

111TH CONGRESS
2D SESSION

S. 2958

To provide funding and incentives for caregiver support and long-term care assistance.

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2010

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide funding and incentives for caregiver support and long-term care assistance.

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 “Caregiver Assistance
5 and Relief Effort Act of 2010” or as the “CARE Act of
6 2010”.

7 **SEC. 2. INCREASED FUNDING FOR NATIONAL FAMILY**
8 **CAREGIVER SUPPORT PROGRAM.**

9 (a) IN GENERAL.—Section 303(e)(2) of the Older
10 Americans Act of 1965 (42 U.S.C. 3023(e)) is amended

1 by striking “\$187,000,000 for fiscal year 2011” and in-
 2 serting “\$250,000,000 for each of fiscal year 2011
 3 through 2014”.

4 (b) NATIVE AMERICANS.—Section 643(2) of the
 5 Older Americans Act of 1965 (42 U.S.C. 3057n(2)) is
 6 amended by striking “\$7,900,000 for fiscal year 2011”
 7 and inserting “\$10,000,000 for each of fiscal years 2011
 8 through 2014.”.

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

11 (a) IN GENERAL.—Subpart C of part IV of sub-
 12 chapter A of chapter 1 of the Internal Revenue Code of
 13 1986 (relating to refundable credits) is amended by insert-
 14 ing after section 36A the following new section:

15 **“SEC. 36B. CREDIT FOR TAXPAYERS WITH LONG-TERM**
 16 **CARE NEEDS.**

17 “(a) ALLOWANCE OF CREDIT.—

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

1 “(2) APPLICABLE AMOUNT.—For purposes of
 2 paragraph (1), the applicable amount shall be deter-
 3 mined in accordance with the following table:

“2010	\$2,500
2011	\$2,750
2012 or thereafter	\$3,000.

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

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

15 “(2) THRESHOLD AMOUNT.—For purposes of
 16 paragraph (1), the term ‘threshold amount’ means
 17 \$75,000 (twice such amount in the case of joint re-
 18 turn).

19 “(3) INDEXING.—In the case of any taxable
 20 year beginning in a calendar year after 2010, the
 21 \$75,000 amount contained in paragraph (2) shall be
 22 increased by an amount equal to the product of—

23 “(A) such dollar amount, and

1 “(B) the medical care cost adjustment de-
 2 termined under section 213(d)(10)(B)(ii) for
 3 the calendar year in which the taxable year be-
 4 gins, determined by substituting ‘2009’ for
 5 ‘1996’ in subclause (II) thereof.

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

9 “(c) DEFINITIONS.—For purposes of this section—
 10 “(1) APPLICABLE INDIVIDUAL.—

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

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

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

24 Such term shall not include any individual oth-
 25 erwise meeting the requirements of the pre-

ceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

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

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consulta-

tion with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

“(ii) The individual is at least 6 but not 18 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity,

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

“(III) has a level of disability similar to the level of disability described in subclause (I) (as deter-

1 mined under regulations promulgated
2 by the Secretary), or

3 “(IV) has a complex medical con-
4 dition (as defined by the Secretary)
5 that requires medical management
6 and coordination of care.

7 “(iii) The individual is at least 2 but
8 not 6 years of age and—

9 “(I) is unable due to a loss of
10 functional capacity to perform (with-
11 out substantial assistance from an-
12 other individual) at least 2 of the fol-
13 lowing activities: eating, transferring,
14 or mobility,

15 “(II) has a level of disability
16 similar to the level of disability de-
17 scribed in subclause (I) (as deter-
18 mined under regulations promulgated
19 by the Secretary), or

20 “(III) has a complex medical con-
21 dition (as defined by the Secretary)
22 that requires medical management
23 and coordination of care.

24 “(iv) The individual is under 2 years
25 of age and—

1 “(I) requires specific durable
 2 medical equipment by reason of a se-
 3 vere health condition or requires a
 4 skilled practitioner trained to address
 5 the individual’s condition to be avail-
 6 able if the individual’s parents or
 7 guardians are absent,

8 “(II) has a level of disability
 9 similar to the level of disability de-
 10 scribed in subclause (I) (as deter-
 11 mined under regulations promulgated
 12 by the Secretary), or

13 “(III) has a complex medical con-
 14 dition (as defined by the Secretary)
 15 that requires medical management
 16 and coordination of care.

