

104TH CONGRESS
1ST SESSION

H. R. 1457

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide tax benefits with respect to long-term care insurance contracts that satisfy certain requirements.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. STARK (for himself and Mr. KLECZKA) 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

A BILL

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide tax benefits with respect to long-term care insurance contracts that satisfy certain requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—TAX TREATMENT OF**
2 **LONG-TERM CARE INSUR-**
3 **ANCE AND SERVICES**

4 **SECTION 101. AMENDMENT OF 1986 CODE.**

5 Except as otherwise expressly provided, whenever in
6 this title an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a
9 section or other provision of the Internal Revenue Code
10 of 1986.

11 **SEC. 102. TREATMENT OF LONG-TERM CARE INSURANCE.**

12 (a) GENERAL RULE.—Chapter 79 (relating to defini-
13 tions) is amended by inserting after section 7702A the fol-
14 lowing new section:

15 **“SEC. 7702B. TREATMENT OF LONG-TERM CARE INSUR-**
16 **ANCE.**

17 “(a) IN GENERAL.—For purposes of this title—

18 “(1) a long-term care insurance contract shall
19 be treated as an accident and health insurance con-
20 tract,

21 “(2) amounts (other than policyholder divi-
22 dends, as defined in section 808, or premium re-
23 funds) received under a long-term care insurance
24 contract shall be treated as amounts received for
25 personal injuries and sickness and shall be treated

1 as reimbursement for expenses actually incurred for
2 medical care (as defined in section 213(d)),

3 “(3) any plan of an employer providing cov-
4 erage under a long-term care insurance contract
5 shall be treated as an accident and health plan with
6 respect to such coverage,

7 “(4) except as provided in subsection (d)(3),
8 amounts paid for a long-term care insurance con-
9 tract providing the benefits described in subsection
10 (b)(2)(A) shall be treated as payments made for in-
11 surance for purposes of section 213(d)(1)(D), and

12 “(5) a long-term care insurance contract shall
13 be treated as a guaranteed renewable contract sub-
14 ject to the rules of section 816(e).

15 “(b) LONG-TERM CARE INSURANCE CONTRACT.—
16 For purposes of this title—

17 “(1) IN GENERAL.—The term ‘long-term care
18 insurance contract’ means any insurance contract
19 if—

20 “(A) the only insurance protection pro-
21 vided under such contract is coverage of quali-
22 fied long-term care services,

23 “(B) such contract does not pay or reim-
24 burse expenses incurred for services or items to
25 the extent that such expenses are reimbursable

1 under title XVIII of the Social Security Act or
2 would be so reimbursable but for the applica-
3 tion of a deductible or coinsurance amount,

4 “(C) such contract is guaranteed renew-
5 able,

6 “(D) such contract does not provide for a
7 cash surrender value or other money that can
8 be—

9 “(i) paid, assigned, or pledged as col-
10 lateral for a loan, or

11 “(ii) borrowed,
12 other than as provided in subparagraph (E) or
13 paragraph (2)(C),

14 “(E) all refunds of premiums, and all pol-
15 icyholder dividends or similar amounts, under
16 such contract are to be applied as a reduction
17 in future premiums or to increase future bene-
18 fits, and

19 “(F) the State in which such contract is is-
20 sued has a regulatory program approved by the
21 Secretary of Health and Human Services under
22 title XXI of the Social Security Act and such
23 contract is certified under such program.

24 “(2) SPECIAL RULES.—

1 “(A) PER DIEM, ETC. PAYMENTS PER-
2 MITTED.—A contract shall not fail to be de-
3 scribed in subparagraph (A) or (B) of para-
4 graph (1) by reason of payments being made on
5 a per diem or other periodic basis without re-
6 gard to the expenses incurred during the period
7 to which the payments relate.

8 “(B) SPECIAL RULES RELATING TO MEDI-
9 CARE.—

10 “(i) Paragraph (1)(B) shall not apply
11 to expenses which are reimbursable under
12 title XVIII of the Social Security Act only
13 as a secondary payor.

14 “(ii) No provision of law shall be con-
15 strued or applied so as to prohibit the of-
16 fering of a long-term care insurance con-
17 tract on the basis that the contract coordi-
18 nates its benefits with those provided
19 under such title.

20 “(C) REFUNDS OF PREMIUMS.—Paragraph
21 (1)(E) shall not apply to any refund on the
22 death of the insured, or on a complete surren-
23 der or cancellation of the contract, which can-
24 not exceed the aggregate premiums paid under
25 the contract. Any refund on a complete surren-

1 der or cancellation of the contract shall be in-
2 cludible in gross income to the extent that any
3 deduction or exclusion was allowable with re-
4 spect to the premiums.

5 “(c) QUALIFIED LONG-TERM CARE SERVICES.—For
6 purposes of this section—

7 “(1) IN GENERAL.—The term ‘qualified long-
8 term care services’ means necessary diagnostic, pre-
9 ventive, therapeutic, curing, treating, mitigating, and
10 rehabilitative services, and maintenance or personal
11 care services, which—

12 “(A) are required by a chronically ill indi-
13 vidual, and

14 “(B) are provided pursuant to a plan of
15 care prescribed by a licensed health care practi-
16 tioner.

17 “(2) CHRONICALLY ILL INDIVIDUAL.—

18 “(A) IN GENERAL.—The term ‘chronically
19 ill individual’ means any individual who has
20 been certified by a licensed health care practi-
21 tioner as—

22 “(i) being unable to perform (without
23 substantial assistance from another indi-
24 vidual) at least 2 activities of daily living
25 for a period of at least 90 days due to a

1 loss of functional capacity or to cognitive
2 impairment, or

3 “(ii) having a level of disability simi-
4 lar (as determined by the Secretary in con-
5 sultation with the Secretary of Health and
6 Human Services) to the level of disability
7 described in clause (i).

