

110TH CONGRESS  
2D SESSION

# H. R. 7095

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Ms. HERSETH SANDLIN (for herself and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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, a credit for individuals who care for those with long-term care needs, and for other purposes.

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 “Comprehensive Long-  
5 Term Care Support Act of 2008”.

1 **SEC. 2. FINDINGS.**

2 The Congress hereby finds:

3 (1) As our Nation's seniors live longer lives, the  
4 United States faces a major challenge in long-term  
5 health care needs.

6 (2) The United States does not have a com-  
7 prehensive system to support long-term care needs.

8 (3) Eighty-six percent of people age 85 and  
9 older have at least one chronic condition which can  
10 cause pain, disability, and loss of functioning.

11 (4) Long-term care is expected to place a huge  
12 burden on State Medicaid programs, which are the  
13 primary source of funding for nursing homes.

14 **SEC. 3. DEDUCTION FOR QUALIFIED LONG-TERM CARE IN-**  
15 **SURANCE PREMIUMS.**

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

21 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
22 **SURANCE CONTRACTS.**

23 “(a) IN GENERAL.—In the case of an individual,  
24 there shall be allowed as a deduction an amount equal to  
25 the applicable percentage of the amount of eligible long-  
26 term care premiums (as defined in section 213(d)(10))

1 paid during the taxable year for coverage for the taxpayer  
 2 or any member of the family of the taxpayer under a quali-  
 3 fied long-term care insurance contract (as defined in sec-  
 4 tion 7702B(b)).

5 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 6 subsection (a), the applicable percentage shall be deter-  
 7 mined in accordance with the following table:

<b>“The taxable years beginning in calendar year:</b>	<b>The applicable percentage is:</b>
2009 .....	50
2010 .....	75
2011 or thereafter .....	100.

8 “(c) MEMBER OF THE FAMILY.—For purposes of  
 9 this section, the term ‘member of the family’ means, with  
 10 respect to any individual—

11 “(1) the spouse of the individual,

12 “(2) an ancestor or lineal descendant of the in-  
 13 dividual or the individual’s spouse,

14 “(3) a brother or sister of the individual or any  
 15 individual described in paragraph (1) or (2), and

16 “(4) the spouse of any individual described in  
 17 paragraph (2) or (3).

18 “(d) COORDINATION WITH OTHER DEDUCTIONS.—  
 19 Any amount paid by a taxpayer for any qualified long-  
 20 term care insurance contract to which subsection (a) ap-  
 21 plies shall not be taken into account in computing the

1 amount allowable to the taxpayer as a deduction under  
2 section 162(l) or 213(a).”.

3 (b) LONG-TERM CARE INSURANCE PERMITTED TO  
4 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE  
5 SPENDING ARRANGEMENTS.—

6 (1) CAFETERIA PLANS.—Section 125(f) of the  
7 Internal Revenue Code of 1986 (defining qualified  
8 benefits) is amended by inserting before the period  
9 at the end “; except that such term shall include the  
10 payment of premiums for any qualified long-term  
11 care insurance contract (as defined in section  
12 7702B) to the extent the amount of such payment  
13 does not exceed the eligible long-term care premiums  
14 (as defined in section 213(d)(10)) for such con-  
15 tract”.

16 (2) FLEXIBLE SPENDING ARRANGEMENTS.—  
17 Section 106 of such Code (relating to contributions  
18 by an employer to accident and health plans) is  
19 amended by striking subsection (c).

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 62(a) of the Internal Revenue Code  
22 of 1986 is amended by inserting after paragraph  
23 (21) the following new item:

1           “(22) PREMIUMS ON QUALIFIED LONG-TERM  
2           CARE INSURANCE CONTRACTS.—The deduction al-  
3           lowed by section 224.”.

4           (2) The table of sections for part VII of sub-  
5           chapter B of chapter 1 of such Code is amended by  
6           striking the last item and inserting the following  
7           new items:

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

“Sec. 225. Cross reference.”.

