

2218

2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. CASTELLI, RAIA, SALADINO -- Multi-Sponsored by --
M. of A. BARCLAY, CALHOUN, CONTE -- read once and referred to the
Committee on Aging

AN ACT to amend the elder law, the tax law and the state finance law, in
relation to establishing various long term care savings plans and
providing certain tax credits; and providing for the repeal of such
provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The elder law is amended by adding a new article 4 to read
2 as follows:

3 ARTICLE IV

4 LONG TERM CARE SAVINGS ACCOUNTS

5 SECTION 401. DEFINITIONS.

6 402. LONG TERM CARE SAVINGS ACCOUNT PROGRAM.

7 403. QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM.

8 404. QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT PROGRAM.

9 405. OWNERSHIP.

10 406. WITHDRAWALS.

11 407. TAX TREATMENT.

12 408. DEATH OF THE ACCOUNT HOLDER.

13 409. CANCELLATION OR TRANSFER.

14 410. RULES AND REGULATIONS.

15 S 401. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
16 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

17 1. "ACCOUNT ADMINISTRATOR" MEANS ANY OF THE FOLLOWING:

18 (A) A NATIONAL OR STATE CHARTERED BANK, A FEDERAL OR STATE CHARTERED
19 SAVINGS AND LOAN ASSOCIATION, A FEDERAL OR STATE CHARTERED SAVINGS BANK,
20 OR A FEDERAL OR STATE CHARTERED CREDIT UNION.

21 (B) A TRUST COMPANY AUTHORIZED TO ACT AS A FIDUCIARY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (C) AN INSURANCE COMPANY LICENSED PURSUANT TO ARTICLE FORTY-ONE OR
2 FORTY-TWO OF THE INSURANCE LAW OR A HEALTH MAINTENANCE ORGANIZATION
3 CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

4 (D) A DEALER, SALESPERSON, OR INVESTMENT ADVISER REGISTERED PURSUANT
5 TO SECTION THREE HUNDRED FIFTY-NINE-E OF THE GENERAL BUSINESS LAW.

6 (E) AN ADMINISTRATOR LICENSED PURSUANT TO SECTION TWO THOUSAND ONE
7 HUNDRED THIRTY-SIX OF THE INSURANCE LAW.

8 (F) A CERTIFIED PUBLIC ACCOUNTANT LICENSED PURSUANT TO SECTION SEVEN-
9 TY-FOUR HUNDRED FOUR OF THE EDUCATION LAW.

10 (G) AN ATTORNEY ADMITTED TO PRACTICE LAW IN THIS STATE.

11 (H) AN EMPLOYER, IF THE EMPLOYER HAS A SELF-INSURED HEALTH PLAN PURSU-
12 ANT TO THE PROVISIONS OF THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY
13 ACT OF 1974.

14 (I) AN EMPLOYER THAT PARTICIPATES IN THE QUALIFIED LONG TERM CARE
15 SAVINGS ACCOUNT PROGRAM.

16 2. "ACCOUNT HOLDER" MEANS THE OWNER OF ANY ACCOUNT ESTABLISHED PURSU-
17 ANT TO THIS ARTICLE.

18 3. "ELIGIBLE LONG TERM CARE EXPENSE" MEANS ANY OF THE FOLLOWING:

19 (A) AN EXPENSE PAID BY THE ACCOUNT HOLDER FOR THE COST OF LONG TERM
20 CARE IN A LONG TERM CARE FACILITY FOR THE ACCOUNT HOLDER, THE ACCOUNT
21 HOLDER'S SPOUSE, THE ACCOUNT HOLDER'S PARENT OR ANOTHER PERSON FOR WHOM
22 THE ACCOUNT HOLDER HAS AN INSURABLE INTEREST;

23 (B) THE COST OF CARE PROVIDED IN AN INDIVIDUAL'S HOME WHEN THE ACCOUNT
24 HOLDER, THE ACCOUNT HOLDER'S SPOUSE, THE ACCOUNT HOLDER'S PARENT OR
25 ANOTHER PERSON FOR WHOM THE ACCOUNT HOLDER HAS AN INSURABLE INTEREST
26 RECEIVING THE CARE IS UNABLE TO PERFORM MULTIPLE BASIC LIFE FUNCTIONS
27 INDEPENDENTLY; OR

28 (C) AN EXPENSE PAID BY THE ACCOUNT HOLDER FOR THE COST OF QUALIFIED
29 LONG TERM CARE SERVICES AS SUCH TERM IS DEFINED IN SUBDIVISION (C) OF
30 SECTION 7702B OF THE INTERNAL REVENUE CODE.

31 4. "EMPLOYEE" MEANS THE INDIVIDUAL FOR WHOSE BENEFIT A QUALIFIED LONG
32 TERM CARE SAVINGS ACCOUNT IS ESTABLISHED PURSUANT TO SECTION FOUR
33 HUNDRED THREE OF THIS ARTICLE. "EMPLOYEE" INCLUDES A SELF-EMPLOYED INDI-
34 VIDUAL.

35 5. "HIGHER DEDUCTIBLE" MEANS A DEDUCTIBLE OF NOT LESS THAN ONE THOU-
36 SAND TWO HUNDRED DOLLARS AND NOT MORE THAN FIVE THOUSAND NINE HUNDRED
37 FIFTY DOLLARS FOR AN INDIVIDUAL AND NOT LESS THAN TWO THOUSAND FOUR
38 HUNDRED DOLLARS AND NOT MORE THAN ELEVEN THOUSAND NINE HUNDRED DOLLARS
39 FOR A FAMILY FOR THE YEAR TWO THOUSAND ELEVEN. THIS MINIMUM AND MAXIMUM
40 SHALL BE INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE PERCENTAGE
41 INCREASE IN THE FEDERAL CONSUMER PRICE INDEX.