8 Such term shall not include any individual oth-
9 erwise meeting the requirements of the preced-
10 ing sentence unless within the preceding 12-
11 month period a licensed health care practitioner
12 has certified that such individual meets such re-
13 quirements.

14 “(B) ACTIVITIES OF DAILY LIVING.—For
15 purposes of subparagraph (A), each of the fol-
16 lowing is an activity of daily living:

17 “(i) Eating.

18 “(ii) Toileting.

19 “(iii) Transferring.

20 “(iv) Bathing.

21 “(v) Dressing.

22 “(vi) Continence.

23 Nothing in this section shall be construed to re-
24 quire a contract to take into account all of the
25 preceding activities of daily living.

1 “(3) MAINTENANCE OR PERSONAL CARE SERV-
2 ICES.—The term ‘maintenance or personal care serv-
3 ices’ means any care the primary purpose of which
4 is the provision of needed assistance with any of the
5 disabilities as a result of which the individual is a
6 chronically ill individual (including the protection
7 from threats to health and safety due to severe cog-
8 nitive impairment).

9 “(4) LICENSED HEALTH CARE PRACTI-
10 TIONER.—The term ‘licensed health care practi-
11 tioner’ means any physician (as defined in section
12 1861(r)(1) of the Social Security Act) and any reg-
13 istered professional nurse, licensed social worker, or
14 other individual who meets such requirements as
15 may be prescribed by the Secretary.

16 “(d) TREATMENT OF COVERAGE PROVIDED AS PART
17 OF A LIFE INSURANCE CONTRACT.—Except as otherwise
18 provided in regulations prescribed by the Secretary, in the
19 case of any long-term care insurance coverage (whether
20 or not qualified) provided by a rider on a life insurance
21 contract—

22 “(1) IN GENERAL.—This section shall apply as
23 if the portion of the contract providing such cov-
24 erage is a separate contract.

1 “(2) APPLICATION OF 7702.—Section
2 7702(c)(2) (relating to the guideline premium limi-
3 tation) shall be applied by increasing the guideline
4 premium limitation with respect to a life insurance
5 contract, as of any date—

6 “(A) by the sum of any charges (but not
7 premium payments) against the life insurance
8 contract’s cash surrender value (within the
9 meaning of section 7702(f)(2)(A)) for such cov-
10 erage made to that date under the contract, less

11 “(B) any such charges the imposition of
12 which reduces the premiums paid for the con-
13 tract (within the meaning of section
14 7702(f)(1)).

15 “(3) APPLICATION OF SECTION 213.—No deduc-
16 tion shall be allowed under section 213(a) for
17 charges against the life insurance contract’s cash
18 surrender value described in paragraph (2), unless
19 such charges are includible in income as a result of
20 the application of section 72(e)(10) and the rider is
21 a long-term care insurance contract under sub-
22 section (b).

23 “(4) PORTION DEFINED.—For purposes of this
24 subsection, the term ‘portion’ means only the terms
25 and benefits under a life insurance contract that are

1 in addition to the terms and benefits under the con-
2 tract without regard to the coverage under a long-
3 term care insurance contract.”

4 (b) RESERVE METHOD.—Clause (iii) of section
5 807(d)(3)(A) is amended by inserting “(other than a long-
6 term care insurance contract, as defined in section
7 7702B(b))” after “insurance contract”.

8 (c) LONG-TERM CARE INSURANCE NOT PERMITTED
9 UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING AR-
10 RANGEMENTS.—

11 (1) CAFETERIA PLANS.—Section 125(f) is
12 amended by adding at the end the following new
13 sentence: “Such term shall not include any long-
14 term care insurance contract (as defined in section
15 7702B(b)).”

16 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
17 The text of section 106 (relating to contributions by
18 employer to accident and health plans) is amended
19 to read as follows:

20 “(a) GENERAL RULE.—Except as provided in sub-
21 section (b), gross income of an employee does not include
22 employer-provided coverage under an accident or health
23 plan.

1 “(b) INCLUSION OF LONG-TERM CARE BENEFITS
2 PROVIDED THROUGH FLEXIBLE SPENDING ARRANGE-
3 MENTS.—

4 “(1) IN GENERAL.—Effective on and after Jan-
5 uary 1, 1997, gross income of an employee shall in-
6 clude employer-provided coverage for qualified long-
7 term care services (as defined in section 7702B(c))
8 to the extent that such coverage is provided through
9 a flexible spending or similar arrangement.

10 “(2) FLEXIBLE SPENDING ARRANGEMENT.—
11 For purposes of this subsection, a flexible spending
12 arrangement is a benefit program which provides
13 employees with coverage under which—

14 “(A) specified incurred expenses may be
15 reimbursed (subject to reimbursement maxi-
16 mums and other reasonable conditions), and

17 “(B) the maximum amount of reimburse-
18 ment which is reasonably available to a partici-
19 pant for such coverage is less than 500 percent
20 of the value of such coverage.

21 In the case of an insured plan, the maximum
22 amount reasonably available shall be determined on
23 the basis of the underlying coverage.”

