

**SJR**

**28**



**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: April 11, 2001

FURTHER: L&C

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 04/28/01

Health, Education and Social Services Committee considered **SENATE JOINT RESOLUTION NO. 28**  
*LONG-TERM CARE INSURANCE*

Urging dissemination of information about the costs of long-term care services and the availability of long-term care insurance for individuals.

and recommends:

- be replaced with \_\_\_\_\_ CS SJR 28 (HES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
Sen HESS	4/11/01		X	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Conrad Hille</i>	✓			
<i>Betty Davis</i>	✓			
CHAIR: <i>Lyle Hen</i>	✓			

AMENDMENT

OFFERED IN THE SENATE

TO: SJR 28

1 Page 2, line 26, following "Senate;":

2 Insert "the Honorable Tommy Thompson, United States Secretary of Health and  
3 Human Services;"

4

5 Page 2, line 28:

6 Delete "and to"

7

8 Page 2, line 30, following "Development":

9 Insert "; and to Jane P. Demmert, Director of the Alaska Commission on Aging,  
10 Division of Senior Services, Department of Administration"

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*LTC* **TASK FORCE**  
Long-Term Care Task Force

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FINAL REPORT  
January 1999

*Representative Con Bunde, Co-chairman*  
*Senator Gary Wilken, Co-chairman*

*State Capitol Building*  
*Juneau, Alaska 99801-1182*

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## INFORMATION ON PRIVATE LONG-TERM CARE INSURANCE

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### RECOMMENDATION

# 29

The Task Force requests the Division of Insurance compile relevant information on the need for and availability of long-term care insurance in Alaska and disseminate the information to the general public.

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On March 9, 1998 Mr. Paul Willging, Ph.D., executive vice-president of the American Health Care Association, testified before the U.S. Senate Special Committee on Aging. "Most Americans (76 percent) do not believe they will ever need long-term care, but the facts are that two out of five will at some point in their lives, and that one in five over the age of 50 is at risk of needing long-term care within 12 months. None-the-less, few take any steps to plan for the possibility, believing Medicare will provide for their needs. Medicare, of course, will not. It only provides limited long-term care, so government help for most Americans comes only when they have exhausted their personal savings and are forced onto welfare."<sup>31</sup>

*"Most Americans (76%) do not believe they will ever need long-term care, but the out of five will at some point in their lives."*

Private long-term care insurance coverage, must be considered as another option. Although the market is still small – the American Association of Retired Persons

# *ltc* TASK FORCE

The Long-Term Care Task Force

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*"In Alaska in 1997, approximately 80 percent of nursing home costs were paid by the Medicaid program."*

estimates 6 percent of older people have private policies -- interest is growing. The Health Insurance Association of America (HIAA) data revealed that in 1986, fewer than 125,000 policies were in effect. Eleven years later, roughly 5 million policies had been written.<sup>82</sup>

Private long-term care insurance usually pays for skilled, intermediate, or custodial care in a nursing home. It can also cover a variety of home and community-based care services. Typically, long-term care policies pay up to a specific dollar amount for covered services per day, reimbursing policy owners for expenses they incur. Annual premiums for long-term care insurance policies can range from \$250 to over \$2,500 depending on age, waiting periods, and the duration and amount of benefits.<sup>83</sup>

According to the Health Care Financing Administration, approximately 80 percent of nursing home costs were paid by the Medicaid program in Alaska in 1997, while only 10 percent were paid by either private long-term care insurance or out-of-pocket. This federal-state welfare system cannot continue to exist unless a change is made. The private sector must begin to shoulder a greater portion of the financial burden. As shown, private long-term care insurance is affordable if purchased early in life. Unfortunately, many people believe that long-term care insurance is unnecessary and display a basic unwillingness to face up to their own future frailty.<sup>84</sup>

*"Alaskans should be encouraged to examine the options available through private long-term care insurance."*

However, this does not mean that the issue should be dropped. Indeed, Alaskans should be encouraged to examine the options available through private long-term care insurance and ultimately, if appropriate, purchase policies that meet their individual needs. Accurate, concise, and unbiased information about long-term care insurance and the alternatives available is invaluable in this decision-making process. State government, especially through its annual publications, mailings, and mass media campaigns, has the ability to inform all residents about this issue.