42 6. "LONG TERM CARE INSURANCE PREMIUMS" MEANS PREMIUMS PAID FOR A LONG
43 TERM CARE INSURANCE POLICY THAT OFFERS COVERAGE TO THE INDIVIDUAL, THE
44 INDIVIDUAL'S SPOUSE OR ANOTHER PERSON FOR WHOM THE TAXPAYER HAS AN
45 INSURABLE INTEREST.

46 7. "PARTICIPANT" MEANS AN INDIVIDUAL WHO ESTABLISHES A LONG TERM CARE
47 SAVINGS ACCOUNT BY ENTERING INTO A PARTICIPATION AGREEMENT OR ESTABLISH-
48 ING AN ACCOUNT WITH A FINANCIAL INSTITUTION WITH WHICH THE COMMISSIONER
49 HAS AN AGREEMENT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION
50 FOUR HUNDRED TWO OF THIS ARTICLE.

51 8. "QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN" MEANS A HEALTH COVERAGE
52 POLICY, CERTIFICATE OR CONTRACT THAT PROVIDES FOR PAYMENTS FOR COVERED
53 BENEFITS THAT EXCEED THE HIGHER DEDUCTIBLE AND THAT IS PURCHASED EITHER
54 BY AN EMPLOYER FOR THE BENEFIT OF AN EMPLOYEE FOR WHOM THE EMPLOYER
55 MAKES DEPOSITS INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OR BY A

1 SELF-EMPLOYED OR OTHER INDIVIDUAL WHO MAKES DEPOSITS INTO A QUALIFIED
2 LONG TERM CARE SAVINGS ACCOUNT.

3 9. "COMMISSIONER" MEANS THE COMMISSIONER OF THE STATE DEPARTMENT OF
4 HEALTH.

5 S 402. LONG TERM CARE SAVINGS ACCOUNT PROGRAM. 1. (A) THE COMMISSIONER
6 SHALL SELECT THE ADMINISTRATOR OF THE PLAN FROM SUBMITTED PROPOSALS. IF
7 THE COMMISSIONER RECEIVES NO ACCEPTABLE RESPONSES TO A REQUEST FOR
8 PROPOSALS FOR AN ADMINISTRATOR FOR THE PLAN BY DECEMBER THIRTY-FIRST,
9 TWO THOUSAND ELEVEN, THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH
10 STATE-CHARTERED OR FEDERALLY CHARTERED BANKS, SAVINGS BANKS, BUILDING
11 AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, OR CREDIT UNIONS,
12 OR A SUBSIDIARY OF ANY SUCH ENTITY, TO RECEIVE CONTRIBUTIONS IN THE FORM
13 OF ACCOUNT DEPOSITS. THE COMMISSIONER MAY ADOPT AND PROMULGATE RULES AND
14 REGULATIONS TO CARRY OUT HIS OR HER DUTIES UNDER THIS PARAGRAPH.

15 (B) IF AN ADMINISTRATOR IS SELECTED, PARTICIPANTS SHALL ENTER INTO
16 PARTICIPATION AGREEMENTS WITH THE COMMISSIONER. IF AN ADMINISTRATOR IS
17 NOT SELECTED, PARTICIPANTS MAY MAKE CONTRIBUTIONS TO AN ACCOUNT WITH A
18 FINANCIAL INSTITUTION WITH WHICH THE COMMISSIONER HAS AN AGREEMENT
19 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. A LIFETIME MAXIMUM OF ONE
20 HUNDRED SIXTY-FIVE THOUSAND DOLLARS MAY BE CONTRIBUTED BY A PARTICIPANT.
21 SUCH AMOUNT SHALL BE INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE
22 PERCENTAGE INCREASE IN THE FEDERAL CONSUMER PRICE INDEX.

23 2. (A) IF AN ADMINISTRATOR FOR THE LONG TERM CARE SAVINGS ACCOUNT
24 PROGRAM IS SELECTED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS
25 SECTION, THE LONG TERM CARE SAVINGS ACCOUNT PROGRAM TRUST SHALL BE
26 CREATED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

27 (B) THE COMMISSIONER SHALL BE THE TRUSTEE OF THE TRUST AND, AS SUCH,
28 RESPONSIBLE FOR THE ADMINISTRATION, OPERATION AND MAINTENANCE OF THE
29 PLAN AND SHALL HAVE ALL POWERS NECESSARY TO CARRY OUT AND EFFECTUATE THE
30 PURPOSES, OBJECTIVES AND PROVISIONS PERTAINING TO THE ADMINISTRATION,
31 OPERATION AND MAINTENANCE OF THE TRUST, EXCEPT AS PROVIDED IN PARAGRAPH
32 (C) OF THIS SUBDIVISION.

33 (C) THE COMPTROLLER SHALL HAVE FIDUCIARY RESPONSIBILITY TO MAKE ALL
34 DECISIONS REGARDING THE INVESTMENT OF THE MONEY IN THE TRUST, INCLUDING
35 THE SELECTION OF ALL INVESTMENT OPTIONS AND THE APPROVAL OF ALL FEES AND
36 OTHER COSTS CHARGED TO TRUST ASSETS EXCEPT COSTS FOR ADMINISTRATION,
37 OPERATION AND MAINTENANCE OF THE TRUST, PURSUANT TO THE DIRECTIONS,
38 GUIDELINES AND POLICIES ESTABLISHED BY THE COMMISSIONER.