8           (d) EFFECTIVE DATES.—The amendments made by  
9           this section shall apply to taxable years beginning after  
10          December 31, 2008.

11       **SEC. 4. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
12               **NEEDS.**

13          (a) IN GENERAL.—Subpart A of part IV of sub-  
14          chapter A of chapter 1 of the Internal Revenue Code of  
15          1986 (relating to nonrefundable personal credits) is  
16          amended by inserting after section 25D the following new  
17          section:

18       **“SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM**  
19               **CARE NEEDS.**

20          “(a) ALLOWANCE OF CREDIT.—

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

1 ble individuals with respect to whom the taxpayer is  
 2 an eligible caregiver for the taxable year.

3 “(2) APPLICABLE CREDIT AMOUNT.—For pur-  
 4 poses of paragraph (1), the applicable credit amount  
 5 shall be determined in accordance with the following  
 6 table:

<b>For taxable years beginning in calendar year:</b>	<b>The applicable credit amount is:</b>
2009 .....	\$1,000
2010 .....	\$1,500
2011 .....	\$2,000
2012 .....	\$2,500
2013 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 “(A) \$150,000 in the case of a joint re-  
 21 turn, and

1 “(B) \$75,000 in any other case.

2 “(3) INDEXING.—In the case of any taxable  
3 year beginning in a calendar year after 2009, each  
4 dollar amount contained in paragraph (2) shall be  
5 increased by an amount equal to the product of—

6 “(A) such dollar amount, and

7 “(B) the medical care cost adjustment de-  
8 termined under section 213(d)(10)(B)(ii) for  
9 the calendar year in which the taxable year be-  
10 gins, determined by substituting ‘August of  
11 2008’ for ‘August of 1996’ in subclause (II)  
12 thereof.

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

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

17 “(1) APPLICABLE INDIVIDUAL.—

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

1 long-term care needs described in subparagraph  
2 (B) for a period—

3 “(i) which is at least 180 consecutive  
4 days, and

5 “(ii) a portion of which occurs within  
6 the taxable year.

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

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

18 “(i) The individual is at least 6 years  
19 of age and—

20 “(I) is unable to perform (with-  
21 out substantial assistance from an-  
22 other individual) at least 3 activities  
23 of daily living (as defined in section  
24 7702B(c)(2)(B)) due to a loss of  
25 functional capacity, or

1                   “(II) requires substantial super-  
2 vision to protect such individual from  
3 threats to health and safety due to se-  
4 vere cognitive impairment and is un-  
5 able to preform, without reminding or  
6 cuing assistance, at least 1 activity of  
7 daily living (as so defined) or to the  
8 extent provided in regulations pre-  
9 scribed by the Secretary (in consulta-  
10 tion with the Secretary of Health and  
11 Human Services), is unable to engage  
12 in age appropriate activities.

13                   “(ii) The individual is at least 2 but  
14 not 6 years of age and is unable due to a  
15 loss of functional capacity to perform  
16 (without substantial assistance from an-  
17 other individual) at least 2 of the following  
18 activities: eating, transferring, or mobility.

19                   “(iii) The individual is under 2 years  
20 of age and requires specific durable med-  
21 ical equipment by reason of a severe health  
22 condition or requires a skilled practitioner  
23 trained to address the individual’s condi-  
24 tion to be available if the individual’s par-  
25 ents or guardians are absent.

1 “(2) ELIGIBLE CAREGIVER.—

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

5 “(i) The taxpayer.

6 “(ii) The taxpayer’s spouse.

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

10 “(iv) An individual who would be de-  
11 scribed in clause (iii) for the taxable year  
12 if section 152(d)(1)(B) were applied by  
13 substituting for the exemption amount an  
14 amount equal to the sum of the exemption  
15 amount, the standard deduction under sec-  
16 tion 63(c)(2)(C), and any additional stand-  
17 ard deduction under section 63(c)(3) which  
18 would be applicable to the individual if  
19 clause (iii) applied.

