I

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

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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 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Long-Term Care and Retirement Security Act of 1999’’.

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

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

‘‘SEC. 222. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

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

‘‘(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

‘‘(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage shall be determined in accordance with the following table based on the number of years of continuous coverage (as of the close of the taxable year) of the individual under a qualified long-term care insurance 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.

"(2) SPECIAL RULES FOR INDIVIDUALS WHO HAVE ATTAINED AGE 60.—In the case of an individual who has attained age 60 as of the close of the taxable year, the following table shall be substituted 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.

"(3) ONLY COVERAGE AFTER 1999 TAKEN INTO ACCOUNT.—Only coverage for periods after December 31, 1999, shall be taken into account under this subsection.

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

"(c) EXCLUSION OF SUBSIDIZED COVERAGE.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any group health plan of an employer or any other entity if less than 50 percent of the cost of the taxpayer's coverage under such plan is borne by the taxpayer.

"(d) SPECIAL RULES.—

"(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for any qualified long-term care insurance contract shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

"(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Any amount paid by a taxpayer for any qualified long-term care insurance contract which taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) shall not be taken into account under this section."

(b) CONFORMING AMENDMENTS.—

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

"(18) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed 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."

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

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

(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:

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) $500 multiplied by the number of qualifying children of the taxpayer, plus

"(2) $1,000 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year."

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

"(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—

"(1) IN GENERAL.—If the sum of the number of qualifying children of the taxpayer and the number of applicable individuals with respect to which the taxpayer is an eligible caregiver is 3 or more for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—".

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 32(n) of such Code is amended by striking "CHILD" and inserting "FAMILY CARE".

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

"SEC. 24. FAMILY CARE CREDIT."

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

"Sec. 24. Family care credit.".

(b) DEFINITIONS.—Section 24(c) of such Code (defining qualifying child) is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means any individual if—

"(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(2) APPLICABLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (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 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 preform, without reminding or cuing assistance, at least 1 activity of 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.

"(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

"(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

"(3) 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—

"(I) the requirements of clause (iv) are met with respect to the individual, and

"(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

"(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

"(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

"(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

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

"(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

"(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

"(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).''.

(c) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(e) of such Code is amended by adding at the end the following new sentence: ''No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.''.

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

(A) by inserting ''or physician identification'' after ''correct TIN'', and

(B) by striking ''child'' and inserting ''family care''.

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

SEC. 4. LONG-TERM CARE EDUCATION CAMPAIGN.

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

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

''(i) the limitation on long-term care benefits provided through the medicare and medicaid programs under titles XVIII and XIX;

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

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

''(B) The information described in subparagraph (A) shall be developed in cooperation with the Health Care Financing Administration and representatives of providers of long-term care services, of medicare and medicaid beneficiaries, and of entities offering long-term care insurance policies.

''(C) There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out this paragraph and subsection (d).''.

(b) Transmittal of Information to Employers.—Section 1143 of such Act (42 U.S.C. 1320b–13) is further amended by adding at the end the following:

"Dissemination of Information to Employers

"(d) The Commissioner of Social Security shall provide for the transmittal to employers of information—

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

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

(c) Effective Dates.—(1) The amendment made by subsection (a) applies to annual statements transmitted more than 1 year after the date of the enactment of this Act.

(2) The amendment made by subsection (b) takes effect upon enactment.

SEC. 5. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIPS BY EXEMPTING A PORTION OF PARTNERSHIP ASSETS FROM ESTATE RECOVERY.

(a) In General.—Section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

(1) in clause (i), by inserting "or clause (iii)" after "such clause"; and

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

"(iii) In the case of an individual who receives medical assistance under a State plan not described in clause (ii) of a State which has a State plan amendment approved which provides for the disregard of any assets or resources in the manner described in such clause, clause (i) shall not apply to 75 percent of the amounts of the assets or resources so disregarded.".

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

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