39 3. A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION
40 FOUR OF THIS SECTION MAY MAKE WITHDRAWALS AS A PARTICIPANT IN THE LONG
41 TERM CARE SAVINGS ACCOUNT PROGRAM TO PAY OR REIMBURSE ELIGIBLE LONG TERM
42 CARE EXPENSES. A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (B) OF
43 SUBDIVISION FOUR OF THIS SECTION MAY MAKE WITHDRAWALS TO PAY OR REIM-
44 BURSE LONG TERM CARE INSURANCE PREMIUMS.

45 4. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED INDIVIDUAL" MEANS:

46 (A) A PERSON WHO INCURRED LONG TERM CARE EXPENSES DURING THE TAXABLE
47 YEAR; OR

48 (B) A PERSON WHO TURNED FIFTY YEARS OF AGE OR OLDER DURING THE TAXABLE
49 YEAR WHO MADE PAYMENTS FOR LONG TERM CARE INSURANCE PREMIUMS DURING THE
50 TAXABLE YEAR.

51 S 403. QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM. 1. A QUALI-
52 FIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM INCLUDES ALL OF THE FOLLOW-
53 ING:

54 (A) THE PURCHASE BY AN EMPLOYER OR A SELF-EMPLOYED OR OTHER INDIVIDUAL
55 OF A QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN FOR THE BENEFIT OF AN
56 EMPLOYEE OR THE SELF-EMPLOYED OR OTHER INDIVIDUAL;

1 (B) EITHER: (1) IN THE CASE OF AN EMPLOYEE, THE CONTRIBUTION ON BEHALF
2 OF AN EMPLOYEE INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT BY HIS OR
3 HER EMPLOYER OF ALL OR PART OF THE PREMIUM DIFFERENTIAL REALIZED BY THE
4 EMPLOYER BASED ON THE PURCHASE OF A QUALIFIED HIGHER DEDUCTIBLE HEALTH
5 PLAN FOR THE BENEFIT OF THE EMPLOYEE. AN EMPLOYER THAT DID NOT PREVI-
6 OUSLY PROVIDE A HEALTH COVERAGE POLICY, CERTIFICATE, OR CONTRACT FOR HIS
7 OR HER EMPLOYEES MAY CONTRIBUTE ALL OR PART OF THE DEDUCTIBLE OF THE
8 PLAN PURCHASED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION; OR

9 (2) IN THE CASE OF A SELF-EMPLOYED OR OTHER INDIVIDUAL, THE INDIVID-
10 UAL'S CONTRIBUTION INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OF
11 AMOUNTS TO PAY ELIGIBLE LONG TERM CARE EXPENSES; AND

12 (C) AN ACCOUNT ADMINISTRATOR TO ADMINISTER THE QUALIFIED LONG TERM
13 CARE SAVINGS ACCOUNT FROM WHICH PAYMENT OF CLAIMS IS MADE.

14 2. FOR TAX YEARS ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOU-
15 SAND ELEVEN, AN EMPLOYER, EXCEPT AS OTHERWISE PROVIDED BY STATUTE,
16 CONTRACT OR A COLLECTIVE BARGAINING AGREEMENT, MAY OFFER A QUALIFIED
17 LONG TERM CARE SAVINGS ACCOUNT PROGRAM TO THE EMPLOYER'S EMPLOYEES. FOR
18 TAX YEARS ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN,
19 A SELF-EMPLOYED OR OTHER INDIVIDUAL MAY ESTABLISH A QUALIFIED LONG TERM
20 CARE SAVINGS ACCOUNT WITH AN ACCOUNT ADMINISTRATOR.

21 3. (A) THE ACCOUNT ADMINISTRATOR SHALL UTILIZE THE MONEYS HELD IN A
22 QUALIFIED LONG TERM CARE SAVINGS ACCOUNT FOR THE PURPOSE OF REIMBURSING
23 AN EMPLOYEE'S ELIGIBLE LONG TERM CARE EXPENSES.

24 (B) IF AN EMPLOYER MAKES CONTRIBUTIONS TO A QUALIFIED LONG TERM CARE
25 SAVINGS ACCOUNT PROGRAM ON A PERIODIC INSTALLMENT BASIS, THE EMPLOYER
26 MAY ADVANCE TO AN EMPLOYEE, INTEREST FREE, AN AMOUNT NECESSARY TO COVER
27 LONG TERM CARE EXPENSES INCURRED THAT EXCEED THE AMOUNT IN THE EMPLOY-
28 EE'S QUALIFIED LONG TERM CARE SAVINGS ACCOUNT WHEN THE EXPENSE IS
29 INCURRED IF THE EMPLOYEE AGREES TO REPAY THE ADVANCE FROM FUTURE
30 INSTALLMENTS OR WHEN HE OR SHE CEASES TO BE AN EMPLOYEE OF THE EMPLOYER.

