

106TH CONGRESS
2D SESSION

H. R. 5184

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2000

Mr. MOORE (for himself, Mr. STENHOLM, Mr. BERRY, Mr. TANNER, Mr. MINGE, Mr. SANDLIN, Mr. PHELPS, Mrs. TAUSCHER, Mr. SISISKY, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Ms. DANNER, Ms. SANCHEZ, Mr. THOMPSON of California, Mr. BOYD, and Mr. LUCAS of Kentucky) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans, and for other purposes.

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 “Small Business Health
5 Insurance Expansion Act of 2000”.

1 **SEC. 2. DEDUCTION FOR 100 PERCENT OF HEALTH INSUR-**
2 **ANCE COSTS OF SELF-EMPLOYED INDIVID-**
3 **UALS.**

4 (a) IN GENERAL.—Paragraph (1) of section 162(l)
5 is amended to read as follows:

6 “(1) ALLOWANCE OF DEDUCTION.—In the case
7 of an individual who is an employee within the
8 meaning of section 401(c)(1), there shall be allowed
9 as a deduction under this section an amount equal
10 to 100 percent of the amount paid during the tax-
11 able year for insurance which constitutes medical
12 care for the taxpayer and the taxpayer’s spouse and
13 dependents.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2000.

17 **SEC. 3. CREDIT FOR HEALTH INSURANCE EXPENSES OF**
18 **SMALL BUSINESSES.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of
21 1986 (relating to business-related credits) is amended by
22 adding at the end the following:

23 **“SEC. 45D. SMALL BUSINESS HEALTH INSURANCE EX-**
24 **PENSES.**

25 “(a) GENERAL RULE.—For purposes of section 38,
26 in the case of a small employer, the health insurance credit

1 determined under this section for the taxable year is an
2 amount equal to the applicable percentage of the expenses
3 paid by the taxpayer during the taxable year for health
4 insurance coverage for such year provided under a new
5 health plan for employees of such employer.

6 “(b) APPLICABLE PERCENTAGE.—For purposes of
7 subsection (a), the applicable percentage is—

8 “(1) in the case of insurance purchased as a
9 member of a qualified health benefit purchasing coa-
10 lition (as defined in section 9841), 30 percent, and

11 “(2) in the case of insurance not described in
12 paragraph (1), 20 percent.

13 “(c) LIMITATIONS.—

14 “(1) PER EMPLOYEE DOLLAR LIMITATION.—

15 The amount of expenses taken into account under
16 subsection (a) with respect to any employee for any
17 taxable year shall not exceed—

18 “(A) \$2,000 in the case of self-only cov-
19 erage, and

20 “(B) \$5,000 in the case of family coverage.

21 In the case of an employee who is covered by a new
22 health plan of the employer for only a portion of
23 such taxable year, the limitation under the preceding
24 sentence shall be an amount which bears the same
25 ratio to such limitation (determined without regard

1 to this sentence) as such portion bears to the entire
2 taxable year.

3 “(2) PERIOD OF COVERAGE.—Expenses may be
4 taken into account under subsection (a) only with
5 respect to coverage for the 4-year period beginning
6 on the date the employer establishes a new health
7 plan.

8 “(d) DEFINITIONS.—For purposes of this section—

9 “(1) HEALTH INSURANCE COVERAGE.—The
10 term ‘health insurance coverage’ has the meaning
11 given such term by section 9832(b)(1).

12 “(2) NEW HEALTH PLAN.—

13 “(A) IN GENERAL.—The term ‘new health
14 plan’ means any arrangement of the employer
15 which provides health insurance coverage to em-
16 ployees if—

17 “(i) such employer (and any prede-
18 cessor employer) did not establish or main-
19 tain such arrangement (or any similar ar-
20 rangement) at any time during the 2 tax-
21 able years ending prior to the taxable year
22 in which the credit under this section is
23 first allowed, and

24 “(ii) such arrangement provides
25 health insurance coverage to at least 70

1 percent of the qualified employees of such
2 employer.

3 “(B) QUALIFIED EMPLOYEE.—

4 “(i) IN GENERAL.—The term ‘quali-
5 fied employee’ means any employee of an
6 employer if the annual rate of such em-
7 ployee’s compensation (as defined in sec-
8 tion 414(s)) exceeds \$10,000.

9 “(ii) TREATMENT OF CERTAIN EM-
10 PLOYEES.—The term ‘employee’ shall in-
11 clude a leased employee within the mean-
12 ing of section 414(n).

13 “(3) SMALL EMPLOYER.—The term ‘small em-
14 ployer’ has the meaning given to such term by sec-
15 tion 4980D(d)(2); except that only qualified employ-
16 ees shall be taken into account.

17 “(e) SPECIAL RULES.—

18 “(1) CERTAIN RULES MADE APPLICABLE.—For
19 purposes of this section, rules similar to the rules of
20 section 52 shall apply.

