To amend title II of the Social Security Act to provide for long-term care insurance benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Suozzi introduced the following bill; which was referred to the Committee on

A BILL

To amend title II of the Social Security Act to provide for long-term care insurance benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Well-Being Insurance for Seniors to be at Home Act” or the “WISH Act”.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) More than half of Americans entering old age today will have a long-term need for constant at-
tendance by another person, averaging $298,000
costs per person for about 2 years of serious self-
care disability (as defined in HIPAA), and more
than half will be out-of-pocket, according to the U.S.
Department of Health and Human Services (HHS).

(2) The AARP report that the population age
85 or older is set to double between 2015 and 2032,
and triple by 2050. This aging will outpace the num-
ber of working-age family members who can help
seniors financially or with unpaid care.

(3) Research has shown that the typical U.S.
senior could afford only about 12 months of nursing
home care, assisted living care, or extensive home
care using their financial wealth. Some can get by
using unpaid (family) care, but most rely on a com-
bination of paid and unpaid care.

(4) More than 1 in 5 middle-income seniors will
end up impoverished, Medicaid eligible, and using
Medicaid to cover their long-term services and sup-
ports (LTSS) costs, according to Altarum analysis
of HHS projections.

(5) Millions of older Americans—1 in 5—will
need LTSS for more than 5 years, with a price tag
that would impoverish nearly all American house-
holds if they faced that need. HHS projections show
that older adults who need LTSS for more than 5 years incur nearly half of all LTSS expenses and 60 percent of Medicaid’s LTSS spending.

(6) An older adult with high LTSS needs is about 50 percent more likely to enter Medicaid when compared to seniors with similar finances earlier in life.

(7) Long-term care insurance (LTCI) is rarely available, and premiums have pushed plan-holders to drop out. Only 6 percent of seniors had any private coverage for LTSS expenses in 2018, leaving almost all middle-class American families to exhaust their nest-eggs and become impoverished before qualifying for Medicaid.

(8) The nation urgently needs to create methods for ordinary Americans to be able to take responsibility for planning for the risk of a substantial period of disability during retirement years.

(9) Those methods must also responsibly support the workforce providing supports and services.

(b) PURPOSE.—The purpose of this Act is to enable most Americans to make plans that protect themselves and their families, to enable disabled older adults to support themselves in their communities during periods of serious disability, to support the workforce providing direct
services to elders living with disabilities, and to reduce
what is now necessary reliance on Medicaid.

SEC. 3. LONG-TERM CARE INSURANCE BENEFITS.

(a) In General.—Title II of the Social Security Act
(42 U.S.C. 401 et seq.) is amended by adding at the end
the following:

“SEC. 235. LONG-TERM CARE INSURANCE BENEFITS.

“(a) In General.—Every individual who—

“(1) has attained retirement age (as defined in
section 216(l)(1));

“(2) has filed an application for long-term care
insurance benefits;

“(3) is insured for long-term care insurance
benefits (as determined under subsection (c)) at the
time such individual’s application is filed; and

“(4) has a continual serious functional dis-
ability (as defined in subsection (d)) and, at the time
such individual’s application is filed, has had such
disability for a substantial period of time (as deter-
mined under subsection (e)),

shall be entitled to a long-term care insurance benefit for
each month beginning with the 1st month in which the
individual meets the criteria specified in paragraphs (1)
through (4), and ending with the earlier of the month in
which the individual dies or the 1st month in which the
individual no longer has a continual serious functional dis-
ability (as so defined).

“(b) BENEFIT AMOUNT.—Such individual’s long-
term care insurance benefit for each month shall be an
amount equal to the product of—

“(1) an estimate, to be determined by the Sec-
retary of Health and Human Services in consulta-
tion with the Department of Labor, of the median
cost of 6 hours per day of paid personal assistance
in the United States, indexed to wages in the long-
term care sector, multiplied by

“(2) the ratio (not greater than 1) of the num-
ber of quarters of coverage the individual has during
the applicable base period (as defined in subsection
(c)(2)) to 40.

“(c) DEFINITION OF INSURED STATUS.—

“(1) IN GENERAL.—For purposes of subsection
(a), an individual shall be insured for long-term care
insurance benefits in any month if the individual has
6 quarters of coverage during the applicable base pe-
riod.