The Task Force requests the Division of Insurance compile relevant information on the need for and availability of long-term care insurance in Alaska and disseminate the information to the general public by January 1, 2000. ❖

# Are you prepared for long-term care?

By Kristin Hilderbrand  
For the Journal

## WEALTHBUILDERS



Statistics indicate we will all feel the effects of long-term care — whether you are in need of long-term care yourself, a caregiver, an employer who experiences a loss in employee productivity, or an employee who loses valuable wages due to an obligation to provide care to a loved one.

According to the American Health Care Association, "Half of all Americans will need some form of long-term care and of that number, 40 percent will be under the age of 65."

It is important to understand what defines long-term care. LTC is the assistance you need with a lengthy illness, disability, or cognitive disorder. You might receive care in your home, in an extended care facility or a nursing home.

The type of care and the cost of that care will range from region to region. In 1999, the average cost for LTC in the Lower 48 was \$50,000 a year, while in Alaska, it runs \$143,000 a year. If you take into consideration that the average stay in a nursing home is more

proposition.

Of the \$82.8 billion spent on LTC in 1997, the federal government paid for 60 percent,

with individuals assuming 31 percent, insurance companies covering 5 percent, and other sources accounting for the remaining 4 percent. The federal government can not afford this financial burden and has responded by providing tax incentives for employers and individuals to assume more of the risk.

With the passage in 1996 of the Health Insurance Portability and Accountability Act, Corporations can deduct 100 percent of the premium expense for LTC premiums paid on officers, owners and employees for qualified LTC plans. For pass-through entities they can deduct 60 percent of the premium expenses, with the percentage increasing to 100 percent deductibility by 2003.

In both cases, the premium contributions are generally excludable from the employee's income. For individuals who pay the premiums themselves

the cost of LTC premiums as a medical expense, with an age-based limit guiding the eligible amount.



Hilderbrand

How will you pay for LTC? As previously mentioned, the federal government can foot the bill through its welfare program, Medicaid. However, you must spend down all your assets to \$2,000, and you may only retain your home if your spouse continues to

live there.

Be aware that while these provisions may protect these few assets while you're alive and receiving care, many states have taken the federal mandate very seriously and recouped their costs by putting liens on the homes. Furthermore, by accepting Medicaid assistance you give up to the state your right to choose the type of care you will receive.

Medicare is not designed to provide support for long-term care needs. It is designed to cover major medical, and at that it only provides 100 days of coverage, with the first 20 days at no cost to you and the remaining 80 days at \$97 per

will incur all of the cost.

In addition to the common

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*Continued on Page 8*

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## Now's the time to decide how to pay for your long-term care

*Continued from Page 4*

misunderstanding that Medicare provides long-term care, Medicare Supplement Insurance only supplements your Medicare co-pay expenses. Medicare Supplement Insurance does not extend coverage.

Your final option to cover LTC expenses is to self-insure or transfer the risk to an insurance company. The best strategy for outlining whether self-insurance is the right option for you is to determine based on family medical history: "How long will

you need the coverage?" and "Where do you intend to be when you need the coverage?"

Realize that these are crystal ball scenarios but the worst thing you can do is put it off because you just can't decide. Develop a financial plan that takes into account cost and duration, then assess how much money will need to be set aside and what kind of return you can expect to cover that annual expense.

Employers need to be prepared for the impact on productivity and the bottom-line effect of

having employees exposed to the requirements of being caregivers.

The National Center for Women and Aging at Brandeis University and the National Alliance for Caregivers conducted a survey in 1999 and found that employees who served either in whole or in part as caregivers lost, over a life-

time, \$650,000 in wages.