21 “(2) AMOUNTS PAID UNDER SALARY REDUC-
22 TION ARRANGEMENTS.—No amount paid or incurred
23 pursuant to a salary reduction arrangement shall be
24 taken into account under subsection (a).

1 “(f) TERMINATION.—This section shall not apply to
2 expenses paid or incurred by an employer with respect to
3 any arrangement established on or after January 1,
4 2009.”.

5 (b) CREDIT TO BE PART OF GENERAL BUSINESS
6 CREDIT.—Section 38(b) of such Code (relating to current
7 year business credit) is amended by striking “plus” at the
8 end of paragraph (11), by striking the period at the end
9 of paragraph (12) and inserting “, plus”, and by adding
10 at the end the following:

11 “(13) in the case of a small employer (as de-
12 fined in section 45D(d)(3)), the health insurance
13 credit determined under section 45D(a).”

14 (c) NO CARRYBACKS.—Subsection (d) of section 39
15 of such Code (relating to carryback and carryforward of
16 unused credits) is amended by adding at the end the fol-
17 lowing:

18 “(9) NO CARRYBACK OF SECTION 45D CREDIT
19 BEFORE EFFECTIVE DATE.—No portion of the un-
20 used business credit for any taxable year which is
21 attributable to the employee health insurance ex-
22 penses credit determined under section 45D may be
23 carried back to a taxable year ending before the date
24 of the enactment of section 45D.”

1 (d) DENIAL OF DOUBLE BENEFIT.—Section 280C of
2 such Code is amended by adding at the end the following
3 new subsection:

4 “(d) CREDIT FOR SMALL BUSINESS HEALTH INSUR-
5 ANCE EXPENSES.—

6 “(1) IN GENERAL.—No deduction shall be al-
7 lowed for that portion of the expenses (otherwise al-
8 lowable as a deduction) taken into account in deter-
9 mining the credit under section 45D for the taxable
10 year which is equal to the amount of the credit de-
11 termined for such taxable year under section
12 45D(a).

13 “(2) CONTROLLED GROUPS.—Persons treated
14 as a single employer under subsection (a) or (b) of
15 section 52 shall be treated as 1 person for purposes
16 of this section.”

17 (e) CLERICAL AMENDMENT.—The table of sections
18 for subpart D of part IV of subchapter A of chapter 1
19 of such Code is amended by adding at the end the fol-
20 lowing:

“Sec. 45D. Small business health insurance expenses.”

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2000, for ar-
24 rangements established after the date of the enactment
25 of this Act.

1 **SEC. 4. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO**
2 **QUALIFIED HEALTH BENEFIT PURCHASING**
3 **COALITIONS.**

4 (a) IN GENERAL.—Section 4942 of the Internal Rev-
5 enue Code of 1986 (relating to taxes on failure to dis-
6 tribute income) is amended by adding at the end the fol-
7 lowing:

8 “(k) CERTAIN QUALIFIED HEALTH BENEFIT PUR-
9 CHASING COALITION DISTRIBUTIONS.—

10 “(1) IN GENERAL.—For purposes of subsection
11 (g), sections 170, 501, 507, 509, and 2522, and this
12 chapter, a qualified health benefit purchasing coali-
13 tion distribution by a private foundation shall be
14 considered to be a distribution for a charitable pur-
15 pose.

16 “(2) QUALIFIED HEALTH BENEFIT PUR-
17 CHASING COALITION DISTRIBUTION.—For purposes
18 of paragraph (1)—

19 “(A) IN GENERAL.—The term ‘qualified
20 health benefit purchasing coalition distribution’
21 means any amount paid or incurred by a pri-
22 vate foundation to or on behalf of a qualified
23 health benefit purchasing coalition (as defined
24 in section 9841) for purposes of payment or re-
25 imbursement of amounts paid or incurred in

1 connection with the establishment and mainte-
2 nance of such coalition.

3 “(B) EXCLUSIONS.—Such term shall not
4 include any amount used by a qualified health
5 benefit purchasing coalition (as so defined)—

6 “(i) for the purchase of real property,

7 “(ii) as payment to, or for the benefit
8 of, members (or employees or affiliates of
9 such members) of such coalition, or

10 “(iii) for any expense paid or incurred
11 more than 48 months after the date of es-
12 tablishment of such coalition.

13 “(3) TERMINATION.—This subsection shall not
14 apply—

15 “(A) to qualified health benefit purchasing
16 coalition distributions paid or incurred after
17 December 31, 2008, and

18 “(B) with respect to start-up costs of a co-
19 alition which are paid or incurred after Decem-
20 ber 31, 2010.”.