“(2) APPLICABLE BASE PERIOD.—For purposes
of this subsection, the term ‘applicable base period’
means the period that begins with the 1st quarter of
2022.
“(d) Definition of Continual Serious Functional Disability.—For purposes of subsection (a), an individual shall be considered to have a continual serious functional disability if the person is a chronically ill individual (as determined under section 7702B(c)(2) of the Internal Revenue Code of 1986) and is expected to remain a chronically ill individual (as so determined) for at least 1 year or until the individual’s death.

“(e) Definition of Substantial Period.—

“(1) In general.—For purposes of subsection (a), a substantial period of time means—

“(A) in the case of an individual who, at the time described in paragraph (3), has average indexed monthly earnings for long-term care equal to or less than the dollar amount representing the 40th percentile in the table established under subsection (f) for such calendar year, 12 months;

“(B) in the case of an individual who, at such time, has average indexed monthly earnings for long-term care greater than such dollar amount, 12 months plus 1 additional month for each 1.25 percentile interval above the 40th percentile for which the individual’s average in-
dexed monthly earnings for long-term care would attain (as specified in such table).

“(2) TABLE OF EARNINGS.—

“(A) IN GENERAL.—The Commissioner of Social Security shall establish a table, for each calendar year beginning with calendar year 2022, setting forth—

“(i) the dollar amount representing the 40th percentile among the average indexed monthly earnings for long-term care (as determined under subparagraph (B)) of each individual who has attained age 62 and whose primary insurance amount is first computed during such calendar year (or, for calendar year 2032, during any previous calendar year); and

“(ii) the dollar amounts representing percentiles over 40 (increasing linearly from 40 in intervals of 1.25) among the average indexed monthly earnings for long-term care (as so determined) of each such individual.

“(B) DETERMINATION OF AVERAGE INDEXED MONTHLY EARNINGS FOR LONG-TERM CARE.—For purposes of this subsection, the av-
average indexed monthly earnings for long-term care of an individual shall be determined under section 215(b) as if such section were amended—

“(i) in paragraph (2)(A), by striking ‘reduced—’ and all that follows through the end and inserting ‘reduced by the number of benefit computation years for which no wages were paid in and no self-employment income credited.’; and

“(ii) in paragraph (2)(B)(ii), by striking ‘1950’ and inserting ‘2021’.

“(3) TIME OF CALCULATION.—The time described in this paragraph is—

“(A) in the case of an individual who has 40 quarters of coverage during the applicable base period (as defined in subsection (c)(2)) prior to becoming entitled to old-age insurance benefits, the time at which the individual’s primary insurance amount was first computed with respect to the individual’s application for such benefits; and

“(B) in the case of any other individual, the time at which the individual files an appli-
cation for long-term care insurance benefits under this section.

“(f) Provision of Information Relating to Obtaining Long-Term Care.—The Commissioner of Social Security shall provide to each individual entitled to a long-term care insurance benefit under this section, as soon as practicable following the first day of the first month of such entitlement, information describing the steps the individual may take to obtain long-term care, including an explanation of the services (including care planning, care management, and administrative services for hired care providers, by referral or in-house, for a fee) provided by, and the appropriate contact information for, the Aging and Disability Resource Centers described in section 202(b)(8) of the Older Americans Act of 1965 and the area agencies on aging (as defined in section 102(6) of such Act).

“(g) Provision of Beneficiary Information by Any Person.—Any person may submit applicable information with respect to an individual’s application for long-term care insurance benefits, an annual statement described under subsection (i)(2), or any other information required to be submitted by the individual under this title, including, as applicable, the individual’s representative, or any family member or other appropriate person.
“(h) Treatment of Long-Term Care Insurance Benefit Payments.—A long-term care insurance benefit payment shall not be regarded as income and shall not be regarded as a resource for any month, for purposes of determining the eligibility of the recipient (or the recipient’s spouse or family) for benefits or assistance under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(i) Additional Requirements.—

“(1) Relating to Wages and Withholding Rules.—An individual entitled to a long-term care insurance benefit for a month during a calendar year shall, in any case in which such individual hires an employee who is not a family member to provide paid personal care to the individual during such month, comply with all applicable State and Federal laws relating to—

“(A) the payment of a minimum wage; and

“(B) the withholding of payroll taxes and other employment-related taxes.

