

106TH CONGRESS  
2D SESSION

# H. R. 3872

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2000

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

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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, 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 2000”.

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)):

<b>“If the number of years of continuous coverage is—</b>	<b>The applicable long-term care percentage is—</b>
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).

<b>“If the number of years of continuous coverage is—</b>	<b>The applicable long-term care percentage is—</b>
Less than 1 .....	70
At least 1 but less than 2 .....	85
At least 2 .....	100.

6           “(3) ONLY COVERAGE AFTER 1999 TAKEN INTO  
7           ACCOUNT.—Only coverage for periods after Decem-  
8           ber 31, 1999, 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) CONTINGENT NONFORFEITURE REQUIREMENTS  
2 ADDED TO CONSUMER PROTECTION PROVISIONS.—

3 (1) Section 7702B(g)(2)(A)(i) of the Internal  
4 Revenue Code of 1986 (relating to model regulation)  
5 is amended by adding at the end the following new  
6 subclause:

7 “(XII) Section 23 (relating to  
8 contingent nonforfeiture benefits), if  
9 the policyholder declines the offer of a  
10 nonforfeiture provision described in  
11 paragraph (4).”

12 (2) Section 7702B(g)(2)(A)(ii) of such Code  
13 (relating to model Act) is amended by adding at the  
14 end the following new subclause:

15 “(III) Section 8 (relating to con-  
16 tingent nonforfeiture benefits), if the  
17 policyholder declines the offer of a  
18 nonforfeiture provision described in  
19 paragraph (4).”

20 (c) REFERENCE TO NAIC MODEL ACT UPDATED.—  
21 Section 7702B(g)(2)(B)(i) of the Internal Revenue Code  
22 of 1986 (relating to model provisions) is amended by strik-  
23 ing “January 1993” and inserting “January 1999”.

1 (d) 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 (e) 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 date which is 1 year after the date of the enactment  
2 of this Act.

3 (3) CAFETERIA PLANS AND FLEXIBLE SPEND-  
4 ING ARRANGEMENTS.—The amendments made by  
5 subsection (c) shall apply to taxable years beginning  
6 after December 31, 2001.

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

9 (a) IN GENERAL.—Subpart A of part IV of sub-  
10 chapter A of chapter 1 of the Internal Revenue Code of  
11 1986 (relating to nonrefundable personal credits) is  
12 amended by inserting after section 25A the following new  
13 section:

14 **“SEC. 25B. CREDIT FOR TAXPAYERS WITH LONG-TERM**  
15 **CARE NEEDS.**

16 “(a) ALLOWANCE OF CREDIT.—

17 “(1) IN GENERAL.—There shall be allowed as a  
18 credit against the tax imposed by this chapter for  
19 the taxable year an amount equal to the applicable  
20 credit amount multiplied by the number of applica-  
21 ble individuals with respect to whom the taxpayer is  
22 an eligible caregiver for the taxable year.

23 “(2) APPLICABLE CREDIT AMOUNT.—For pur-  
24 poses of paragraph (1), the applicable credit amount

1 shall be determined in accordance with the following  
 2 table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable credit amount is—</b>
2000 .....	\$1,000
2001 .....	1,500
2002 .....	2,000
2003 .....	2,500
2004 or thereafter .....	3,000.

3 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 4 COME.—

5 “(1) IN GENERAL.—The amount of the credit  
 6 allowable under subsection (a) shall be reduced (but  
 7 not below zero) by \$100 for each \$1,000 (or fraction  
 8 thereof) by which the taxpayer’s modified adjusted  
 9 gross income exceeds the threshold amount. For  
 10 purposes of the preceding sentence, the term ‘modi-  
 11 fied adjusted gross income’ means adjusted gross in-  
 12 come increased by any amount excluded from gross  
 13 income under section 911, 931, or 933.

14 “(2) THRESHOLD AMOUNT.—For purposes of  
 15 paragraph (1), the term ‘threshold amount’ means—

16 “(A) \$150,000 in the case of a joint re-  
 17 turn, and

18 “(B) \$75,000 in any other case.

19 “(3) INDEXING.—In the case of any taxable  
 20 year beginning in a calendar year after 2000, each  
 21 dollar amount contained in paragraph (2) shall be  
 22 increased by an amount equal to the product of—



1           “(A) such dollar amount, and

2           “(B) the medical care cost adjustment de-  
3           termined under section 213(d)(10)(B)(ii) for  
4           the calendar year in which the taxable year be-  
5           gins, determined by substituting ‘August 1999’  
6           for ‘August 1996’ in subclause (II) thereof.

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

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

11           “(1) APPLICABLE INDIVIDUAL.—

12           “(A) IN GENERAL.—The term ‘applicable  
13           individual’ means, with respect to any taxable  
14           year, any individual who has been certified, be-  
15           fore the due date for filing the return of tax for  
16           the taxable year (without extensions), by a phy-  
17           sician (as defined in section 1861(r)(1) of the  
18           Social Security Act) as being an individual with  
19           long-term care needs described in subparagraph  
20           (B) for a period—

21           “(i) which is at least 180 consecutive  
22           days, and

23           “(ii) a portion of which occurs within  
24           the taxable year.

1           Such term shall not include any individual oth-  
2           erwise meeting the requirements of the pre-  
3           ceding sentence unless within the 39½ month  
4           period ending on such due date (or such other  
5           period as the Secretary prescribes) a physician  
6           (as so defined) has certified that such indi-  
7           vidual meets such requirements.