31 S 404. QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT PROGRAM. 1.
32 AN INDIVIDUAL WHO HAS BEEN REFUSED COVERAGE FOR LONG TERM CARE INSURANCE
33 MAY ESTABLISH A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT,
34 SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

35 2. A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT IS A SAVINGS
36 ACCOUNT APPROVED BY THE COMMISSIONER FOR AN INDIVIDUAL WHO HAS BEEN
37 SUBJECT TO DENIAL OF LONG TERM CARE INSURANCE COVERAGE. AS USED IN THIS
38 ARTICLE, DENIAL OF LONG TERM CARE INSURANCE COVERAGE SHALL MEAN THAT:

39 (A) THE INDIVIDUAL HAS APPLIED FOR AND BEEN DENIED COVERAGE BY AT
40 LEAST TWO LONG TERM CARE INSURANCE PLANS WHICH HAVE BEEN APPROVED BY THE
41 INSURANCE DEPARTMENT FOR OPERATION IN THIS STATE, OR

42 (B) THE INDIVIDUAL HAS BEEN CERTIFIED BY A PHYSICIAN TO BE UNINSURABLE
43 FOR LONG TERM CARE INSURANCE COVERAGE BY REASON OF HAVING A CONDITION,
44 DISEASE OR DISABILITY THAT PRECLUDES ANY CONSIDERATION FOR ISSUANCE OF
45 LONG TERM CARE INSURANCE COVERAGE.

46 3. THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN A LIST OF SUCH
47 DISQUALIFYING CONDITIONS, DISEASES AND DISABILITIES. AN INDIVIDUAL SHALL
48 PROVIDE PROOF OF DENIAL OF LONG TERM CARE INSURANCE COVERAGE OR SUCH
49 CERTIFICATION FROM A PHYSICIAN IN A FORM AND MANNER SATISFACTORY TO THE
50 COMMISSIONER.

51 4. THE OWNER OF SUCH ACCOUNT MAY ANNUALLY CONTRIBUTE, OR HAVE CONTRIB-
52 UTED ON HIS OR HER BEHALF, AN AMOUNT OF UP TO TEN THOUSAND DOLLARS TO A
53 QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT. SUCH AMOUNT SHALL BE
54 INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE PERCENTAGE INCREASE IN
55 THE FEDERAL CONSUMER PRICE INDEX.

1 S 405. OWNERSHIP. 1. THE EMPLOYEE OR INDIVIDUAL WHO CONTRIBUTES OR ON
2 WHOSE BEHALF MONIES ARE CONTRIBUTED TO A LONG TERM CARE SAVINGS ACCOUNT,
3 QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE
4 FLEXIBLE SPENDING ACCOUNT IS THE OWNER OF SUCH ACCOUNT.

5 2. ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE TO THE CONTRARY
6 NOTWITHSTANDING, THE AMOUNTS A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED
7 LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE
8 SPENDING ACCOUNT SHALL NOT BE DEEMED A COUNTABLE ASSET PURSUANT TO THIS
9 ARTICLE OF THE OWNER OF SUCH ACCOUNT.

10 S 406. WITHDRAWALS. 1. (A) AN ACCOUNT HOLDER MAY MAKE WITHDRAWALS FROM
11 HIS OR HER ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE TO PAY OR REIM-
12 BURSE ELIGIBLE LONG TERM CARE EXPENSES. IN THE CASE OF A LONG TERM
13 SAVINGS PLAN PROGRAM, A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (B)
14 OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED TWO OF THIS ARTICLE MAY MAKE
15 WITHDRAWALS TO PAY OR REIMBURSE LONG TERM CARE INSURANCE PREMIUMS.

16 (B) THE ACCOUNT HOLDER SHALL SUBMIT DOCUMENTATION TO THE ACCOUNT
17 ADMINISTRATOR OF SUCH LONG TERM CARE EXPENSES OR INSURANCE PREMIUMS DUE
18 OR PAID BY THE ACCOUNT HOLDER IN THE TAX YEAR AND THE ACCOUNT ADMINIS-
19 TRATOR SHALL PAY SUCH EXPENSES OR PREMIUMS OR REIMBURSE THE ACCOUNT
20 HOLDER FROM THE ACCOUNT HOLDER'S ACCOUNT FOR SUCH ELIGIBLE LONG TERM
21 CARE EXPENSES OR PREMIUMS.

22 2. (A) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION AND SUBJECT
23 TO PARAGRAPH (C) OF THIS SUBDIVISION, AN ACCOUNT HOLDER MAY WITHDRAW
24 MONEY FROM HIS OR HER ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE FOR
25 ANY PURPOSE OTHER THAN TO PAY OR REIMBURSE ELIGIBLE LONG TERM CARE
26 EXPENSES OR LONG TERM CARE INSURANCE PREMIUMS ONLY ON THE LAST BUSINESS
27 DAY OF THE ACCOUNT ADMINISTRATOR'S BUSINESS YEAR. NOT MORE THAN THIRTY
28 DAYS AFTER AN ACCOUNT ADMINISTRATOR BEGINS TO ADMINISTER AN ACCOUNT, THE
29 ADMINISTRATOR SHALL NOTIFY IN WRITING EACH ACCOUNT HOLDER OF THE DATE OF
30 THE LAST BUSINESS DAY OF THE ADMINISTRATOR'S BUSINESS YEAR.

31 (B) SUBJECT TO PARAGRAPH (C) OF THIS SUBDIVISION, IF AN ACCOUNT HOLDER
32 WITHDRAWS MONEY FOR ANY PURPOSE OTHER THAN TO PAY OR REIMBURSE ELIGIBLE
33 LONG TERM CARE EXPENSES OR LONG TERM CARE INSURANCE PREMIUMS, ALL OF THE
34 FOLLOWING APPLY:

35 (I) THE AMOUNT OF THE WITHDRAWAL IS INCOME FOR PURPOSES OF SECTION SIX
36 HUNDRED TWELVE OF THE TAX LAW.

37 (II) THE ADMINISTRATOR SHALL WITHHOLD AND ON BEHALF OF THE ACCOUNT
38 HOLDER SHALL PAY A PENALTY TO THE DEPARTMENT OF TAXATION AND FINANCE
39 EQUAL TO TEN PERCENT OF THE AMOUNT OF THE WITHDRAWAL.