17 “(v) The individual has 5 or more
 18 chronic conditions (as defined in subpara-
 19 graph (C)) and is unable to perform (with-
 20 out substantial assistance from another in-
 21 dividual) at least 1 activity of daily living
 22 (as so defined) due to a loss of functional
 23 capacity.

24 “(C) CHRONIC CONDITION.—For purposes
 25 of this paragraph, the term ‘chronic condition’

1 means a condition that lasts for at least 6 con-
2 secutive months and requires ongoing medical
3 care.

4 “(2) ELIGIBLE CAREGIVER.—A taxpayer shall
5 be treated as an eligible caregiver for any taxable
6 year with respect to the taxpayer and the taxpayer’s
7 spouse and dependents. A taxpayer shall not be
8 treated as an eligible caregiver with respect to him-
9 self for any taxable year beginning in any calendar
10 year if any other person is an eligible caregiver with
11 respect to the taxpayer for a taxable year which be-
12 gins in such calendar year.

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

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

25 (b) CONFORMING AMENDMENTS.—

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

7 “(Q) an omission of a correct TIN or phy-
 8 sician identification required under section
 9 36B(d) (relating to credit for taxpayers with
 10 long-term care needs) to be included on a re-
 11 turn.”.

12 (2) The table of sections for subpart C of part
 13 IV of subchapter A of chapter 1 of such Code is
 14 amended by inserting before the item relating to sec-
 15 tion 37 the following new item:

“Sec. 36B. Credit for taxpayers with long-term care needs.”.

16 (3) Section 1324(b)(2) of title 31, United
 17 States Code, is amended by inserting “36B,” after
 18 “section 36A,”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 2009.

22 **SEC. 4. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**
 23 **TERM CARE INSURANCE CONTRACTS.**

24 (a) IN GENERAL.—Part VII of subchapter B of chap-
 25 ter 1 of the Internal Revenue Code of 1986 (relating to

1 additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

4 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.**

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

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

16 “(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage shall be determined in accordance with the following table based on the number of years of continuous coverage (as of the close of the taxable year) of the individual under any qualified long-term care insurance contracts (as defined in section 7702B(b)):

“If the number of years of continuous coverage is—	The applicable 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 percentage is—
Less than 1	70
At least 1 but less than 2	85
At least 2	100.

6 “(3) ONLY COVERAGE AFTER 2009 TAKEN INTO
 7 ACCOUNT.—Only coverage for periods after Decem-
 8 ber 31, 2009, 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).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 62(a) of the Internal Revenue Code
 22 of 1986 is amended by inserting before the last sen-
 23 tence the following new paragraph:

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 redesignating the item relating to section 224 as an
7 item relating to section 225 and by inserting before
8 such item the following new item:

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

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2009.

12 **SEC. 5. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**
13 **TERM CARE INSURANCE.**

14 (a) ADDITIONAL PROTECTIONS APPLICABLE TO
15 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and
16 (B) of section 7702B(g)(2) of the Internal Revenue Code
17 of 1986 (relating to requirements of model regulation and
18 Act) are amended to read as follows:

19 “(A) IN GENERAL.—The requirements of
20 this paragraph are met with respect to any con-
21 tract if such contract meets—

22 “(i) MODEL REGULATION.—The fol-
23 lowing requirements of the model regula-
24 tion:

1 “(I) Section 6A (relating to guar-
2 anteed renewal or noncancellability),
3 other than paragraph (5) thereof, and
4 the requirements of section 6B of the
5 model Act relating to such section 6A.

6 “(II) Section 6B (relating to pro-
7 hibitions on limitations and exclu-
8 sions) other than paragraph (7) there-
9 of.

10 “(III) Section 6C (relating to ex-
11 tension of benefits).

12 “(IV) Section 6D (relating to
13 continuation or conversion of cov-
14 erage).

15 “(V) Section 6E (relating to dis-
16 continuance and replacement of poli-
17 cies).

18 “(VI) Section 7 (relating to unin-
19 tentional lapse).