“(2) Annual Statement.—An individual entitled to a long-term care insurance benefit for a month during a calendar year shall submit a statement to the Commissioner of Social Security at least
once during such calendar year, as directed by the Commissioner—

“(A) affirming that the individual—

“(i) continues to have a continual serious functional disability (as defined in subsection (d)); and

“(ii) is in compliance with the laws described in paragraph (1); and

“(B) specifying the country of residence of the individual.

“(3) NONPAYMENT OF BENEFITS IN CERTAIN CASES.—No long-term care insurance benefit shall be payable to an individual for any month—

“(A) with respect to which the individual fails to satisfy any of the requirements described in the preceding paragraphs of this subsection; or

“(B) beginning after the fifth consecutive year with respect to which the individual has reported, in the annual statement required under paragraph (2), a country of residence other than the United States (including any territory of the United States).”.
(b) ESTIMATES OF BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) an estimate of the potential long-term care insurance benefits payable to the individual.”.

SEC. 4. ESTABLISHMENT OF FEDERAL LONG-TERM CARE INSURANCE TRUST FUND.

(a) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Federal Long-Term Care Insurance Trust Fund”. The Federal Long-Term Care Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) and such amounts as may be appropriated to, or deposited in, the Federal Long-Term Care Insurance Trust Fund as provided in this section.

(b) APPROPRIATION.—

(1) IN GENERAL.—There is appropriated to the Federal Long-Term Care Insurance Trust Fund out
of moneys in the Treasury not otherwise appropriated—

(A) for each of fiscal years 2022, 2023, and 2024, $12,000,000 for the initial establishment of the Long-Term Care Insurance program and payment of benefits during such fiscal years;

(B) $50,000,000 for public education relating to the Long-Term Care Insurance program as described in section 6(a);

(C) 100 percent of the taxes imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury pursuant to subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such wages;

(D) 100 percent of the taxes imposed by section 1401(c) of such Code with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of
the Treasury by applying the applicable rate of
tax under such section to such self-employment
income; and

(E) the portion of the taxes imposed by
sections 3201(a), 3211(a), and 3221(a) of such
Code with respect to compensation (as defined
in section 3231 of such Code) reported to the
Secretary of the Treasury on tax returns under
subtitle F of such Code, as determined by the
Secretary of the Treasury by applying the ap-
plicable rate of tax under such sections to such
compensation, that relate to the taxes imposed
with respect to wages described in subpara-
graph (C); and

(2) Repayment of Initial Appropriation.—
Amounts appropriated under subparagraphs (A) and
(B) of paragraph (1) shall be repaid to the Treasury
of the United States not later than 10 years after
the first appropriation is made under each such sub-
paragraph.

(3) Transfer to Trust Fund.—The amounts
appropriated by paragraph (2) shall be transferred
from time to time from the general fund in the
Treasury to the Federal Long-Term Care Insurance
Trust Fund, such amounts to be determined on the
basis of estimates by the Secretary of the Treasury of the taxes, specified in such paragraph, paid to or deposited into the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were inconsistent with the taxes specified in such paragraph.

(e) MANAGEMENT OF TRUST FUND.—The provisions of subsections (c), (d), (e), (f), (i), and (m) of section 201 of the Social Security Act (42 U.S.C. 401) shall apply with respect to the Federal Long-Term Care Insurance Trust Fund in the same manner as such provisions apply to the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, except that the Managing Trustee (within the meaning of subsection (d) of such section) may invest such portion of the Federal Long-Term Care Insurance Trust Fund as the Managing Trustee considers appropriate in conservative market securities.

(d) BENEFITS PAID FROM TRUST FUND.—Benefit payments required to be made under section 3 shall be made only from the Federal Long-Term Care Insurance Trust Fund.

(e) ADMINISTRATION.—There are authorized to be made available for expenditure, out of the Federal Long-Term Care Insurance Trust Fund, such sums as may be
necessary to pay the costs of the administration of section 3, including start-up costs, technical assistance, outreach, education, evaluation, and reporting.