That figure takes into account passed-over promotions and excess hours gone from work on family medical leave, including limited dollars contributed to retirement plans due to the financial burden of covering a loved-ones' long-term care expenses.

Are you prepared for the financial risks of long-term care?

*Kristin Hilderbrand is an associate at The Wilson Agency in Anchorage. She can be reached at 907-277-1616 or by e-mail at (kristinh@thewilson-agency.com).*

# The Scary Numbers of Long-Term Medical Care

by Stephen A. Moses

The financial woes of Social Security and, to a lesser extent, Medicare, are well known. But how long can Medicaid, which pays for over two-thirds of all nursing home patient days in the U.S., avoid bankruptcy?

Researchers predict that 9 percent of people over age 65 will spend five years or more in a nursing home. Nursing home care already averages \$50,000 per year. If 70 million of today's 77 million baby boomers make it to age 65 and the researchers are right, then almost seven million of the boomers will spend at least five years in a nursing home—at a cost of \$250,000 each, in today's dollars. That totals up to \$1.75 trillion.

How long can public funds survive as the payer of last resort for long-term care? The United States spent \$82.8 billion on nursing home care in 1997, and the Health Care Financing Administration estimates nursing home costs will rise to \$148.3 billion by 2007. Medicaid and Medicare, two big public payers, contributed 59.9 percent of the total cost of nursing home care in 1997, up from 48.7 percent in 1985. And that number underestimates the taxpayer's tab; it does not include the indirect funding from Social Security benefits, which nursing home residents often use to make their required co-payments.

Public financing of long-term care is already showing terrible strains as it increasingly pays more of the bills. Medicare is cutting back on growth in nursing home and home health care spending. Medicaid is shrugging under the burden of financing long-term care and already has a dismal reputation for problems with access, quality, reimbursement, discrimination, and institutional bias. My guess is that Medicaid cannot survive much beyond the seniority of the baby boomers beginning in 2010.

While public spending has soared, out-of-pocket nursing home expenditures have fallen—from 44.3 percent of the total in 1985 to 31.1 percent in 1997. After you deduct the direct and indirect public contributions to nursing home care from the total expenses, very lit-

who might otherwise feel a sense of urgency about the need for early long-term care planning.

With every benign intent, government has been sending a message to the public that long-term care is a risk that people can ignore. By increasing Medicaid's contribution to nursing home care rapidly; by allowing out-of-pocket nursing home payments to decline drastically; and by permitting Medicare long-term home health care expenditures to skyrocket uncontrollably, the government has anesthetized the public to the real financial risk of long-term care.

Consequently, most people do not plan ahead for predictable

allows people to spread this risk, has penetrated less than 10 percent of the senior market, and virtually none of the crucial baby-boomer market.

Medicaid estate planning—the practice of artificially impoverishing elderly people to qualify them for Medicaid nursing home benefits without spending down their assets—is rampant. The day of reckoning is still a long way away. But the best time to confront and solve the problem is now.

## The LTC Proposal

The Center for Long-Term Care Financing has proposed a solution called "LTC Choice." The government should educate American citizens about long-term care risk no later than when they reach age 60 to 65. People should be encouraged to insure privately for long-term care. Those who do not should be required to agree in writing that they can expect no financial assistance for long-term care from the government until they exhaust their personal wealth.

Instead of forcing people to impoverish themselves in order to gain access to a well-fare-financed nursing home as the current system does, the government should offer a line of credit on the estates of the uninsured to empower them to purchase quality long-term care in the private marketplace at the appropriate level of care. Then, it would require seniors to pay back these fully secured loans out of their estates. That would send a very strong message to everyone, especially

heirs, that long-term care is a risk they should take seriously and protect against early.

Confronted with genuine risk of this kind, most Americans will do the responsible thing: insure and pay privately for long-term care, and thereby allow Medicaid to survive as a safety net for the truly needy.