1 (d) CONTINUATION COVERAGE EXCISE TAX NOT TO
2 APPLY.—Subsection (f) of section 4980B is amended by
3 adding at the end the following new paragraph:

4 “(9) CONTINUATION OF LONG-TERM CARE COV-
5 ERAGE NOT REQUIRED.—A group health plan shall
6 not be treated as failing to meet the requirements of
7 this subsection solely by reason of failing to provide
8 coverage under any long-term care insurance con-
9 tract (as defined in section 7702B(b)).”

10 (e) AMOUNTS PAID TO RELATIVES TREATED AS NOT
11 PAID FOR MEDICAL CARE.—Section 213(d) is amended
12 by adding at the end the following new paragraph:

13 “(10) CERTAIN PAYMENTS TO RELATIVES
14 TREATED AS NOT PAID FOR MEDICAL CARE.—An
15 amount paid for a qualified long-term care service
16 (as defined in section 7702B(c)) provided to an indi-
17 vidual shall be treated as not paid for medical care
18 if such service is provided—

19 “(A) by a relative (directly or through a
20 partnership, corporation, or other entity) unless
21 the relative is a licensed professional with re-
22 spect to such services, or

23 “(B) by a corporation or partnership which
24 is related (within the meaning of section 267(b)
25 or 707(b)) to the individual.

1 For purposes of this paragraph, the term ‘relative’
2 means an individual bearing a relationship to the in-
3 dividual which is described in any of paragraphs (1)
4 through (8) of section 152(a). This paragraph shall
5 not apply for purposes of section 105(b) with respect
6 to reimbursements through insurance.”

7 (f) CLERICAL AMENDMENT.—The table of sections
8 for chapter 79 is amended by inserting after the item re-
9 lating to section 7702A the following new item:

“Sec. 7702B. Treatment of long-term care insurance.”.

10 (g) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to contracts issued after De-
13 cember 31, 1996.

14 (2) CONTINUATION OF EXISTING POLICIES.—In
15 the case of any contract issued before January 1,
16 1997, which met the long-term care insurance re-
17 quirements of the State in which the contract was
18 issued at the time the contract was issued—

19 (A) such contract shall be treated for pur-
20 poses of the Internal Revenue Code of 1986 as
21 a long-term care insurance contract (as defined
22 in section 7702B(b) of such Code), and

23 (B) services provided under, or reimbursed
24 by, such contract shall be treated for such pur-

1 poses as qualified long-term care services (as
2 defined in section 7702B(c) of such Code).

3 (3) EXCHANGES OF EXISTING POLICIES.—If,
4 after the date of enactment of this Act and before
5 January 1, 1997, a contract providing for long-term
6 care insurance coverage is exchanged solely for a
7 long-term care insurance contract (as defined in sec-
8 tion 7702B(b) of such Code), no gain or loss shall
9 be recognized on the exchange. If, in addition to a
10 long-term care insurance contract, money or other
11 property is received in the exchange, then any gain
12 shall be recognized to the extent of the sum of the
13 money and the fair market value of the other prop-
14 erty received. For purposes of this paragraph, the
15 cancellation of a contract providing for long-term
16 care insurance coverage and reinvestment of the can-
17 cellation proceeds in a long-term care insurance con-
18 tract within 60 days thereafter shall be treated as
19 an exchange.

20 (4) ISSUANCE OF CERTAIN RIDERS PER-
21 MITTED.—For purposes of applying sections 101(f),
22 7702, and 7702A of the Internal Revenue Code of
23 1986 to any contract—

1 (A) the issuance of a rider which is treated
2 as a long-term care insurance contract under
3 section 7702B, and

4 (B) the addition of any provision required
5 to conform any other long-term care rider to be
6 so treated,

7 shall not be treated as a modification or material
8 change of such contract.

9 **SEC. 103. QUALIFIED LONG-TERM CARE SERVICES TREAT-**
10 **ED AS MEDICAL CARE.**

11 (a) GENERAL RULE.—Paragraph (1) of section
12 213(d) (defining medical care) is amended by striking
13 “or” at the end of subparagraph (B), by redesignating
14 subparagraph (C) as subparagraph (D), and by inserting
15 after subparagraph (B) the following new subparagraph:

16 “(C) for qualified long-term care services
17 (as defined in section 7702B(c)), or”.

18 (b) TECHNICAL AMENDMENTS.—

19 (1) Subparagraph (D) of section 213(d)(1) (as
20 redesignated by subsection (a)) is amended by strik-
21 ing “subparagraphs (A) and (B)” and inserting
22 “subparagraphs (A), (B), and (C)”.

23 (2)(A) Paragraph (1) of section 213(d) is
24 amended by adding at the end the following new
25 flush sentence:

1 “In the case of a long-term care insurance contract
 2 (as defined in section 7702B(b)), only eligible long-
 3 term care premiums (as defined in paragraph (11))
 4 shall be taken into account under subparagraph
 5 (D).”

6 (B) Subsection (d) of section 213 is amended
 7 by adding at the end the following new paragraph:

8 “(11) ELIGIBLE LONG-TERM CARE PRE-
 9 MIUMS.—

10 “(A) IN GENERAL.—For purposes of this
 11 section, the term ‘eligible long-term care pre-
 12 miums’ means the amount paid during a tax-
 13 able year for any long-term care insurance con-
 14 tract (as defined in section 7702B(b)) covering
 15 an individual, to the extent such amount does
 16 not exceed the limitation determined under the
 17 following table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$ 200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

18 “(B) INDEXING.—

19 “(i) IN GENERAL.—In the case of any
 20 taxable year beginning in a calendar year
 21 after 1997, each dollar amount contained

1 in subparagraph (A) shall be increased by
2 the medical care cost adjustment of such
3 amount for such calendar year. If any in-
4 crease determined under the preceding sen-
5 tence is not a multiple of \$10, such in-
6 crease shall be rounded to the nearest mul-
7 tiple of \$10.

