

103D CONGRESS
1ST SESSION

S. 1689

To amend the Internal Revenue Code of 1986 with respect to the treatment of accelerated death benefits under life insurance contracts.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

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

A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of accelerated death benefits under life insurance contracts.

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. TAX TREATMENT OF PAYMENTS UNDER LIFE**
4 **INSURANCE CONTRACTS FOR TERMINALLY**
5 **ILL INDIVIDUALS.**

6 (a) TREATMENT AS INSURANCE.—

7 (1) GENERAL RULE.—Section 101 of the Inter-
8 nal Revenue Code of 1986 (relating to certain death
9 benefits) is amended by adding at the end thereof
10 the following new subsection:

1 “(g) TREATMENT OF AMOUNTS PAID WITH RESPECT
2 TO TERMINALLY ILL INDIVIDUALS OR INDIVIDUALS WITH
3 DREAD DISEASE.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, any amount paid or advanced to an individual
6 under a life insurance contract on the life of an in-
7 sured who is a terminally ill individual or who has
8 a dread disease shall be treated as an amount paid
9 by reason of the death of such insured.

10 “(2) TERMINALLY ILL INDIVIDUAL.—For pur-
11 poses of this subsection, the term ‘terminally ill indi-
12 vidual’ means an individual who has been certified
13 by a licensed physician as having an illness or phys-
14 ical condition which can reasonably be expected to
15 result in death in twenty-four months or less.

16 “(3) DREAD DISEASE.—For purposes of this
17 subsection, the term ‘dread disease’ means a medical
18 condition which has required or requires extraor-
19 dinary medical intervention without which the in-
20 sured would die, or a medical condition which would,
21 in the absence of extensive or extraordinary medical
22 treatment, result in a drastically limited life span.

23 “(4) ASSIGNMENT OR SALE OF CONTRACT.—
24 For purposes of this subsection—

1 “(A) IN GENERAL.—Any amount received
2 by an individual from the sale or assignment to
3 a qualified accelerated benefits corporation of a
4 life insurance contract on the life of an insured
5 who is a terminally ill individual or who has a
6 dread disease shall be treated as an amount de-
7 scribed in paragraph (1). The preceding sen-
8 tence shall not apply to amounts for payment of
9 cash surrender values, loans, or other benefits
10 made by an insurer in accordance with the pol-
11 icy provisions.

12 “(B) QUALIFIED ACCELERATED BENEFITS
13 CORPORATION.—The term ‘qualified accelerated
14 benefits corporation’ means a corporation—

15 “(i) with respect to which the aggre-
16 gate amount of money or other property
17 received in exchange for equity in the cor-
18 poration, as contributions to capital, or as
19 paid-in surplus is at least \$1,000,000.

20 “(ii) which is regularly engaged in
21 purchasing or taking assignment of life in-
22 surance contracts on the lives of insureds
23 who are terminally ill individuals or who
24 have dread diseases.

1 “(iii)(I) which does business in a
2 State in which the insured resides and in
3 which qualifying legislation has been en-
4 acted (or qualifying administrative regula-
5 tions have been promulgated) to govern ac-
6 tivities described in clause (ii), and

7 “(II) the business practices of which
8 in States in which no qualifying legislation
9 has been enacted (and no qualifying ad-
10 ministrative regulations have been promul-
11 gated) do not materially differ from its
12 business practices in States in which such
13 legislation has been enacted (or such regu-
14 lations have been promulgated); and

15 “(iv) which pays an amount equal to
16 at least 60 percent of the face value of the
17 life insurance as consideration for the sale
18 or assignment to it of the policy.

19 “(C) QUALIFYING LEGISLATION.—For
20 purposes of subparagraph (B)(iii)—

21 “(i) the term ‘qualifying legislation’
22 means legislation enacted by a State legis-
23 lature which, either along or in conjunc-
24 tion with qualifying administrative regula-
25 tions—

1 “(I) imposes obligations on com-
2 panies regularly engaged in purchas-
3 ing or taking assignments of life in-
4 surance contracts on the lives of in-
5 sured who are terminally ill individ-
6 uals or who have dread diseases with
7 respect to confidentiality of medical
8 information, disclosure of alternatives
9 to accelerated benefits contracts, dis-
10 closure of tax consequences of acceler-
11 ated benefits contracts, and full dis-
12 closure to the terminally ill individual
13 or individual with a dread disease of
14 all material terms of the accelerated
15 benefits contract and the life insur-
16 ance policy, and

17 “(II) in order to enforce obliga-
18 tions described in subclause (I), au-
19 thorizes the examination of business
20 records and affairs of qualified accel-
21 erated benefits corporations, estab-
22 lishes procedures for investigations
23 and for cease and desist and other or-
24 ders, and imposes penalties for non-
25 compliance; and

1 “(ii) the term ‘qualifying administra-
2 tive regulations’ means regulations promul-
3 gated by a State agency which, either
4 alone or in conjunction with the qualifying
5 legislation, impose obligations on compa-
6 nies regularly engaged in purchasing or
7 taking assignments of life insurance con-
8 tracts on lives of insureds who are termi-
9 nally ill individuals or who have dread dis-
10 eases in the areas described in clause (i)
11 and authorize the enforcement of those ob-
12 ligations in the manner provided in clause
13 (i).