21 (b) QUALIFIED HEALTH BENEFIT PURCHASING CO-
22 ALITION.—

23 (1) IN GENERAL.—Chapter 100 of such Code
24 (relating to group health plan requirements) is

1 amended by adding at the end the following new
2 subchapter:

3 **“Subchapter D—Qualified Health Benefit**
4 **Purchasing Coalition**

“Sec. 9841. Qualified health benefit purchasing coalition.

5 **“SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING CO-**
6 **ALITION.**

7 “(a) IN GENERAL.—A qualified health benefit pur-
8 chasing coalition is a private not-for-profit corporation
9 which—

10 “(1) sells health insurance through State li-
11 censed health insurance issuers in the State in which
12 the employers to which such coalition is providing
13 insurance are located, and

14 “(2) establishes to the Secretary, under State
15 certification procedures or other procedures as the
16 Secretary may provide by regulation, that such coali-
17 tion meets the requirements of this section.

18 “(b) BOARD OF DIRECTORS.—

19 “(1) IN GENERAL.—Each purchasing coalition
20 under this section shall be governed by a Board of
21 Directors.

22 “(2) ELECTION.—The Secretary shall establish
23 procedures governing election of such Board.

1 “(3) MEMBERSHIP.—The Board of Directors
2 shall—

3 “(A) be composed of representatives of the
4 members of the coalition, in equal number, in-
5 cluding small employers and employee rep-
6 resentatives of such employers, but

7 “(B) not include other interested parties,
8 such as service providers, health insurers, or in-
9 surance agents or brokers which may have a
10 conflict of interest with the purposes of the coa-
11 lition.

12 “(c) MEMBERSHIP OF COALITION.—

13 “(1) IN GENERAL.—A purchasing coalition
14 shall accept all small employers residing within the
15 area served by the coalition as members if such em-
16 ployers request such membership.

17 “(2) OTHER MEMBERS.—The coalition, at the
18 discretion of its Board of Directors, may be open to
19 individuals and large employers.

20 “(3) VOTING.—Members of a purchasing coali-
21 tion shall have voting rights consistent with the rules
22 established by the State.

23 “(d) DUTIES OF PURCHASING COALITIONS.—Each
24 purchasing coalition shall—

1 “(1) enter into agreements with small employ-
2 ers (and, at the discretion of its Board, with individ-
3 uals and other employers) to provide health insur-
4 ance benefits to employees and retirees of such em-
5 ployers,

6 “(2) where feasible, enter into agreements with
7 3 or more unaffiliated, qualified licensed health
8 plans, to offer benefits to members,

9 “(3) offer to members at least 1 open enroll-
10 ment period of at least 30 days per calendar year,

11 “(4) serve a significant geographical area and
12 market to all eligible members in that area, and

13 “(5) carry out other functions provided for
14 under this section.

15 “(e) LIMITATION ON ACTIVITIES.—A purchasing coa-
16 lition shall not—

17 “(1) perform any activity (including certifi-
18 cation or enforcement) relating to compliance or li-
19 censing of health plans,

20 “(2) assume insurance or financial risk in rela-
21 tion to any health plan, or

22 “(3) perform other activities identified by the
23 State as being inconsistent with the performance of
24 its duties under this section.

1 “(f) ADDITIONAL REQUIREMENTS FOR PURCHASING
2 COALITIONS.—As provided by the Secretary in regula-
3 tions, a purchasing coalition shall be subject to require-
4 ments similar to the requirements of a group health plan
5 under this chapter.

6 “(g) RELATION TO OTHER LAWS.—

7 “(1) PREEMPTION OF STATE FICTITIOUS
8 GROUP LAWS.—Requirements (commonly referred to
9 as fictitious group laws) relating to grouping and
10 similar requirements for health insurance coverage
11 are preempted to the extent such requirements im-
12 pede the establishment and operation of qualified
13 health benefit purchasing coalitions.

14 “(2) ALLOWING SAVINGS TO BE PASSED
15 THROUGH.—Any State law that prohibits health in-
16 surance issuers from reducing premiums on health
17 insurance coverage sold through a qualified health
18 benefit purchasing coalition to reflect administrative
19 savings is preempted. This paragraph shall not be
20 construed to preempt State laws that impose restric-
21 tions on premiums based on health status, claims
22 history, industry, age, gender, or other underwriting
23 factors.

24 “(3) NO WAIVER OF HIPAA REQUIREMENTS.—
25 Nothing in this section shall be construed to change

1 the obligation of health insurance issuers to comply
2 with the requirements of title XXVII of the Public
3 Health Service Act with respect to health insurance
4 coverage offered to small employers in the small
5 group market through a qualified health benefit pur-
6 chasing coalition.