(f) REPORT.—Not later than 5 years after the date of enactment of this Act and every 5 years thereafter, the Board of Trustees (as defined for purposes of title II of the Social Security Act) shall submit a report to Congress evaluating the impact of long-term care insurance benefits under section 235 of such Act and making recommendations relating to potential geographical adjustments of the amount of such benefits.

SEC. 5. INTERNAL REVENUE CODE PROVISIONS.

(a) IN GENERAL.—

(1) TAX ON EMPLOYEES.—Section 3101 of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

“(c) LONG-TERM CARE INSURANCE.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the applicable percentage of the wages (as defined in section 3121(a)) received by the
individual with respect to employment (as defined in section 3121(b)).

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term “applicable percentage” means 0.3 percent in the case of wages received in any calendar year after 2021.”.

(2) TAX ON EMPLOYERS.—Section 3111 of such Code is amended—

(A) by redesignating subsection (c) and (d) as subsection (d) and (e), respectively, and

(B) by inserting after subsection (b) the following:

“(c) LONG-TERM CARE INSURANCE.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term “applicable percentage” means 0.3 percent in the case of wages paid in any calendar year after 2021.”.
(3) **TAX ON SELF-EMPLOYMENT INCOME.**—Section 1401 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

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“(c) **LONG-TERM CARE INSURANCE.**—

“(1) **IN GENERAL.**—In addition to other taxes, there is hereby imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percentage of the amount of the self-employment income for such taxable year.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the term “applicable percentage” means 0.6 percent in the case of self-employment income in any taxable year after 2021.”.

(4) **APPLICATION OF LONG-TERM CARE INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.**—Section 3121(u) of such Code is amended—

(A) in the heading, by striking “hospital insurance tax” and inserting “hospital insurance tax and long-term care insurance tax”;

(B) by striking “sections 3101(b) and 3111(b)” each place it appears and inserting
“subsections (b) and (e) of section 3101 and subsections (b) and (e) of section 3111”; and

(C) in paragraph (2)(C), in the matter preceding clause (i), by inserting “(except for purposes of the taxes imposed by sections 3101(c) and 3111(e))” after “subparagraph (A)”.

(b) **RAILROAD RETIREMENT TAX ACT.**—

(1) **EMPLOYEE CONTRIBUTION.**—Section 3201(a) of such Code is amended by striking “subsections (a) and (b)” and inserting “subsections (a), (b), and (c)”.

(2) **EMPLOYEE REPRESENTATIVE CONTRIBUTION.**—Section 3211(a) of such Code is amended by striking “subsections (a) and (b)” each place it appears and inserting “subsections (a), (b), and (c)”.

(3) **EMPLOYER CONTRIBUTION.**—Section 3221(a) of such Code is amended by striking “subsections (a) and (b)” and inserting “subsections (a), (b), and (c)”.

(4) **APPLICATION OF CONTRIBUTION BASES.**—

Section 3231(e)(2)(A)(iii) of such Code is amended—

(A) in the heading, by inserting “and long-term care insurance taxes” after “Hospital insurance taxes”,

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(B) in subclause (I), by striking “the rate of tax in effect under section 3101(b)” and inserting “the sum of the rates of tax in effect under subsections (b) and (e) of section 3101”, and

(C) in subclause (II), by striking “the rate of tax in effect under section 1401(b)” and inserting “the sum of the rates of tax in effect under subsections (b) and (e) of section 1401”.

(5) **CONFORMING AMENDMENT.**—

(A) Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by inserting “(other than sections 3201(c), 3211(c), and 3221(c))” before the period at the end.

(e) **TAXATION OF LONG-TERM CARE INSURANCE BENEFITS.**—The Internal Revenue Code of 1986 is amended by inserting after section 86 the following:

“**SEC. 86A. LONG-TERM CARE INSURANCE BENEFITS.**

“Gross income shall not include any amount received by the taxpayer by reason of entitlement to a benefit under section 235 of the Social Security Act.”.

(d) **CONFORMING AMENDMENTS.**—The following sections of the Internal Revenue Code of 1986 are amended as follows:
(1) Section 1402(a)(12)(B) is amended by striking “subsections (a) and (b)” and inserting “subsections (a), (b), and (c)”.

(2) Section 3121(z)(5) is amended by striking “sections 3101(c) and 3111(c)” and inserting “sections 3101(d) and 3111(d)”.