14 “(D) TRANSITION RULE.—In the case of
15 taxable years beginning before January 1,
16 1994, a corporation conducting its business
17 substantially in accordance with the qualifying
18 legislation enacted by any State or with qualify-
19 ing administrative regulations promulgated by
20 any State agency shall be treated as satisfying
21 the requirements of subparagraph (C) regard-
22 less of whether the corporation conducts its
23 business in that State.”

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to taxable years begin-

1 ning after December 31, 1989; except that, in the
 2 case of amounts received pursuant to a sale or as-
 3 signment described in section 101(g)(4) of the Inter-
 4 nal Revenue Code of 1986 (as added by paragraph
 5 (1)), such amendment shall only apply to amounts
 6 received after January 1, 1994.”

7 (b) TAX TREATMENT OF COMPANIES ISSUING
 8 QUALIFIED TERMINAL ILLNESS OR DREAD DISEASE
 9 RIDERS.—

10 (1) QUALIFIED TERMINAL ILLNESS OR DREAD
 11 DISEASE RIDER TREATED AS LIFE INSURANCE.—
 12 Section 818 (relating to other definitions and special
 13 rules) is amended by adding at the end thereof the
 14 following new subsection:

15 “(g) QUALIFIED TERMINAL ILLNESS OR DREAD DIS-
 16 EASE RIDER TREATED AS LIFE INSURANCE.—For pur-
 17 poses of this part—

18 “(1) IN GENERAL.—Any reference to life insur-
 19 ance shall be treated as including a reference to a
 20 qualified terminal illness or dread disease rider.

21 “(2) QUALIFIED TERMINAL ILLNESS OR DREAD
 22 DISEASE RIDER.—For purposes of this subsection,
 23 the term ‘qualified terminal, illness or dread disease
 24 rider’ means any rider or addendum on, or other
 25 provision of, a life insurance contract which provides

1 for payments to an individual upon the insured be-
2 coming a terminally ill individual (as defined in sec-
3 tion 101(g)(2) or having a dread illness (as defined
4 in section 101(g)(3)).”

5 (2) DEFINITIONS OF LIFE INSURANCE AND
6 MODIFIED ENDOWMENT CONTRACTS.—For purposes
7 of applying section 7702 or 7702A of the Internal
8 Revenue Code of 1986 to any contract (or determin-
9 ing whether either such section applies to such con-
10 tract), the issuance of a qualified terminal illness or
11 dread disease rider (as defined in section 818(g)(2)
12 of such Code) with respect to any contract shall not
13 be treated as a modification or material change of
14 such contract.

15 (3) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to taxable years begin-
17 ning before, on, or after December 31, 1989.

18 (c) APPLICANTS OR RECIPIENTS UNDER PUBLIC AS-
19 SISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE
20 ELECTION RESPECTING ACCELERATED DEATH BENE-
21 FITS UNDER LIFE INSURANCE POLICIES.—

22 (1) IN GENERAL.—Part A of title XI of the So-
23 cial Security Act (42 U.S.C. 1301 et seq.) is amend-
24 ed by adding at the end thereof the following new
25 section:

1 “TREATMENT OF ACCELERATED DEATH BENEFITS

2 “SEC. 1143. (a) IN GENERAL.—Notwithstanding any
3 other provision of law, no individual who is an applicant
4 for or recipient of aid or assistance under a State plan
5 approved under title IV, X, XIV, XVI, or XIX, of assist-
6 ance funded by payments under title V or XX, or of bene-
7 fits under the Supplemental Security Income program es-
8 tablished by title XVI shall—

9 “(1) be required, as a condition of eligibility for
10 (or of continuing to receive) such aid, assistance, or
11 benefits, to make an election to receive an acceler-
12 ated death benefit under a policy of life insurance,
13 or

14 “(2) by reason of failure to make such an elec-
15 tion, be denied (or suffer a reduction in the amount
16 of) such aid, assistance, or benefits.

17 “(b) ACCELERATED DEATH BENEFIT.—For pur-
18 poses of this section, the term ‘accelerated death benefit’
19 means any payment made under the terms of a life insur-
20 ance policy, while the insured individual is alive, as a re-
21 sult of a recalculation of the insured individual’s life
22 expectancy.”

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall take effect on January 1,
25 1990.