8 “(ii) MEDICAL CARE COST ADJUST-
9 MENT.—For purposes of clause (i), the
10 medical care cost adjustment for any cal-
11 endar year is the percentage (if any) by
12 which—

13 “(I) the medical care component
14 of the Consumer Price Index (as de-
15 fined in section 1(f)(5)) for August of
16 the preceding calendar year, exceeds

17 “(II) such component for August
18 of 1996.

19 The Secretary shall, in consultation with
20 the Secretary of Health and Human Serv-
21 ices, prescribe an adjustment which the
22 Secretary determines is more appropriate
23 for purposes of this paragraph than the
24 adjustment described in the preceding sen-
25 tence, and the adjustment so prescribed

1 shall apply in lieu of the adjustment de-
2 scribed in the preceding sentence.”

3 (3) Paragraph (6) of section 213(d) is amend-
4 ed—

5 (A) by striking “subparagraphs (A) and
6 (B)” and inserting “subparagraphs (A), (B),
7 and (C)”, and

8 (B) by striking “paragraph (1)(C)” in sub-
9 paragraph (A) and inserting “paragraph
10 (1)(D)”.

11 (4) Paragraph (7) of section 213(d) is amended
12 by striking “subparagraphs (A) and (B)” and insert-
13 ing “subparagraphs (A), (B), and (C)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1996.

17 **SEC. 104. CERTAIN EXCHANGES OF LIFE INSURANCE CON-**
18 **TRACTS FOR LONG-TERM CARE INSURANCE**
19 **CONTRACTS NOT TAXABLE.**

20 (a) IN GENERAL.—Subsection (a) of section 1035
21 (relating to certain exchanges of insurance contracts) is
22 amended by striking the period at the end of paragraph
23 (3) and inserting “; or”, and by adding at the end the
24 following new paragraph:

1 “(4) a contract of life insurance or an endow-
2 ment or annuity contract for a long-term care insur-
3 ance contract (as defined in section 7702B(b)).”

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 1996.

7 **SEC. 105. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**
8 **WITHDRAWN FROM CERTAIN RETIREMENT**
9 **PLANS FOR LONG-TERM CARE INSURANCE.**

10 (a) IN GENERAL.—Part III of subchapter B of chap-
11 ter 1 (relating to items specifically excluded from gross
12 income) is amended by redesignating section 137 as sec-
13 tion 138 and by inserting after section 136 the following
14 new section:

15 **“SEC. 137. DISTRIBUTIONS FROM CERTAIN RETIREMENT**
16 **PLANS FOR LONG-TERM CARE INSURANCE.**

17 “(a) GENERAL RULE.—The amount which would
18 (but for this section) be includible in the gross income of
19 an individual for the taxable year by reason of eligible dis-
20 tributions during the taxable year shall be reduced (but
21 not below zero) by the aggregate premiums paid by such
22 individual during such taxable year for any long-term care
23 insurance contract (as defined in section 7702B(b)) for
24 coverage of such individual or the spouse of such individ-
25 ual.

1 “(b) ELIGIBLE DISTRIBUTION.—For purposes of this
2 section, the term ‘eligible distribution’ means any distribu-
3 tion or payment to an individual from—

4 “(1) an individual retirement plan of such indi-
5 vidual,

6 “(2) amounts attributable to employer contribu-
7 tions made pursuant to elective deferrals described
8 in subparagraph (A) or (C) of section 402(g)(3) or
9 section 501(c)(18)(D)(iii), or

10 “(3) amounts deferred under section 457(a).”

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 401(k)(2)(B)(i) is amended by
13 striking “or” at the end of subclause (III), by strik-
14 ing “and” at the end of subclause (IV) and inserting
15 “or”, and by inserting after subclause (IV) the fol-
16 lowing new subclause:

17 “(V) the date distributions for
18 premiums for a long-term care insur-
19 ance contract (as defined in section
20 7702B(b)) for coverage of such indi-
21 vidual or the spouse of such individual
22 are made, and”.

23 (2) Section 403(b)(11) is amended by striking
24 “or” at the end of subparagraph (A), by striking the
25 period at the end of subparagraph (B) and inserting

1 “, or”, and by inserting after subparagraph (B) the
2 following new subparagraph:

3 “(C) for the payment of premiums for a
4 long-term care insurance contract (as defined in
5 section 7702B(b)) for coverage of the employee
6 or the spouse of the employee.”

7 (3) Subparagraph (A) of section 457(d)(1) is
8 amended by striking “or” at the end of clause (ii),
9 by striking “and” at the end of clause (iii) and in-
10 sserting “or”, and by inserting after clause (iii) the
11 following new clause:

12 “(iv) the date distributions for pre-
13 miums for a long-term care insurance con-
14 tract (as defined in section 7702B(b)) for
15 coverage of such individual or the spouse
16 of such individual are made, and”.

17 (4) The table of sections for part III of sub-
18 chapter B of chapter 1 is amended by striking the
19 last item and inserting the following new items:

“Sec. 137. Distributions from certain retirement plans for long-
term care insurance.

“Sec. 138. Cross references to other Acts.”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to payments and distributions after
22 December 31, 1996.