8           “(B) INDIVIDUALS WITH LONG-TERM CARE  
9           NEEDS.—An individual is described in this sub-  
10          paragraph if the individual meets any of the fol-  
11          lowing requirements:

12                   “(i) The individual is at least 6 years  
13                   of age and—

14                           “(I) is unable to perform (with-  
15                           out substantial assistance from an-  
16                           other individual) at least 3 activities  
17                           of daily living (as defined in section  
18                           7702B(c)(2)(B)) due to a loss of  
19                           functional capacity, or

20                           “(II) requires substantial super-  
21                           vision to protect such individual from  
22                           threats to health and safety due to se-  
23                           vere cognitive impairment and is un-  
24                           able to perform, without reminding or  
25                           cuing assistance, at least 1 activity of

1           daily living (as so defined) or to the  
2           extent provided in regulations pre-  
3           scribed by the Secretary (in consulta-  
4           tion with the Secretary of Health and  
5           Human Services), is unable to engage  
6           in age appropriate activities.

7           “(ii) The individual is at least 2 but  
8           not 6 years of age and is unable due to a  
9           loss of functional capacity to perform  
10          (without substantial assistance from an-  
11          other individual) at least 2 of the following  
12          activities: eating, transferring, or mobility.

13          “(iii) The individual is under 2 years  
14          of age and requires specific durable med-  
15          ical equipment by reason of a severe health  
16          condition or requires a skilled practitioner  
17          trained to address the individual’s condi-  
18          tion to be available if the individual’s par-  
19          ents or guardians are absent.

20          “(2) ELIGIBLE CAREGIVER.—

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

24                          “(i) The taxpayer.

25                          “(ii) The taxpayer’s spouse.

1           “(iii) An individual with respect to  
2 whom the taxpayer is allowed a deduction  
3 under section 151 for the taxable year.

4           “(iv) An individual who would be de-  
5 scribed in clause (iii) for the taxable year  
6 if section 151(c)(1)(A) were applied by  
7 substituting for the exemption amount an  
8 amount equal to the sum of the exemption  
9 amount, the standard deduction under sec-  
10 tion 63(c)(2)(C), and any additional stand-  
11 ard deduction under section 63(c)(3) which  
12 would be applicable to the individual if  
13 clause (iii) applied.

14           “(v) An individual who would be de-  
15 scribed in clause (iii) for the taxable year  
16 if—

17                   “(I) the requirements of clause  
18 (iv) are met with respect to the indi-  
19 vidual, and

20                   “(II) the requirements of sub-  
21 paragraph (B) are met with respect to  
22 the individual in lieu of the support  
23 test of section 152(a).

24           “(B) RESIDENCY TEST.—The require-  
25 ments of this subparagraph are met if an indi-

1           vidual has as his principal place of abode the  
2           home of the taxpayer and—

3                   “(i) in the case of an individual who  
4                   is an ancestor or descendant of the tax-  
5                   payer or the taxpayer’s spouse, is a mem-  
6                   ber of the taxpayer’s household for over  
7                   half the taxable year, or

8                   “(ii) in the case of any other indi-  
9                   vidual, is a member of the taxpayer’s  
10                  household for the entire taxable year.

11                 “(C) SPECIAL RULES WHERE MORE THAN  
12                 1 ELIGIBLE CAREGIVER.—

13                   “(i) IN GENERAL.—If more than 1 in-  
14                   dividual is an eligible caregiver with re-  
15                   spect to the same applicable individual for  
16                   taxable years ending with or within the  
17                   same calendar year, a taxpayer shall be  
18                   treated as the eligible caregiver if each  
19                   such individual (other than the taxpayer)  
20                   files a written declaration (in such form  
21                   and manner as the Secretary may pre-  
22                   scribe) that such individual will not claim  
23                   such applicable individual for the credit  
24                   under this section.

1           “(ii) NO AGREEMENT.—If each indi-  
2           vidual required under clause (i) to file a  
3           written declaration under clause (i) does  
4           not do so, the individual with the highest  
5           modified adjusted gross income (as defined  
6           in section 32(c)(5)) shall be treated as the  
7           eligible caregiver.

8           “(iii) MARRIED INDIVIDUALS FILING  
9           SEPARATELY.—In the case of married indi-  
10          viduals filing separately, the determination  
11          under this subparagraph as to whether the  
12          husband or wife is the eligible caregiver  
13          shall be made under the rules of clause (ii)  
14          (whether or not one of them has filed a  
15          written declaration under clause (i)).

16          “(d) IDENTIFICATION REQUIREMENT.—No credit  
17          shall be allowed under this section to a taxpayer with re-  
18          spect to any applicable individual unless the taxpayer in-  
19          cludes the name and taxpayer identification number of  
20          such individual, and the identification number of the phy-  
21          sician certifying such individual, on the return of tax for  
22          the taxable year.

23          “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
24          YEAR.—Except in the case of a taxable year closed by rea-  
25          son of the death of the taxpayer, no credit shall be allow-

1 able under this section in the case of a taxable year cov-  
2 ering a period of less than 12 months.”

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 6213(g)(2) of the Internal Revenue  
5 Code of 1986 is amended by striking “and” at the  
6 end of subparagraph (K), by striking the period at  
7 the end of subparagraph (L) and inserting “, and”,  
8 and by inserting after subparagraph (L) the fol-  
9 lowing new subparagraph:

10 “(M) an omission of a correct TIN or phy-  
11 sician identification required under section  
12 25B(d) (relating to credit for taxpayers with  
13 long-term care needs) to be included on a re-  
14 turn.”

15 (2) The table of sections for subpart A of part  
16 IV of subchapter A of chapter 1 of such Code is  
17 amended by inserting after the item relating to sec-  
18 tion 25A the following new item:

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

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

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