40 (III) INTEREST EARNED ON THE ACCOUNT DURING THE TAXABLE YEAR IN WHICH
41 A WITHDRAWAL UNDER THIS SECTION IS MADE IS INCOME FOR PURPOSES OF
42 SECTION SIX HUNDRED TWELVE OF THE TAX LAW.

43 (C) THE AMOUNT OF A DISBURSEMENT OF ANY ASSETS OF AN ACCOUNT ESTAB-
44 LISHED PURSUANT TO THIS ARTICLE AS A RESULT OF A FILING FOR PROTECTION
45 UNDER TITLE ELEVEN OF THE UNITED STATES CODE BY AN ACCOUNT HOLDER IS NOT
46 CONSIDERED A WITHDRAWAL FOR PURPOSES OF THIS SECTION AND PARAGRAPH (B)
47 OF THIS SUBDIVISION SHALL NOT APPLY.

48 S 407. TAX TREATMENT. 1. EXCEPT AS PROVIDED IN SECTION FOUR HUNDRED
49 SIX OF THIS ARTICLE, PRINCIPAL CONTRIBUTED TO AN ACCOUNT ESTABLISHED
50 PURSUANT TO THIS ARTICLE AND MONEY PAID OR REIMBURSED TO AN OWNER OF
51 SUCH AN ACCOUNT FOR ELIGIBLE LONG TERM CARE EXPENSES SHALL BE EXEMPT
52 FROM TAXATION.

53 2. ANY INDIVIDUAL WHO CONTRIBUTES TO A QUALIFIED LONG TERM CARE FLEXI-
54 BLE SPENDING ACCOUNT, IRRESPECTIVE OF WHETHER SUCH INDIVIDUAL IS THE
55 ACCOUNT HOLDER, SHALL BE ELIGIBLE FOR THE LONG TERM CARE INSURANCE CRED-

1 IT PURSUANT TO SECTION ONE HUNDRED NINETY OR SIX HUNDRED SIX OF THE TAX
2 LAW.

3 S 408. DEATH OF THE ACCOUNT HOLDER. UPON THE DEATH OF AN ACCOUNT HOLD-
4 ER, THE FOLLOWING SHALL APPLY:

5 1. IF THE SURVIVING SPOUSE OF THE ACCOUNT HOLDER OR A CHRONICALLY ILL
6 INDIVIDUAL AS PROVIDED IN THIS ARTICLE ACQUIRES SUCH ACCOUNT HOLDER'S
7 INTEREST IN SUCH ACCOUNT BY REASON OF BEING THE DESIGNATED BENEFICIARY
8 OF THE ACCOUNT AT THE DEATH OF THE ACCOUNT HOLDER, SUCH ACCOUNT SHALL BE
9 TREATED AS IF THE SPOUSE OR SUCH CHRONICALLY ILL INDIVIDUAL WAS THE
10 OWNER OF SUCH ACCOUNT;

11 2. IF A PERSON WHO IS NOT THE SURVIVING SPOUSE OF THE ACCOUNT HOLDER
12 OR WHO IS NOT CHRONICALLY ILL ACQUIRES THE INTEREST OF THE ACCOUNT HOLD-
13 ER IN AN ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE, SUCH ACCOUNT
14 SHALL CEASE TO BE A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED LONG TERM
15 CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE SPENDING
16 ACCOUNT AS OF THE DATE OF THE DEATH OF THE OWNER OF SUCH ACCOUNT, AND:

17 (A) IF SUCH PERSON IS NOT THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT
18 EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH
19 DATE SHALL BE INCLUDIBLE IN SUCH PERSON'S GROSS INCOME FOR THE TAXABLE
20 YEAR WHICH INCLUDES SUCH DATE, PROVIDED HOWEVER THAT SUCH INCLUDIBLE
21 AMOUNT SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
22 SERVICES PERMITTED PURSUANT TO THIS ARTICLE WHICH WERE INCURRED BY THE
23 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
24 WITHIN ONE YEAR AFTER SUCH DATE, OR

25 (B) IF SUCH PERSON IS THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT EQUAL
26 TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH DATE
27 SHALL BE INCLUDIBLE IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST
28 TAXABLE YEAR OF SUCH BENEFICIARY, PROVIDED HOWEVER THAT SUCH FAIR MARKET
29 VALUE SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
30 SERVICES PERMITTED PURSUANT TO THIS ARTICLE WHICH WERE INCURRED BY THE
31 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
32 WITHIN ONE YEAR AFTER SUCH DATE.

33 S 409. CANCELLATION OR TRANSFER. 1. (A) EACH ACCOUNT ESTABLISHED OR
34 MAINTAINED UNDER THIS ARTICLE MAY BE CANCELED OR TRANSFERRED TO A SPOUSE
35 UPON THE TERMS AND CONDITIONS SET BY THE COMMISSIONER. IF THE ACCOUNT IS
36 CANCELED OR TERMINATED, THE ACCOUNT HOLDER MAY RECEIVE THE PRINCIPAL
37 AMOUNT OF ALL CONTRIBUTIONS MADE BY THE ACCOUNT HOLDER OR ON BEHALF OF
38 THE ACCOUNT HOLDER PLUS THE ACTUAL INVESTMENT EARNINGS ON THE CONTRIB-
39 UTIONS, LESS ANY LOSSES INCURRED ON THE CONTRIBUTIONS. AN ACCOUNT HOLDER
40 SHALL NOT RECEIVE MORE THAN THE FAIR MARKET VALUE OF HIS OR HER ACCOUNT
41 ON THE APPLICABLE LIQUIDATION DATE.