1 **SEC. 106. INCLUSION IN INCOME OF EXCESS LONG-TERM**
2 **CARE BENEFITS.**

3 (a) IN GENERAL.—Part II of subchapter B of chap-
4 ter 1 (relating to items specifically included in gross in-
5 come) is amended by adding at the end the following new
6 section:

7 **“SEC. 91. EXCESS LONG-TERM CARE BENEFITS.**

8 “(a) GENERAL RULE.—Notwithstanding any other
9 provision of this title, gross income shall include the
10 amount of excess long-term care benefits received by the
11 taxpayer during the taxable year.

12 “(b) EXCEPTION FOR TERMINALLY ILL INDIVID-
13 UALS.—Subsection (a) shall not apply to any long-term
14 care benefit paid by reason of an insured who is a termi-
15 nally ill individual (as defined in subsection (e)) as of the
16 date the benefit is received.

17 “(c) EXCESS LONG-TERM CARE BENEFITS.—For
18 purposes of this section—

19 “(1) IN GENERAL.—The term ‘excess long-term
20 care benefits’ means the excess (if any) of—

21 “(A) the value of the long-term care bene-
22 fits received by the taxpayer during the taxable
23 year, over

24 “(B) the exclusion amount applicable to
25 such benefits.

1 “(2) LONG-TERM CARE BENEFITS.—The term
2 ‘long-term care benefits’ means payments and other
3 benefits under long-term care insurance contracts
4 (as defined in section 7702B(b)) to the extent ex-
5 cludable from gross income by reason of section
6 7702B(a)(2).

7 “(3) EXCLUSION AMOUNT.—

8 “(A) IN GENERAL.—In the case of long-
9 term care benefits received by the taxpayer dur-
10 ing the taxable year by reason of the taxpayer
11 being a chronically ill individual, the term ‘ex-
12 clusion amount’ means the aggregate of \$200
13 for each day during such year on which the in-
14 dividual is a chronically ill individual. In the
15 case of individuals who are married to each
16 other and who are both chronically ill individ-
17 uals, the preceding sentence shall be applied
18 separately with respect to each spouse.

19 “(B) OTHER TAXPAYERS.—In the case of
20 long-term care benefits received during the tax-
21 able year by a taxpayer by reason of another in-
22 dividual being a chronically ill individual, the
23 term ‘exclusion amount’ means so much of such
24 other individual’s exclusion amount (for such
25 other individual’s taxable year which begins in

1 the calendar year in which the taxpayer's tax-
2 able year begins) as is allocated by such other
3 individual to the taxpayer. Such an allocation
4 shall be made at the time and in the manner
5 prescribed by the Secretary; and once made,
6 shall be irrevocable.

7 “(d) CHRONICALLY ILL INDIVIDUAL.—For purposes
8 of this section, the term ‘chronically ill individual’ has the
9 meaning given to such term by section 7702B(c)(2).

10 “(e) TERMINALLY ILL INDIVIDUAL.—For purposes
11 of this section:

12 “(1) TERMINALLY ILL INDIVIDUAL.—The term
13 ‘terminally ill individual’ means an individual who
14 has been certified by a physician as having an illness
15 or physical condition which can reasonably be ex-
16 pected to result in death in 24 months or less after
17 the date of the certification.

18 “(2) PHYSICIAN.—The term ‘physician’ has the
19 meaning given to such term by section 1861(r)(1) of
20 the Social Security Act (42 U.S.C. 1395x(r)(1)).

21 “(f) INFLATION ADJUSTMENT OF \$200 BENEFIT
22 LIMIT.—In the case of a calendar year after 1996, the
23 \$200 amount contained in subsection (c)(3)(A) shall be
24 increased at the same time and in the same manner as
25 amounts are increased pursuant to section 213(d)(11).”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such part II is amended by adding at the end the fol-
3 lowing new item:

“Sec. 91. Excess long-term care benefits.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 1996.

7 **SEC. 107. REPORTING REQUIREMENTS.**

8 (a) IN GENERAL.—Subpart B of part III of sub-
9 chapter A of chapter 61 is amended by adding at the end
10 the following new section:

11 **“SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.**

12 “(a) REQUIREMENT OF REPORTING.—Any person
13 who pays long-term care benefits shall make a return, ac-
14 cording to the forms or regulations prescribed by the Sec-
15 retary, setting forth—

16 “(1) the aggregate amount of such benefits
17 paid by such person to any individual during any
18 calendar year, and

19 “(2) the name, address, and TIN of such indi-
20 vidual.

21 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
22 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
23 Every person required to make a return under subsection
24 (a) shall furnish to each individual whose name is required

1 to be set forth in such return a written statement show-
2 ing—

3 “(1) the name of the person making the pay-
4 ments, and

5 “(2) the aggregate amount of long-term care
6 benefits paid to the individual which are required to
7 be shown on such return.

8 The written statement required under the preceding sen-
9 tence shall be furnished to the individual on or before Jan-
10 uary 31 of the year following the calendar year for which
11 the return under subsection (a) was required to be made.

12 “(c) LONG-TERM CARE BENEFITS.—For purposes of
13 this section, the term ‘long-term care benefit’ has the
14 meaning given such term by section 91(c).”

15 (b) PENALTIES.—

16 (1) Subparagraph (B) of section 6724(d)(1) is
17 amended by redesignating clauses (ix) through (xiv)
18 as clauses (x) through (xv), respectively, and by in-
19 sserting after clause (viii) the following new clause:

20 “(ix) section 6050Q (relating to cer-
21 tain long-term care benefits),”.