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Financing. The Center's new white paper—"The Myth of Unaffordability: How Most Americans Should, Could, and Would Buy Private Long-Term Care Insurance"—was published September 1, 1999, and may be purchased for \$34.95. Contact the Center at 800 Fifth Avenue #4100 Seattle, WA, 98101; phone 206/447-1340; e-mail [info@centerltc.com](mailto:info@centerltc.com); Web <http://www.centerltc.com>.

## Insurance Company Information

### 1. Name of the insurance company

The following companies that sell long-term care insurance in Alaska were identified through a November 1999 survey conducted by the Division of Insurance. This list may not include all companies offering long-term care insurance in Alaska and it does not represent an endorsement of a particular company by the division.

Aid Association For Lutherans (AAL) .....	800-225-5225
(This company only sells to the specific group members.)	
AIG Life Insurance Company .....	800-710-9876
Allianz Life Insurance Company of North America .....	800-814-8841
American Family Life Assurance Company .....	800-992-3522
of Columbus (AFLAC)	
Bankers Life and Casualty .....	360-254-6311
Bankers United Life Assurance Company .....	800-672-7202
CNA .....	800-775-1541
Conseco Senior Health Insurance Company .....	800-441-3978
Continental General Insurance Company .....	800-545-8905
Country Life Insurance Company .....	309-821-3000
GE Financial Assurance / Long Term Care Division .....	800-456-7766
Golden Rule Insurance Company .....	317-297-4179
(This company offers long-term care benefits only through life insurance policies.)	
Great American Life Insurance Company .....	800-854-3640
Hartford Life Insurance Company .....	800-454-4582
The Investors Insurance Company of America .....	800-524-9902
Lincoln Benefit Life Company .....	877-525-4582

Lutheran Brotherhood ..... (This company only sells to the specific group members.)	800-990-6290
Metropolitan Life Insurance Company (METLIFE) .....	800-308-0179
Monumental Life Insurance Company .....	800-821-9580
Mutual of Omaha Insurance Company .....	800-775-6000
Mutual Protective Insurance Company .....	800-228-6080
New York Life Insurance & Annuity Corporation ..... (This company offers long-term care benefits only through annuity contracts.)	800-624-2570
New York Life Insurance Company .....	800-224-4582
Northwestern Long Term Care Insurance Company .....	907-272-3591
Peoples Benefit Life Insurance Company .....	800-698-7851
PFL Life Insurance Company .....	800-338-0257
Physicians Mutual Insurance Company .....	800-228-9100
Pioneer Life Insurance Company .....	800-759-7007
Protective Life Insurance Company ..... (This company offers long-term care benefits only through life insurance policies.)	800-866-9933
Prudential Insurance Company of America .....	800-732-0416
Security Financial Life Insurance Company ..... (This company offers long-term care benefits only through life insurance policies.)	800-284-8575
Teachers Insurance & Annuity Association (TIAA) ..... (This company only sells to the specific group members.)	800-223-1200
Transamerica Occidental Life Insurance Company .....	800-690-2758
Travelers Insurance Company .....	800-334-4298
Unum Life Insurance Company of America .....	800-672-1600

### Additional Companies that Sell LTC Insurance in Alaska

Provided by Gary Wilken

# Tax Laws and Long-Term Care Insurance

In 1996, the Health Insurance Portability and Accountability Act (HIPAA) was signed into law. Besides improving the continuity of group health insurance for individuals moving from one employer to another, HIPAA addresses certain tax breaks for Long-Term Care (LTC) insurance premiums and benefits. Before HIPAA, it was uncertain whether LTC insurance would be treated as health insurance for purposes of tax laws already on the books—such as Internal Revenue Code (IRC) Sections 104, 105, 106, and 262. Generally, these provisions allow employers to deduct premiums paid for health and disability insurance and employees to exclude these employer-provided benefits from their taxable incomes. HIPAA added IRC Section 7702B which provides that qualified LTC insurance contracts will be treated, for tax purposes, as accident and health insurance, subject to certain additional rules and limits.