7 “(h) DEFINITION OF SMALL EMPLOYER.—For pur-
8 poses of this section—

9 “(1) IN GENERAL.—The term ‘small employer’
10 means, with respect to any calendar year, any em-
11 ployer if such employer employed an average of at
12 least 2 and not more than 50 qualified employees on
13 business days during either of the 2 preceding cal-
14 endar years. For purposes of the preceding sentence,
15 a preceding calendar year may be taken into account
16 only if the employer was in existence throughout
17 such year.

18 “(2) EMPLOYERS NOT IN EXISTENCE IN PRE-
19 CEDING YEAR.—In the case of an employer which
20 was not in existence throughout the 1st preceding
21 calendar year, the determination under paragraph
22 (1) shall be based on the average number of quali-
23 fied employees that it is reasonably expected such
24 employer will employ on business days in the current
25 calendar year.”.

1 (2) CONFORMING AMENDMENT.—The table of
2 subchapters for chapter 100 of such Code is amend-
3 ed by adding at the end the following item:

 “Subchapter D. Qualified health benefit purchasing coalition.”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years beginning after
6 December 31, 2000.

7 **SEC. 5. STATE GRANT PROGRAM FOR MARKET INNOVA-**
8 **TION.**

9 (a) IN GENERAL.—The Secretary of Health and
10 Human Services (in this section referred to as the “Sec-
11 retary”) shall establish a program (in this section referred
12 to as the “program”) to award demonstration grants
13 under this section to States to allow States to demonstrate
14 the effectiveness of innovative ways to increase access to
15 health insurance through market reforms and other inno-
16 vative means. Such innovative means may include (and are
17 not limited to) any of the following:

18 (1) Alternative group purchasing or pooling ar-
19 rangements, such as a purchasing cooperatives for
20 small businesses, reinsurance pools, or high risk
21 pools.

22 (2) Individual or small group market reforms.

23 (3) Consumer education and outreach.

24 (4) Subsidies to individuals, employers, or both,
25 in obtaining health insurance.

1 (b) SCOPE; DURATION.—The program shall be lim-
2 ited to not more than 10 States and to a total period of
3 5 years, beginning on the date the first demonstration
4 grant is made.

5 (c) CONDITIONS FOR DEMONSTRATION GRANTS.—

6 (1) IN GENERAL.—The Secretary may not pro-
7 vide for a demonstration grant to a State under the
8 program unless the Secretary finds that under the
9 proposed demonstration grant—

10 (A) the State will provide for demonstrated
11 increase of access for some portion of the exist-
12 ing uninsured population through a market in-
13 novation (other than merely through a financial
14 expansion of a program initiated before the
15 date of the enactment of this Act);

16 (B) the State will comply with applicable
17 Federal laws;

18 (C) the State will not discriminate among
19 participants on the basis of any health status-
20 related factor (as defined in section 2791(d)(9)
21 of the Public Health Service Act), except to the
22 extent a State wishes to focus on populations
23 that otherwise would not obtain health insur-
24 ance because of such factors; and

1 (D) the State will provide for such evalua-
2 tion, in coordination with the evaluation re-
3 quired under subsection (d), as the Secretary
4 may specify.

5 (2) APPLICATION.—The Secretary shall not
6 provide a demonstration grant under the program to
7 a State unless—

8 (A) the State submits to the Secretary
9 such an application, in such a form and man-
10 ner, as the Secretary specifies;

11 (B) the application includes information
12 regarding how the demonstration grant will ad-
13 dress issues such as governance, targeted popu-
14 lation, expected cost, and the continuation after
15 the completion of the demonstration grant pe-
16 riod; and

17 (B) the Secretary determines that the
18 demonstration grant will be used consistent
19 with this section.

20 (3) FOCUS.—A demonstration grant proposal
21 under section need not cover all uninsured individ-
22 uals in a State or all health care benefits with re-
23 spect to such individuals.

24 (d) EVALUATION.—The Secretary shall enter into a
25 contract with an appropriate entity outside the Depart-

1 ment of Health and Human Services to conduct an overall
2 evaluation of the program at the end of the program pe-
3 riod. Such evaluation shall include an analysis of improve-
4 ments in access, costs, quality of care, or choice of cov-
5 erage, under different demonstration grants.

6 (e) OPTION TO PROVIDE FOR INITIAL PLANNING
7 GRANTS.—Notwithstanding the previous provisions of this
8 section, under the program the Secretary may provide for
9 a portion of the amounts appropriated under subsection
10 (f) (not to exceed \$5,000,000) to be made available to any
11 State for initial planning grants to permit States to de-
12 velop demonstration grant proposals under the previous
13 provisions of this section.

14 (f) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated \$100,000,000 for each
16 fiscal year to carry out this section. Amounts appropriated
17 under this subsection shall remain available until ex-
18 pended.

19 (g) STATE DEFINED.—For purposes of this section,
20 the term “State” has the meaning given such term for
21 purposes of title XIX of the Social Security Act.

○