22 (2) Paragraph (2) of section 6724(d) is amend-
23 ed by redesignating subparagraphs (Q) through (T)
24 as subparagraphs (R) through (U), respectively, and

1 by inserting after subparagraph (P) the following
2 new subparagraph:

3 “(Q) section 6050Q(b) (relating to certain
4 long-term care benefits),”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for subpart B of part III of subchapter A of chapter 61
7 is amended by adding at the end the following new item:

“Sec. 6050Q. Certain long-term care benefits.”

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to benefits paid after December
10 31, 1996.

11 **TITLE II—FEDERAL STANDARDS**
12 **FOR PRIVATE LONG-TERM**
13 **CARE INSURANCE CON-**
14 **TRACTS**

15 **SEC. 201. FEDERAL STANDARDS FOR PRIVATE LONG-TERM**
16 **CARE INSURANCE CONTRACTS.**

17 (a) IN GENERAL.—The Social Security Act is amend-
18 ed by adding at the end the following:

19 “TITLE XXI—FEDERAL STANDARDS FOR PRI-
20 VATE LONG-TERM CARE INSURANCE CON-
21 TRACTS

22 **“SEC. 2101. REQUIREMENTS FOR STATE ENFORCEMENT**
23 **PROGRAMS.**

24 “(a) IN GENERAL.—The Secretary shall review, ap-
25 prove, and periodically reapprove State programs that cer-

1 tify long-term care insurance contracts as meeting the
2 Federal standards established under this title. The Sec-
3 retary may not approve or reapprove such a program un-
4 less it meets the requirements of this section.

5 “(b) GENERAL REQUIREMENT.—In order to be ap-
6 proved, a State program must include such laws and pro-
7 cedures as may be necessary to ensure the compliance of
8 long-term care insurance contracts certified by the State,
9 and insurers issuing such contracts and their agents, with
10 the Federal requirements established under this title.

11 “(c) SPECIFIC ACTIVITIES UNDER STATE PRO-
12 GRAM.—In order to be approved, a State program shall
13 provide for the following procedures and activities:

14 “(1) MONITORING OF INSURERS AND CON-
15 TRACTS.—Procedures for ongoing monitoring of the
16 compliance of insurers doing business in the State,
17 and of long-term care insurance contracts issued in
18 the State, with requirements under this title.

19 “(2) CONTRACT REVIEW AND CERTIFI-
20 CATION.—Procedures for review and certification
21 (and annual recertification) of each such contract
22 sold in the State.

23 “(3) CONSUMER COMPLAINTS AND DISPUTE
24 RESOLUTION.—Administrative procedures for the in-
25 vestigation and resolution of complaints by consum-

1 of terms, and formats, in accordance with regulations pro-
2 mulgated by the Secretary.

3 “(c) STANDARD OUTLINE OF COVERAGE.—

4 “(1) IN GENERAL.—Insurers shall be required
5 to develop for each long-term care insurance con-
6 tract offered or sold, to include as a part of each
7 such contract, and to make available to each poten-
8 tial purchaser and furnish to each insured individual
9 and contractholder, an outline of coverage under
10 such contract that—

11 “(A) includes the elements specified in
12 paragraph (2),

13 “(B) is in a uniform format,

14 “(C) accurately and clearly reflects the
15 contents of the contract, and

16 “(D) is updated periodically on such time-
17 table as may be required by the Secretary (or
18 more frequently as necessary to reflect signifi-
19 cant changes in outlined information).

20 “(2) CONTENTS OF OUTLINE.—The outline of
21 coverage for each long-term care insurance contract
22 shall include at least the following:

23 “(A) BENEFITS.—A description of—

24 “(i) the principal benefits covered, in-
25 cluding the extent of—

1 “(I) benefits for services fur-
2 nished in residential care facilities,
3 and

4 “(II) other benefits,

5 “(ii) the principal exclusions from and
6 limitations on coverage,

7 “(iii) the terms and conditions, if any,
8 upon which the insured individual may ob-
9 tain upgraded benefits, and

10 “(iv) the threshold conditions for enti-
11 tlement to receive benefits.

12 “(B) CANCELLATION.—A statement of the
13 circumstances in which a contract may be ter-
14 minated, and the refund or nonforfeitures bene-
15 fits (if any) applicable in each such cir-
16 cumstance, including—

17 “(i) death of the insured individual,

18 “(ii) nonpayment of premiums,

19 “(iii) election by the insured individ-
20 ual not to renew,

21 “(iv) any other circumstance.

22 “(C) PREMIUM.—A statement of—

23 “(i) the total annual premium, and
24 the portion of such premium attributable
25 to each covered benefit,

1 “(ii) any reservation by the insurer of
2 a right to change premiums,

3 “(iii) any limit on annual premium in-
4 creases,

5 “(iv) any expected premium increases
6 associated with automatic or optional bene-
7 fit increases (including inflation protec-
8 tion), and

9 “(v) any circumstances under which
10 payment of premium is waived.

11 “(D) COST/VALUE COMPARISON.—

12 “(i) Information on average costs
13 (and variation in such costs) for nursing
14 facility care (and such other care as the
15 Secretary may specify) in the United
16 States, information on the value of benefits
17 relative to such costs, and a statement that
18 this national average varies by geographic
19 region.

20 “(ii) A comparison of benefits, over a
21 period of at least 20 years, for contracts
22 with and without inflation protection.

23 “(iii) A declaration as to whether the
24 amount of benefits will increase over time,
25 and, if so, a statement of the type and

1 amount of, any limitations on, and any
2 premium increases for, such benefit in-
3 creases.