## What defines a Qualified Long-Term Care Policy?

In order to be tax-qualified, the LTC policy must contain certain required provisions.<sup>1</sup> Many of these provisions pertain to the manner in which benefits are paid and when they can be triggered. If the policy conforms to all of the required language, it can generally be considered a Qualified Long-Term Care (QLTC) insurance contract for tax purposes.

Following are a few of the most important new provisions a LTC policy must comply with in order to qualify for tax-favored treatment.<sup>2</sup>

- The policy must be guaranteed renewable.
- In order for benefits to be paid there must be the expectation that the disability will be long-term.
- The individual must be certified by a licensed health care practitioner within the last 12 months as "chronically ill."
- The certification must be based on one or both of the following events. First is the inability to perform, without human help, at least

Daily Living (ADLs) for at least 90 days. The ADLs are eating, toileting, transferring, bathing, dressing, and continence. The policy must use at least five of these to measure ADL dependency. Second is the need for substantial supervision due to severe cognitive impairment in order to protect the individual from threats to health and safety.

- Non-forfeiture benefits and benefit increase options (inflation protection) must be offered to the insured, but are **not** required as part of the policy.
- Benefits under a QLTC policy cannot duplicate Medicare benefits.

## How the Laws Work

### Tax treatment for businesses

If an employer contributes to the premium cost of QLTC insurance for eligible employees and dependents pursuant to a plan, the contributions will generally be excludable from the employee's income<sup>3</sup> and generally deductible for the business.<sup>4</sup>

**Corporations:** The officers and owners of a C corporation may be employees, and therefore the corporation's contributions to the premium cost of QLTC policies for its employee-officers may be deductible by the corporation and not taxable to the employees if the contributions are made pursuant to an employee benefit plan. If the QLTC plan is insured, it need not conform to any non-discrimination rules and may be available only to a select group of employees.<sup>5</sup> But, the corporation must be able to show, if challenged by the IRS, that the plan covers owner-employees as employees and not as owners.<sup>6</sup> QLTC coverage may not be included in a Section 125<sup>7</sup> plan or a flexible spending account.<sup>8</sup> This means that the employer may not use salary reduction dollars to pay its premium contribution and the employee's premium contribution, if any, must be paid with after-tax dollars. The QLTC plan may be offered to retired employees, eligible dependents of employees and retirees, including dependent parents, and surviving eligible dependents after an employee's death.<sup>9</sup>

**Pass-through entities:** The owners of businesses that are organized as sole-proprietorships, partnerships, or Sub-S corporations do not qualify for the same tax treatment for QLTC policies. Instead, limited deductions are available for these individuals under IRC Section 162(l). For the tax years 1999-2001, the percentage of premium paid for health insurance—including eligible Long-Term Care premiums—that can be deducted is 60%. The percentage amount increases incrementally for later tax years. While owners of pass-through entities are limited in the amount of QLTC premiums they may deduct for themselves as described in this paragraph, these entities may establish QLTC plans and deduct for their employees the full amount of premiums as described previously under "Corporations."<sup>10</sup> An owner (or "owner/employee") is defined as an individual who owns 2% or more of the business.<sup>11</sup>

### Tax treatment for individuals who itemize

Taxpayers who itemize may, beginning with tax year 1997, deduct the cost of eligible LTC premiums as a medical expense on what we know of as Schedule A. Note: there is an age-based limit on the amount of premiums for purposes of this deduction, which may be less than the actual policy cost.<sup>12</sup> For 2001, at age 40 and under, it's \$230 in premium; from ages 41-50, it's \$430; for ages 51-60, it's \$860; for ages 61-70, it's \$2,290; and for those older than 70, the allowable premium is \$2,860. The deductibility of premiums by self-employed individuals discussed above is also limited to eligible LTC premiums.<sup>13</sup> The eligible long-term care premium limits are adjusted annually for inflation. When allowable medical expenses listed on Schedule A, including eligible LTC premiums, exceed 7.5% of the taxpayer's adjusted gross income, the excess over 7.5% is deductible.

Individuals who have other large medical expenses and a low adjusted gross income (AGI) may find that the premiums they pay for a QLTC policy result in some tax savings under the foregoing provisions.

