23 “(1) IN GENERAL.—Except as otherwise pro-  
 24 vided in this subsection, the applicable percentage  
 25 shall be determined in accordance with the following

1 table based on the number of years of continuous  
 2 coverage (as of the close of the taxable year) of the  
 3 individual under any qualified long-term care insur-  
 4 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.

5 “(2) SPECIAL RULES FOR INDIVIDUALS WHO  
 6 HAVE ATTAINED AGE 55.—In the case of an indi-  
 7 vidual who has attained age 55 as of the close of the  
 8 taxable year, the following table shall be substituted  
 9 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.

10 “(3) ONLY COVERAGE AFTER 2007 TAKEN INTO  
 11 ACCOUNT.—Only coverage for periods after Decem-  
 12 ber 31, 2007, shall be taken into account under this  
 13 subsection.

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

18 “(c) COORDINATION WITH OTHER DEDUCTIONS.—  
 19 Any amount paid by a taxpayer for any qualified long-

1 term care insurance contract to which subsection (a) ap-  
 2 plies shall not be taken into account in computing the  
 3 amount allowable to the taxpayer as a deduction under  
 4 section 162(l) or 213(a).”.

5 (b) CONFORMING AMENDMENTS.—

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

9 “(22) PREMIUMS ON QUALIFIED LONG-TERM  
 10 CARE INSURANCE CONTRACTS.—The deduction al-  
 11 lowed by section 224.”.

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

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

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to taxable years beginning after  
 19 December 31, 2007.

20 **SEC. 5. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**  
 21 **TERM CARE INSURANCE.**

22 (a) ADDITIONAL PROTECTIONS APPLICABLE TO  
 23 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and  
 24 (B) of section 7702B(g)(2) of the Internal Revenue Code

1 of 1986 (relating to requirements of model regulation and  
2 Act) are amended to read as follows:

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

6 “(i) MODEL REGULATION.—The fol-  
7 lowing requirements of the model regula-  
8 tion:

9 “(I) Section 6A (relating to guar-  
10 anteed renewal or noncancellability),  
11 other than paragraph (5) thereof, and  
12 the requirements of section 6B of the  
13 model Act relating to such section 6A.

14 “(II) Section 6B (relating to pro-  
15 hibitions on limitations and exclu-  
16 sions) other than paragraph (7) there-  
17 of.

18 “(III) Section 6C (relating to ex-  
19 tension of benefits).

20 “(IV) Section 6D (relating to  
21 continuation or conversion of cov-  
22 erage).

23 “(V) Section 6E (relating to dis-  
24 continuance and replacement of poli-  
25 cies).

1 “(VI) Section 7 (relating to unin-  
2 tentional lapse).

3 “(VII) Section 8 (relating to dis-  
4 closure), other than sections 8F, 8G,  
5 8H, and 8I thereof.

6 “(VIII) Section 11 (relating to  
7 prohibitions against post-claims un-  
8 derwriting).

9 “(IX) Section 12 (relating to  
10 minimum standards).

11 “(X) Section 13 (relating to re-  
12 quirement to offer inflation protec-  
13 tion).

14 “(XI) Section 25 (relating to pro-  
15 hibition against preexisting conditions  
16 and probationary periods in replace-  
17 ment policies or certificates).

18 “(XII) The provisions of section  
19 26 relating to contingent nonforfeiture  
20 benefits, if the policyholder declines  
21 the offer of a nonforfeiture provision  
22 described in paragraph (4).

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

1 “(I) Section 6C (relating to pre-  
2 existing conditions).

3 “(II) Section 6D (relating to  
4 prior hospitalization).

5 “(III) The provisions of section 8  
6 relating to contingent nonforfeiture  
7 benefits, if the policyholder declines  
8 the offer of a nonforfeiture provision  
9 described in paragraph (4).

10 “(B) DEFINITIONS.—For purposes of this  
11 paragraph—

12 “(i) MODEL PROVISIONS.—The terms  
13 ‘model regulation’ and ‘model Act’ mean  
14 the long-term care insurance model regula-  
15 tion, and the long-term care insurance  
16 model Act, respectively, promulgated by  
17 the National Association of Insurance  
18 Commissioners (as adopted as of October  
19 2000).

20 “(ii) COORDINATION.—Any provision  
21 of the model regulation or model Act listed  
22 under clause (i) or (ii) of subparagraph  
23 (A) shall be treated as including any other  
24 provision of such regulation or Act nec-  
25 essary to implement the provision.



1                   “(iii) DETERMINATION.—For pur-  
 2                   poses of this section and section 4980C,  
 3                   the determination of whether any require-  
 4                   ment of a model regulation or the model  
 5                   Act has been met shall be made by the  
 6                   Secretary.”.

7           (b) EXCISE TAX.—Paragraph (1) of section  
 8 4980C(c) of the Internal Revenue Code of 1986 (relating  
 9 to requirements of model provisions) is amended to read  
 10 as follows:

11                   “(1) REQUIREMENTS OF MODEL PROVISIONS.—

12                   “(A) MODEL REGULATION.—The following  
 13                   requirements of the model regulation must be  
 14                   met:

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

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

19                   “(iii) Section 15 (relating to reporting  
 20                   requirements).

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

23                   “(v) Section 23 (relating to standards  
 24                   for marketing), including inaccurate com-  
 25                   pletion of medical histories, other than

paragraphs (1), (6), and (9) of section 23C.

“(vi) Section 24 (relating to suitability).

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

“(viii) Section 30 (relating to requirement to deliver shopper’s guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in appendix B relating to consumer protection requirements not imposed by section 4980C or 7702B.

“(B) MODEL ACT.—The following requirements of the model Act must be met:

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

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

“(iii) Section 6H (relating to requirements for certificates under group plans).

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

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

1                   “(vi) Section 7 (relating to incontest-  
2                   ability period).

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

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

○