4 **“SEC. 2103. LIMITING CONDITIONS ON BENEFITS.**

5 “(a) IN GENERAL.—A long-term care insurance con-
6 tract may not—

7 “(1) condition eligibility for benefits for a type
8 of service on the need for or receipt of any other
9 type of service (such as prior hospitalization or insti-
10 tutionalization, or a higher level of care than the
11 care for which benefits are covered);

12 “(2) condition eligibility for any benefit (where
13 the need for such benefit has been established by an
14 independent assessment of impairment) on any par-
15 ticular medical diagnosis (including any acute condi-
16 tion) or on one of a group of diagnoses;

17 “(3) condition eligibility for benefits furnished
18 by licensed or certified providers on compliance by
19 such providers with conditions not required under
20 Federal or State law; or

21 “(4) condition coverage of any service on provi-
22 sion of such service by a provider, or in a setting,
23 providing a higher level of care than that required
24 by an insured individual.

1 “(b) HOME CARE OR COMMUNITY-BASED SERV-
2 ICES.—A long-term care insurance contract that provides
3 benefits for any home care or community-based services
4 provided in a setting other than a residential care facil-
5 ity—

6 “(1) may not limit such benefits to services pro-
7 vided by registered nurses or licensed practical
8 nurses;

9 “(2) may not limit such benefits to services fur-
10 nished by persons or entities participating in pro-
11 grams under titles XVIII and XIX of this Act; and

12 “(3) must provide, at a minimum, benefits for
13 personal assistance with activities of daily living,
14 home health care, adult day care, and respite care.

15 “(c) NURSING FACILITY SERVICES.—A long-term
16 care insurance contract that provides benefits for any
17 nursing facility services—

18 “(1) must provide benefits for such services
19 provided by all types of nursing facilities licensed by
20 the State, and

21 “(2) may provide benefits for care in other resi-
22 dential facilities.

23 “(d) PROHIBITION ON DISCRIMINATION BY DIAG-
24 NOSIS.—A long-term care insurance contract may not pro-
25 vide for treatment of—

1 “(1) Alzheimer’s disease or any other progres-
2 sive degenerative dementia of an organic origin,

3 “(2) any organic or inorganic mental illness,

4 “(3) mental retardation or any other cognitive
5 or mental impairment, or

6 “(4) HIV infection or AIDS,

7 different from the treatment of any other medical
8 condition for purposes of determining whether
9 threshold conditions for the receipt of benefits have
10 been met, or the amount of benefits under the con-
11 tract.

12 **“SEC. 2104. INFLATION PROTECTION.**

13 “(a) IN GENERAL.—The Secretary, after consulta-
14 tion with NAIC, shall promulgate regulations establishing
15 requirements with respect to inflation protection, which
16 shall include at a minimum the requirements specified in
17 this section.

18 “(b) REQUIREMENT TO OFFER.—An insurer offering
19 for sale any long-term care insurance contract shall be re-
20 quired to afford the purchaser the option to obtain cov-
21 erage under such contract (upon payment of increased
22 premiums) of annual increases in benefits at rates in ac-
23 cordance with subsection (c).

24 “(c) RATE INCREASE IN BENEFITS.—For purposes
25 of subsection (b), the benefits under a contract for each

1 year shall be increased by a percentage of the full value
2 of benefits under the contract for the previous year, which
3 shall be not less than 5 percent of such value (or such
4 other rate of increase as may be determined by the Sec-
5 retary to be adequate to offset increases in the costs of
6 long-term care services for which coverage is provided
7 under the contract).

8 “(d) REQUIREMENT OF WRITTEN REJECTION.—In-
9 flation protection in accordance with subsection (b) may
10 be excluded from the coverage under a contract only if
11 the insured individual (or, if different, the person respon-
12 sible for payment of premiums) has rejected in writing the
13 option to obtain such coverage.

14 **“SEC. 2105. NONFORFEITURE BENEFITS.**

15 “(a) IN GENERAL.—The Secretary, after consulta-
16 tion with NAIC, shall promulgate regulations establishing
17 requirements with respect to nonforfeiture benefits, which
18 shall include at a minimum the requirements specified in
19 this section.

20 “(b) REQUIREMENT.—Each long-term care insurance
21 contract that lapses for any reason (including nonpayment
22 of premiums, cancellation, or failure to renew, but exclud-
23 ing lapses due to death) after remaining in effect beyond
24 a specified minimum period shall provide for appropriate
25 nonforfeiture benefits.

1 “(c) NONFORFEITURE BENEFITS.—The standards
2 established under this section shall require that the
3 amount or percentage of nonforfeiture benefits shall in-
4 crease proportionally with the amount of premiums paid
5 by a contractholder.

6 **“SEC. 2106. CONTINUATION, RENEWAL, REPLACEMENT,**
7 **CONVERSION, AND CANCELLATION OF CON-**
8 **TRACTS.**

9 “(a) IN GENERAL.—The Secretary, in consultation
10 with NAIC, shall promulgate regulations establishing re-
11 quirements applicable to the renewal, replacement, conver-
12 sion, and cancellation of long-term care insurance con-
13 tracts, which shall include at a minimum the requirements
14 specified in this section.

15 “(b) INSURED’S RIGHT TO CANCEL DURING EXAM-
16 INATION PERIOD.—Each individual insured (or, if dif-
17 ferent, each individual liable for payment of premiums)
18 under a long-term care insurance contract shall have the
19 unconditional right to return the contract within 30 days
20 after the date of its issuance and delivery, and to obtain
21 a full refund of any premium paid.

22 “(c) CONTINUATION, RENEWAL, REPLACEMENT, AND
23 CONVERSION OF CONTRACTS.—

24 “(1) IN GENERAL.—Insurers shall not be per-
25 mitted to cancel, or refuse to renew (or replace with

1 a substantial equivalent), any long-term care insur-
2 ance contract for any reason other than for fraud or
3 material misrepresentation or for nonpayment of
4 premium.