42 (B) THE TRANSFER OF THE INTEREST OF THE ACCOUNT HOLDER TO SUCH OWNER'S
43 SPOUSE OR FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT SHALL
44 NOT BE CONSIDERED A TAXABLE TRANSFER MADE BY SUCH ACCOUNT HOLDER
45 NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE, AND THE
46 INTEREST SHALL, AFTER SUCH TRANSFER, BE TREATED AS AN ACCOUNT ESTAB-
47 LISHED UNDER THIS ARTICLE WITH RESPECT TO WHICH SUCH SPOUSE IS THE OWNER
48 OF SUCH ACCOUNT.

49 2. IN THE CASE OF A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM,
50 IF (A) AN EMPLOYEE IS NO LONGER EMPLOYED BY AN EMPLOYER THAT PARTIC-
51 IPATES IN A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM, (B) THE
52 EMPLOYEE, NOT MORE THAN ONE HUNDRED EIGHTY DAYS AFTER HIS OR HER FINAL
53 DAY OF EMPLOYMENT, TRANSFERS THE ACCOUNT TO A NEW ACCOUNT ADMINISTRATOR
54 OR REQUESTS IN WRITING TO THE FORMER EMPLOYER'S ACCOUNT ADMINISTRATOR
55 THAT THE ACCOUNT REMAIN WITH THAT ADMINISTRATOR, AND (C) THAT ACCOUNT
56 ADMINISTRATOR AGREES TO RETAIN THE ACCOUNT, THEN THE MONEY IN THE QUALI-

1 FIED LONG TERM CARE SAVINGS ACCOUNT MAY BE UTILIZED FOR THE BENEFIT OF
2 THE EMPLOYEE SUBJECT TO THIS ARTICLE AND REMAINS EXEMPT FROM TAXATION
3 PURSUANT TO THIS ARTICLE. NOT MORE THAN THIRTY DAYS AFTER THE EXPIRATION
4 OF THE ONE HUNDRED EIGHTY DAYS, IF AN ACCOUNT ADMINISTRATOR HAS NOT
5 ACCEPTED THE FORMER EMPLOYEE'S ACCOUNT, THE EMPLOYER SHALL MAIL A CHECK
6 TO THE FORMER EMPLOYEE, AT THE EMPLOYEE'S LAST KNOWN ADDRESS, FOR AN
7 AMOUNT EQUAL TO THE AMOUNT IN THE ACCOUNT ON THAT DAY, AND THAT AMOUNT
8 IS SUBJECT TO TAXATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF
9 SECTION FOUR HUNDRED SIX OF THIS ARTICLE BUT IS NOT SUBJECT TO THE
10 PENALTY UNDER SUBPARAGRAPH (II) OF SUCH PARAGRAPH. IF AN EMPLOYEE
11 BECOMES EMPLOYED WITH A DIFFERENT EMPLOYER THAT PARTICIPATES IN A QUALI-
12 FIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM, THE EMPLOYEE MAY TRANSFER
13 HIS OR HER QUALIFIED LONG TERM CARE SAVINGS ACCOUNT TO THAT NEW EMPLOY-
14 ER'S ACCOUNT ADMINISTRATOR. A SELF-EMPLOYED OR OTHER INDIVIDUAL MAY
15 TRANSFER HIS OR HER QUALIFIED LONG TERM CARE SAVINGS ACCOUNT TO ANOTHER
16 ACCOUNT ADMINISTRATOR; THE MONEY IN THE ACCOUNT REMAINS EXEMPT FROM
17 TAXATION PURSUANT TO THIS ARTICLE.

18 S 410. RULES AND REGULATIONS. THE COMMISSIONER, AFTER CONSULTATION
19 WITH THE COMPTROLLER WHEN RELEVANT, SHALL ESTABLISH APPROPRIATE RULES
20 AND REGULATIONS TO GOVERN ACCOUNTS ESTABLISHED PURSUANT TO THIS ARTICLE,
21 INCLUDING BUT NOT LIMITED TO ELIGIBILITY AND APPROVAL, USE OF PROCEEDS
22 AND MANNERS OF PROOF.

23 S 2. Subdivision 1 of section 190 of the tax law, as amended by
24 section 17 of part B of chapter 58 of the laws of 2004, is amended to
25 read as follows:

26 1. General. A taxpayer shall be allowed a credit against the tax
27 imposed by this article, other than the taxes and fees imposed by
28 sections one hundred eighty and one hundred eighty-one of this article,
29 equal to:

30 (A) twenty percent of the premium paid during the taxable year for
31 long-term care insurance. In order to qualify for such credit, the
32 taxpayer's premium payment must be for the purchase of or for continuing
33 coverage under a long-term care insurance policy that qualifies for such
34 credit pursuant to section one thousand one hundred seventeen of the
35 insurance law; OR

36 (B) THE LESSER OF ONE THOUSAND FIVE HUNDRED DOLLARS OR TWENTY PERCENT
37 OF THE AMOUNT CONTRIBUTED TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
38 ING ACCOUNT PURSUANT TO ARTICLE FOUR OF THE ELDER LAW.

39 S 3. Paragraph (a) of subdivision 25-a of section 210 of the tax law,
40 as amended by section 18 of part B of chapter 58 of the laws of 2004, is
41 amended to read as follows:

42 (a) A taxpayer shall be allowed a credit against the tax imposed by
43 this article equal to [twenty] TWENTY-FIVE percent of the premium paid
44 during the taxable year for long-term care insurance. In order to quali-
45 fy for such credit, the taxpayer's premium payment must be for the
46 purchase of or for continuing coverage under a long-term care insurance
47 policy that qualifies for such credit pursuant to section one thousand
48 one hundred seventeen of the insurance law.