20 “(v) An individual who would be de-  
21 scribed in clause (iii) for the taxable year  
22 if the requirements of clause (iv) are met  
23 with respect to the individual and section  
24 152(e)(1) were applied without regard to  
25 subparagraph (D).

1           “(B) SPECIAL RULES WHERE MORE THAN  
2           1 ELIGIBLE CAREGIVER.—

3                   “(i) IN GENERAL.—If more than 1 in-  
4           dividual is an eligible caregiver with re-  
5           spect to the same applicable individual for  
6           taxable years ending with or within the  
7           same calendar year, a taxpayer shall be  
8           treated as the eligible caregiver if each  
9           such individual (other than the taxpayer)  
10          files a written declaration (in such form  
11          and manner as the Secretary may pre-  
12          scribe) that such individual will not claim  
13          such applicable individual for the credit  
14          under this section.

15                   “(ii) NO AGREEMENT.—If each indi-  
16          vidual required under clause (i) to file a  
17          written declaration under clause (i) does  
18          not do so, the individual with the highest  
19          modified adjusted gross income (as defined  
20          in section 32(c)(5)) shall be treated as the  
21          eligible caregiver.

22                   “(iii) MARRIED INDIVIDUALS FILING  
23          SEPARATELY.—In the case of married indi-  
24          viduals filing separately, the determination  
25          under this subparagraph as to whether the

1           husband or wife is the eligible caregiver  
2           shall be made under the rules of clause (ii)  
3           (whether or not one of them has filed a  
4           written declaration under clause (i)).

5           “(d) IDENTIFICATION REQUIREMENT.—No credit  
6 shall be allowed under this section to a taxpayer with re-  
7 spect to any applicable individual unless the taxpayer in-  
8 cludes the name and taxpayer identification number of  
9 such individual, and the identification number of the phy-  
10 sician certifying such individual, on the return of tax for  
11 the taxable year.

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

17           (b) CONFORMING AMENDMENTS.—

18           (1) Section 6213(g)(2) of the Internal Revenue  
19 Code of 1986 is amended by striking “and” at the  
20 end of subparagraph (L), by striking the period at  
21 the end of subparagraph (M) and inserting “, and”,  
22 and by inserting after subparagraph (M) the fol-  
23 lowing new subparagraph:

24           “(N) an omission of a correct TIN or phy-  
25 sician identification required under section

1           25E(d) (relating to credit for taxpayers with  
2           long-term care needs) to be included on a re-  
3           turn.”.

4           (2) The table of sections for subpart A of part  
5           IV of subchapter A of chapter 1 of such Code is  
6           amended by inserting after the item relating to sec-  
7           tion 25D the following new item:

“Sec. 25E. Credit for taxpayers with long-term care needs.”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to taxable years beginning after  
10          December 31, 2008.

11   **SEC. 5. INCREASED FUNDING FOR NATIONAL FAMILY**  
12                           **CAREGIVER SUPPORT PROGRAM.**

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

15               (1) by striking paragraph (1),

16               (2) in paragraph (2)—

17                     (A) by striking “(2)” and inserting “(1)”,

18                     and

19                     (B) by striking “, \$173,000,000 for fiscal  
20                     year 2009, \$180,000,000 for fiscal year 2010,  
21                     and \$187,000,000 for fiscal year 2011” and in-  
22                     serting “and \$333,000,000 for each of the fis-  
23                     cal years 2009, 2010, and 2011”, and

24               (3) in paragraph (3)—

1 (A) by striking “(3)” and inserting “(2)”,  
2 and

3 (B) by striking “paragraphs (1) and (2)”  
4 and inserting “paragraph (1)”.

5 (b) NATIVE AMERICANS.—Section 643(2) of the  
6 Older Americans Act of 1965 (42 U.S.C. 3057n(2)) is  
7 amended by striking “\$7,200,000 for fiscal year 2009,  
8 \$7,500,000 for fiscal year 2010, and \$7,900,000 for fiscal  
9 year 2011” and inserting “\$13,600,000 for each of the  
10 fiscal years 2009, 2010, and 2011”.

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