5 “(2) CONTINUATION AND CONVERSION RIGHTS
6 WITH RESPECT TO GROUP CONTRACTS.—

7 “(A) IN GENERAL.—Insurers shall be re-
8 quired to include in each group long-term care
9 insurance contract, a provision affording to
10 each insured individual, when such contract
11 would otherwise terminate, the opportunity (at
12 the insurer’s option, subject to approval of the
13 State insurance commissioner) either to con-
14 tinue or to convert coverage under such con-
15 tract in accordance with this paragraph.

16 “(B) RIGHTS OF RELATED INDIVIDUALS.—
17 In the case of any insured individual whose eli-
18 gibility for coverage under a group contract is
19 based on relationship to another individual, the
20 insurer shall be required to continue such cov-
21 erage upon termination of the relationship due
22 to divorce or death.

23 “(C) CONTINUATION OF COVERAGE.—A
24 group contract shall be considered to meet the
25 requirements of this paragraph with respect to

1 rights of an insured individual to continuation
2 of coverage if coverage of the same (or substan-
3 tially equivalent) benefits for such individual
4 under such contract is maintained, subject only
5 to timely payment of premiums.

6 “(D) CONVERSION OF COVERAGE.—A
7 group contract shall be considered to meet the
8 requirements of this paragraph with respect to
9 conversion if it entitles each individual who has
10 been continuously covered under the contract
11 for at least 6 months before the date of the ter-
12 mination to issuance of a replacement contract
13 providing benefits identical to, substantially
14 equivalent to, or in excess of, the benefits under
15 such terminated group contract—

16 “(i) without requiring evidence of in-
17 surability with respect to benefits covered
18 under such previous contract, and

19 “(ii) at premium rates no higher than
20 would apply if the insured individual had
21 initially obtained coverage under such re-
22 placement contract on the date such in-
23 sured individual initially obtained coverage
24 under such group contract.

1 **“SEC. 2107. DEFINITIONS.**

2 “For purposes of this title:

3 “(1) ACTIVITY OF DAILY LIVING.—The term
4 ‘activity of daily living’ means any of the following:
5 eating, toileting, dressing, bathing, and transferring.

6 “(2) ADULT DAY CARE.—The term ‘adult day
7 care’ means a program providing social and health-
8 related services during the day to six or more adults
9 with disabilities (or such smaller number as the Sec-
10 retary may specify in regulations) in a community
11 group setting outside the home.

12 “(3) CONTRACTHOLDER—The term ‘contract-
13 holder’ means the entity which is the holder of
14 record of a group long-term care insurance contract.

15 “(4) HOME HEALTH CARE.—The term ‘home
16 health care’ means medical and nonmedical services
17 including such services as homemaker services, as-
18 sistance with activities of daily living, and respite
19 care provided to individuals in their residences.

20 “(5) INSURED INDIVIDUAL.—The term ‘insured
21 individual’ means, with respect to a long-term care
22 insurance contract, any individual who has coverage
23 of benefits under such contract.

24 “(6) INSURER.—The term ‘insurer’ means any
25 person that offers or sells an individual or group
26 long-term care insurance contract under which such

1 person is at risk for all or part of the cost of bene-
2 fits under the contract, and includes any agent of
3 such person.

4 “(7) LONG-TERM CARE INSURANCE CON-
5 TRACT.—The term ‘long-term care insurance con-
6 tract has the meaning given such term in section
7 7702B(b) of the Internal Revenue Code of 1986
8 (without regard to paragraph (1)(F) of such sec-
9 tion).

10 “(8) NURSING FACILITY.—The term ‘nursing
11 facility’ means a facility licensed by the State to pro-
12 vide to residents—

13 “(A) skilled nursing care and related serv-
14 ices for residents who require medical or nurs-
15 ing care;

16 “(B) rehabilitation services for the reha-
17 bilitation of injured, disabled, or sick individ-
18 uals, or

19 “(C) on a regular basis, health-related care
20 and services to individuals who because of their
21 mental or physical condition require care and
22 services (above the level of room and board)
23 which can be made available to them only
24 through institutional facilities.

1 “(9) RESIDENTIAL CARE FACILITY.—The term
2 ‘residential care facility’ means a facility (including
3 a nursing facility) that—

4 “(A) provides to residents medical or per-
5 sonal care services (including at a minimum as-
6 sistance with activities of daily living) in a set-
7 ting other than an individual or single-family
8 home, and

9 “(B) does not provide services of a higher
10 level than can be provided by a nursing facility.

11 “(10) RESPITE CARE.—The term ‘respite care’
12 means the temporary provision of care (including as-
13 sistance with activities of daily living) to an individ-
14 ual, in the individual’s home or another setting in
15 the community, for the purpose of affording such in-
16 dividual’s unpaid caregiver a respite from the re-
17 sponsibilities of such care.

18 “(11) STATE INSURANCE COMMISSIONER.—The
19 term ‘State insurance commissioner’ means the
20 State official bearing such title, or, in the case of a
21 jurisdiction where such title is not used, the State
22 official with primary responsibility for the regulation
23 of insurance.”.

24 (b) DEFINITION OF STATE.—Section 1101(a)(1) of
25 the Social Security Act (42 U.S.C. 1301(a)(1)) is amend-

1 ed by adding at the end “Such term when used in title
2 XXI includes only the several States and the District of
3 Columbia.”.

○

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