49 S 4. Subsection (aa) of section 606 of the tax law, as amended by
50 section 1 of part P of chapter 61 of the laws of 2005, is amended to
51 read as follows:

52 (aa) Long-term care insurance credit. (1) Residents. A taxpayer shall
53 be allowed a credit against the tax imposed by this article equal to:

54 (A) [twenty] THIRTY-FIVE percent of the premium paid during the taxa-
55 ble year for long-term care insurance. In order to qualify for such
56 credit, the taxpayer's premium payment must be for the purchase of or

1 for continuing coverage under a long-term care insurance policy that
2 qualifies for such credit pursuant to section one thousand one hundred
3 seventeen of the insurance law; OR

4 (B) THE LESSER OF ONE THOUSAND FIVE HUNDRED DOLLARS OR TWENTY PERCENT
5 OF THE AMOUNT CONTRIBUTED TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
6 ING ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW.

7 If the amount of the credit allowable under this subsection for any
8 taxable year shall exceed the taxpayer's tax for such year, the excess
9 may be carried over to the following year or years and may be deducted
10 from the taxpayer's tax for such year or years.

11 (2) Nonresidents and part-year residents. In the case of a nonresident
12 taxpayer or a part-year resident taxpayer, the credit determined under
13 this subsection shall be limited to the amount determined by multiplying
14 the amount of such credit by the New York source fraction as set forth
15 in paragraph three of subsection (e) of section six hundred one of this
16 [article] PART. The credit as so limited shall be applied as provided
17 in paragraph one of this subsection.

18 S 5. Subsection (c) of section 612 of the tax law is amended by adding
19 two new paragraphs 39 and 40 to read as follows:

20 (39) CONTRIBUTIONS MADE DURING THE TAXABLE YEAR BY OR ON BEHALF OF THE
21 OWNER OF AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER
22 LAW DURING SUCH OWNER'S LIFETIME TO SUCH AN ACCOUNT, AND SUBJECT TO THE
23 RULES ESTABLISHED FOR SUCH ACCOUNTS BY THE COMMISSIONER OF HEALTH, TO
24 THE EXTENT NOT DEDUCTIBLE OR ELIGIBLE FOR CREDIT FOR FEDERAL INCOME TAX
25 PURPOSES, PROVIDED, HOWEVER, THE EXCLUSION PROVIDED FOR IN THIS PARA-
26 GRAPH SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR AN INDIVIDUAL.

27 (40) DISTRIBUTIONS FROM AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE
28 FOUR OF THE ELDER LAW ON BEHALF OF THE OWNER OF SUCH ACCOUNT DURING SUCH
29 OWNER'S LIFETIME, SUBJECT TO THE RULES ESTABLISHED FOR SUCH ACCOUNTS BY
30 THE COMMISSIONER OF HEALTH, TO THE EXTENT INCLUDIBLE IN GROSS INCOME FOR
31 FEDERAL INCOME TAX PURPOSES.

32 S 6. The tax law is amended by adding a new section 35 to read as
33 follows:

34 S 35. RULES CONCERNING LONG TERM CARE ACCOUNTS. A TAXPAYER MAY ESTAB-
35 LISH A LONG TERM CARE SAVINGS ACCOUNT, A QUALIFIED LONG TERM CARE
36 SAVINGS ACCOUNT OR A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT
37 PURSUANT TO ARTICLE FOUR OF THE ELDER LAW. A TAXPAYER WHO ESTABLISHES
38 SUCH AN ACCOUNT SHALL BE THE OWNER OF SUCH ACCOUNT. SUCH ACCOUNT SHALL
39 BE SUBJECT TO THE FOLLOWING RULES:

40 1. A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT SHALL BE
41 ELIGIBLE FOR CREDITS PURSUANT TO SECTIONS ONE HUNDRED NINETY AND SIX
42 HUNDRED SIX OF THIS CHAPTER AND ANY ACCOUNT ESTABLISHED PURSUANT TO
43 ARTICLE FOUR OF THE ELDER LAW SHALL BE ELIGIBLE FOR DEDUCTIONS PURSUANT
44 TO SUBSECTION (C) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER. ANY
45 INDIVIDUAL WHO CONTRIBUTES TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
46 ING ACCOUNT, IRRESPECTIVE OF WHETHER SUCH INDIVIDUAL IS THE OWNER OF
47 SUCH ACCOUNT, SHALL BE ELIGIBLE FOR THE LONG TERM CARE INSURANCE CREDITS
48 PURSUANT TO SECTIONS ONE HUNDRED NINETY AND SIX HUNDRED SIX OF THIS
49 CHAPTER.

50 2. THE PROCEEDS OF AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF
51 THE ELDER LAW MAY BE USED TO PAY FOR ANY LONG TERM CARE EXPENSES PERMIT-
52 TED PURSUANT TO SUCH ARTICLE IN FULFILLMENT OF A PLEDGE BY THE OWNER OF
53 SUCH ACCOUNT PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER OF
54 HEALTH. DISTRIBUTIONS FROM THE QUALIFIED LONG TERM CARE SAVINGS ACCOUNT
55 TO PAY FOR SERVICES OR ITEMS NOT PERMITTED PURSUANT TO ARTICLE FOUR OF
56 THE ELDER LAW AND THE REGULATIONS PROMULGATED BY THE COMMISSIONER OF

1 HEALTH SHALL BE SUBJECT TO A PENALTY OF TEN PERCENT OF EVERY DOLLAR SO
2 EXPENDED DURING THE LIFETIME OF THE OWNER OF SUCH ACCOUNT. SUCH PENALTY
3 SHALL BE LEVIED ONLY AGAINST THE OWNER OF SUCH ACCOUNT.

