

107TH CONGRESS
1ST SESSION

H. R. 831

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2001

Mrs. JOHNSON of Connecticut (for herself, Mrs. THURMAN, Mr. McCREERY, and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Ways and Means

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 redesi-
6 gnating 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)):

“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	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).

“If the number of years of continuous coverage is—	The applicable long-term care percentage is—
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.”.

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:

“For taxable years beginning in calendar year—	The applicable credit amount is—
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-

1 sician (as defined in section 1861(r)(1) of the
2 Social Security Act) as being an individual with
3 long-term care needs described in subparagraph
4 (B) for a period—

5 “(i) which is at least 180 consecutive
6 days, and

7 “(ii) a portion of which occurs within
8 the taxable year.

9 Such term shall not include any individual oth-
10 erwise meeting the requirements of the pre-
11 ceding sentence unless within the 39½ month
12 period ending on such due date (or such other
13 period as the Secretary prescribes) a physician
14 (as so defined) has certified that such indi-
15 vidual meets such requirements.

16 “(B) INDIVIDUALS WITH LONG-TERM CARE
17 NEEDS.—An individual is described in this sub-
18 paragraph if the individual meets any of the fol-
19 lowing requirements:

20 “(i) The individual is at least 6 years
21 of age and—

22 “(I) is unable to perform (with-
23 out substantial assistance from an-
24 other individual) at least 3 activities
25 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 preform, 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-

1 tion to be available if the individual’s par-
2 ents or guardians are absent.

3 “(2) ELIGIBLE CAREGIVER.—

4 “(A) IN GENERAL.—A taxpayer shall be
5 treated as an eligible caregiver for any taxable
6 year with respect to the following individuals:

7 “(i) The taxpayer.

8 “(ii) The taxpayer’s spouse.

9 “(iii) An individual with respect to
10 whom the taxpayer is allowed a deduction
11 under section 151 for the taxable year.

12 “(iv) An individual who would be de-
13 scribed in clause (iii) for the taxable year
14 if section 151(c)(1)(A) were applied by
15 substituting for the exemption amount an
16 amount equal to the sum of the exemption
17 amount, the standard deduction under sec-
18 tion 63(c)(2)(C), and any additional stand-
19 ard deduction under section 63(c)(3) which
20 would be applicable to the individual if
21 clause (iii) applied.

22 “(v) An individual who would be de-
23 scribed in clause (iii) for the taxable year
24 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.

○