(3) The last sentence of section 6051(a) is amended by striking “sections 3101(c) and 3111(c)” and inserting “sections 3101(d) and 3111(d)”.

(4) Section 6413(c) is amended—

(A) in paragraph (1)—

(i) by inserting “, section 3101(c),” after “by section 3101(a)”; and

(ii) by striking “both” and inserting “each”; and

(B) in paragraph (2), by inserting “or 3101(c)” after “3101(a)” each place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after 2021.

SEC. 6. EDUCATION AND OUTREACH.

(a) PUBLIC EDUCATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of
Health and Human Services, in consultation with the Commissioner of Social Security, shall publish in the Federal Register a 10-year plan to educate the public about the likelihood of needing long-term care, the nature of the experience of long-term care in various situations, the costs of long-term care, the availability of long-term care insurance benefits, and the importance of planning and considering private insurance coverage alongside family support and savings (especially during the first years of a serious disability). Such plan shall be modified as necessary based on research on the effectiveness of various strategies and modifications with experience.

(2) FUNDING.—There are appropriated, out of the Federal Long-Term Care Insurance Trust Fund, to the Secretary of Health and Human Services $50,000,000 to carry out paragraph (1).

(b) INDIVIDUAL NOTICES.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act and in accordance with paragraph (2), the Commissioner of Social Security shall provide to each eligible individual a notice that specifies—

(A)(i) the average indexed monthly earnings for long-term care that would be calculated
for the individual under paragraph (2)(B) of section 235(e) of the Social Security Act if such average indexed monthly earnings for long-term care were calculated in the month before the month such notice is provided; and

(ii) for purposes of applying such section to the individual, the percentile in which such average indexed monthly earnings for long-term care of the individual would fall among the average indexed monthly earnings for long-term care (as determined under such paragraph (2)(B)) of each individual whose average indexed monthly earnings for long-term care are calculated in such month;

(B) the number of quarters of coverage the individual has in the month before the month such notice is provided for purposes of attaining insured status for long-term care insurance benefits under such Act; and

(C) in any case in which the individual has a continual serious functional disability (as defined in section 235(d) of such Act), the date on which such disability began.

(2) TIMING.—A notice described in paragraph (1) shall be provided—
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(A) by mail—

(i) to each eligible individual not later than 540 days of the date of enactment of this Act;

(ii) to each eligible individual in the month the individual attains age 45, age 55, age 65, and retirement age (as defined in section 216(l) of such Act); and

(B) for each eligible individual who has attained age 35, by making such notice available on the individual’s account on the website of the Social Security Administration, to be updated annually.

(3) ELIGIBLE INDIVIDUAL.—In this subsection, the term “eligible individual” means an individual—

(A) who has a social security account number; and

(B)(i) who has wages or net earnings from self-employment, or

(ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment.
SEC. 7. GAO REPORT ON PERFORMANCE OF THE WISH PROGRAM.

Not later than 5 years after the date of enactment of this Act and every 3 years thereafter, the Comptroller General shall submit a report to Congress including—

(1) a description of the likelihood of manipulation of eligibility criteria by beneficiaries or beneficiary advisors and recommendations as to the merits of possible remedies;

(2) a description of the likelihood of financial exploitation or elder mistreatment by others on whom a beneficiary is dependent or otherwise connected and recommendations as to the merits of possible remedies, including the merits of imposing a financial management service or fiscal intermediary as has often been implemented by states in Medicaid’s Cash and Counseling program; and

(3) a description of the marketplace and consumer understanding of long-term insurance offerings and recommendations as to the merits of possible remedies, including the merits of standardizing insurance offerings to improve consumer understanding.
SEC. 8. REPORT ON REMAINING LONG-TERM SUPPORTS AND SERVICES NEEDS.

Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the Secretary of Health and Human Services, acting through the Administrator of the Administration on Community Living and in consultation with the Commissioner of Social Security, shall submit a plan to Congress that includes—

(1) estimates of the long-term services and supports needed by individuals who are not eligible for benefits under section 235 of the Social Security Act, including individuals disabled in childhood, individuals living with disabilities before retirement age, and individuals who are not insured for benefits under such section; and

(2) proposed strategies and costs of mitigating unmet needs for such individuals.