4 3. ANY OTHER PROVISION OF LAW TO THE CONTRARY NOTWITHSTANDING, THE
5 PROVISIONS OF THIS SECTION RELATING TO CREDITS, DEDUCTIONS, CONTRIB-
6 UTIONS OR DISTRIBUTIONS FROM ACCOUNTS ESTABLISHED PURSUANT TO ARTICLE
7 FOUR OF THE ELDER LAW SHALL NOT APPLY IF THE DISTRIBUTION FROM THE
8 ACCOUNT IS MADE AFTER THE DEATH OF THE OWNER OF SUCH ACCOUNT, PROVIDED
9 HOWEVER THAT:

10 (A) IF THE SURVIVING SPOUSE OF THE OWNER OF SUCH ACCOUNT OR A CHRON-
11 ICALLY ILL INDIVIDUAL AS PROVIDED BY ARTICLE FOUR OF THE ELDER LAW
12 ACQUIRES SUCH OWNER'S INTEREST IN SUCH ACCOUNT BY REASON OF BEING THE
13 DESIGNATED BENEFICIARY OF THE ACCOUNT AT THE DEATH OF THE OWNER, SUCH
14 ACCOUNT SHALL BE TREATED AS IF THE SPOUSE OR SUCH CHRONICALLY ILL INDI-
15 VIDUAL WERE THE OWNER OF SUCH ACCOUNT.

16 (B) IF A PERSON WHO IS NOT THE SURVIVING SPOUSE OF THE BENEFICIARY OR
17 WHO IS NOT CHRONICALLY ILL ACQUIRES THE INTEREST OF THE OWNER OF AN
18 ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW, SUCH
19 ACCOUNT SHALL CEASE TO BE A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED
20 LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE
21 SPENDING ACCOUNT AS OF THE DATE OF THE DEATH OF THE OWNER OF SUCH
22 ACCOUNT, AND:

23 (I) IF SUCH PERSON IS NOT THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT
24 EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH
25 DATE SHALL BE INCLUDIBLE IN SUCH PERSON'S GROSS INCOME FOR THE TAXABLE
26 YEAR WHICH INCLUDES SUCH DATE, PROVIDED HOWEVER THAT SUCH INCLUDIBLE
27 AMOUNT SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
28 SERVICES PERMITTED PURSUANT TO THIS SECTION WHICH WERE INCURRED BY THE
29 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
30 WITHIN ONE YEAR AFTER SUCH DATE, OR

31 (II) IF SUCH PERSON IS THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT EQUAL
32 TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH DATE
33 SHALL BE INCLUDIBLE IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST
34 TAXABLE YEAR OF SUCH BENEFICIARY, PROVIDED HOWEVER THAT SUCH FAIR MARKET
35 VALUE SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
36 SERVICES PERMITTED PURSUANT TO THIS SECTION WHICH WERE INCURRED BY THE
37 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
38 WITHIN ONE YEAR AFTER SUCH DATE.

39 (C) THE TRANSFER OF THE INTEREST OF THE OWNER OF SUCH ACCOUNT TO SUCH
40 OWNER'S SPOUSE OR FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT
41 SHALL NOT BE CONSIDERED A TAXABLE TRANSFER MADE BY SUCH OWNER OF SUCH
42 ACCOUNT NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE,
43 AND SUCH INTEREST SHALL, AFTER SUCH TRANSFER, BE TREATED AS AN ACCOUNT
44 CREATED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW WITH RESPECT TO WHICH
45 SUCH SPOUSE IS THE OWNER OF SUCH ACCOUNT.

46 S 7. The state finance law is amended by adding a new section 99-t to
47 read as follows:

48 S 99-T. LONG-TERM CARE SAVINGS ACCOUNT PROGRAM TRUST. 1. THERE IS
49 HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
50 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLANEOUS
51 SPECIAL REVENUE FUND TO BE KNOWN AS THE "LONG-TERM CARE SAVINGS ACCOUNT
52 PROGRAM TRUST".

53 2. THE LONG-TERM CARE SAVINGS ACCOUNT PROGRAM TRUST SHALL CONSIST OF
54 ALL MONEYS RECEIVED BY THE STATE PURSUANT TO SECTION FOUR HUNDRED TWO OF
55 THE ELDER LAW.

1 3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE MONEYS IN
2 SUCH ACCOUNT SHALL BE EXPENDED SOLELY FOR THE PURPOSE DEFINED PURSUANT
3 TO SECTION FOUR HUNDRED TWO OF THE ELDER LAW. UNDER NO CIRCUMSTANCES
4 SHALL THE MONEYS IN SUCH ACCOUNT BE COMMINGLED WITH ANY OTHER MONEYS.

5 S 8. If any clause, sentence, paragraph, section or part of this act
6 shall be adjudged by any court of competent jurisdiction to be invalid,
7 such judgment shall not affect, impair or invalidate the remainder ther-
8 eof, but shall be confined in its operation to the clause, sentence,
9 paragraph, section or part thereof directly involved in the controversy
10 in which such judgment shall have been rendered.

11 S 9. This act shall take effect on the ninetieth day after it shall
12 have become a law and shall expire December 31, 2021 when upon such date
13 the provisions of this act shall be deemed repealed.