20 “(VII) Section 8 (relating to dis-
21 closure), other than sections 8F, 8G,
22 8H, and 8I thereof.

23 “(VIII) Section 11 (relating to
24 prohibitions against post-claims un-
25 derwriting).

1 “(IX) Section 12 (relating to
2 minimum standards).

3 “(X) Section 13 (relating to re-
4 quirement to offer inflation protec-
5 tion).

6 “(XI) Section 25 (relating to pro-
7 hibition against preexisting conditions
8 and probationary periods in replace-
9 ment policies or certificates).

10 “(XII) The provisions of section
11 26 relating to contingent nonforfeiture
12 benefits, if the policyholder declines
13 the offer of a nonforfeiture provision
14 described in paragraph (4).

15 “(ii) MODEL ACT.—The following re-
16 quirements of the model Act:

17 “(I) Section 6C (relating to pre-
18 existing conditions).

19 “(II) Section 6D (relating to
20 prior hospitalization).

21 “(III) The provisions of section 8
22 relating to contingent nonforfeiture
23 benefits, if the policyholder declines
24 the offer of a nonforfeiture provision
25 described in paragraph (4).

1 “(B) DEFINITIONS.—For purposes of this
2 paragraph—

3 “(i) MODEL PROVISIONS.—The terms
4 ‘model regulation’ and ‘model Act’ mean
5 the long-term care insurance model regula-
6 tion, and the long-term care insurance
7 model Act, respectively, promulgated by
8 the National Association of Insurance
9 Commissioners (as adopted as of October
10 2000).

11 “(ii) COORDINATION.—Any provision
12 of the model regulation or model Act listed
13 under clause (i) or (ii) of subparagraph
14 (A) shall be treated as including any other
15 provision of such regulation or Act nec-
16 essary to implement the provision.

17 “(iii) DETERMINATION.—For pur-
18 poses of this section and section 4980C,
19 the determination of whether any require-
20 ment of a model regulation or the model
21 Act has been met shall be made by the
22 Secretary.”.

23 (b) EXCISE TAX.—Paragraph (1) of section
24 4980C(c) of the Internal Revenue Code of 1986 (relating

1 to requirements of model provisions) is amended to read
 2 as follows:

3 “(1) REQUIREMENTS OF MODEL PROVISIONS.—

4 “(A) MODEL REGULATION.—The following
 5 requirements of the model regulation must be
 6 met:

7 “(i) Section 9 (relating to required
 8 disclosure of rating practices to consumer).

9 “(ii) Section 14 (relating to applica-
 10 tion forms and replacement coverage).

11 “(iii) Section 15 (relating to reporting
 12 requirements).

13 “(iv) Section 22 (relating to filing re-
 14 quirements for marketing).

15 “(v) Section 23 (relating to standards
 16 for marketing), including inaccurate com-
 17 pletion of medical histories, other than
 18 paragraphs (1), (6), and (9) of section
 19 23C.

20 “(vi) Section 24 (relating to suit-
 21 ability).

22 “(vii) Section 29 (relating to standard
 23 format outline of coverage).

24 “(viii) Section 30 (relating to require-
 25 ment to deliver shopper’s guide).

1 The requirements referred to in clause (vi) shall
 2 not include those portions of the personal work-
 3 sheet described in appendix B relating to con-
 4 sumer protection requirements not imposed by
 5 section 4980C or 7702B.

6 “(B) MODEL ACT.—The following require-
 7 ments of the model Act must be met:

8 “(i) Section 6F (relating to right to
 9 return).

10 “(ii) Section 6G (relating to outline of
 11 coverage).

12 “(iii) Section 6H (relating to require-
 13 ments for certificates under group plans).

14 “(iv) Section 6J (relating to policy
 15 summary).

16 “(v) Section 6K (relating to monthly
 17 reports on accelerated death benefits).

18 “(vi) Section 7 (relating to incontest-
 19 ability period).

20 “(C) DEFINITIONS.—For purposes of this
 21 paragraph, the terms ‘model regulation’ and
 22 ‘model Act’ have the meanings given such terms
 23 by section 7702B(g)(2)(B).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to policies issued more than 1 year
3 after the date of the enactment of this Act.