1 26 IRC Section 7702B(b)  
2 26 IRC Section 7702B(b)  
3 26 IRC Section 105(a)  
4 26 IRC Section 162(a)  
5 26 IRC Section 106  
6 *Larkin v. C.I.R.*, 394 F.2d 494 (C.A.1, 1968)

7 26 IRC Section 125(l)  
8 26 IRC Section 106(c)  
9 26 IRC Section 105(b), 152(a)  
10 26 IRC Section 106(a), 162(a)  
11 26 IRC Section 1372  
12 26 IRC Section 213(e)(10)  
13 26 IRC Section 162(l)(1)(C)

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507 789 9888 10 4654714

P.02/03

**GARY WILKEN**

SENATOR  
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**MEMORANDUM**

TO: Senator Lyda Green, Chairman  
Senate HESS Committee

FROM: Senator Gary Wilken

DATE: April 23, 2001

RE: Senate Joint Resolution 28  
Long-Term Care Insurance

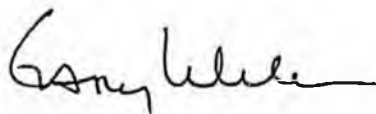
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I respectfully request that Senate Joint Resolution 28 "Long-Term Care Insurance" be scheduled for a hearing before the Senate HESS Committee.

Senate Joint Resolution 28 directs appropriate state and federal agencies to inform the public about the high cost of long-term care services and the need for families to plan, in advance, for their long-term care needs.

Alaska's high cost of providing long-term care and our rapidly growing senior population accentuates the necessity of educating Alaskans on the availability of private, long-term care insurance and the importance of planning for their health care needs in the future.

Thank you for your assistance in this request.



**GARY WILKEN**

SENATOR  
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## Sponsor Statement

### SJR 28: Long-Term Care Insurance

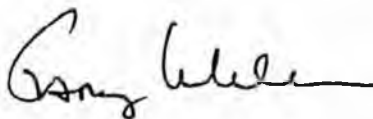
Senate Joint Resolution 28 directs appropriate state and federal agencies to inform the public about the high cost of long-term care services and the need for families to plan, in advance, for their long-term care needs.

The fastest growing population group in Alaska is people who are 65 years or older. The senior community is growing about 5 percent annually while the rest of population is increasing but a slight 2 percent. This growth rate could almost triple to 12 percent by the year 2018. In less than 20 years, seniors will comprise a significant proportion of Alaska's total population.

These rapid growth rates are coupled with the high cost of providing long-term care in Alaska. At an average of over \$210 per day, Alaska's nursing home costs rank Number 1 nationwide; twice the national average cost of \$92 per day. This incredible expense can have a disastrous effect on families, wiping out a lifetime of savings before the elder becomes eligible for Medicaid.

Widespread use of private, long-term care insurance has the potential to protect families from the catastrophic costs of long-term care services while, at the same time, reduce the burden on Medicaid as Alaska ages. But most Americans, 76 percent, do not believe they will ever need long-term care and, therefore, do not explore the option of obtaining private, long-term care insurance.

Senate Joint Resolution 28 directs the beginning of an educational campaign to inform Alaskans about the realities of aging and how individuals can protect themselves for the future.



**SJR 28 LONG TERM CARE INSURANCE**  
**By Senator Gary Wilken**

*CS ordered  
4/26*

**ANALYSIS**

Long-term care insurance is available, but a lot of people do not know about it. This resolution requests that the state and federal agencies inform the public of long-term care options.

There are several reasons for this:

- ❖ We have an aging population;
- ❖ Nursing home care is very expensive;
- ❖ Medicaid covers long-term care only after the person's assets have been exhausted;

This resolution also requests that Congress determine to what extent tax rules may still discriminate against the buyers of long-term care insurance policies and look for ways to remove such barriers and implement incentives.

**Suggestion: Perhaps this should be sent to the Commission on Aging.**

*Tommy Thompson <sup>U.S.</sup> H&HS*