

108TH CONGRESS
1ST SESSION

S. 1901

To amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage and to provide for the establishment of health insurance purchasing pools.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2003

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

A BILL

To amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage and to provide for the establishment of health insurance purchasing pools.

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 Care Act of 2003”.

1 **SEC. 2. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-**
2 **PENSES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 (relating to business-related credits) is amended by
6 adding at the end the following:

7 **“SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.**

8 “(a) GENERAL RULE.—For purposes of section 38,
9 in the case of a qualified small employer, the employee
10 health insurance expenses credit determined under this
11 section is an amount equal to the applicable percentage
12 of the amount paid by the taxpayer during the taxable
13 year for qualified employee health insurance expenses.

14 “(b) APPLICABLE PERCENTAGE.—

15 “(1) IN GENERAL.—For purposes of subsection
16 (a), the applicable percentage is—

17 “(A) 50 percent in the case of an employer
18 with less than 26 qualified employees,

19 “(B) 40 percent in the case of an employer
20 with more than 25 but less than 36 qualified
21 employees,

22 “(C) 30 percent in the case of an employer
23 with more than 35 but less than 51 qualified
24 employees,

1 “(D) 20 percent in the case of an employer
2 with more than 50 but less than 76 qualified
3 employees, and

4 “(E) 10 percent in the case of an employer
5 with more than 75 but less than 101 qualified
6 employees.

7 “(2) HIGH CONTRIBUTION BONUS.—With re-
8 spect to any taxable year during which a qualified
9 small employer pays 100 percent of qualified em-
10 ployee health insurance expenses for the qualified
11 employees of the small employer, the applicable per-
12 centage otherwise determined for such taxable year
13 under the preceding paragraph shall be increased by
14 5 percentage points.

15 “(c) PER EMPLOYEE DOLLAR LIMITATION.—The
16 amount of qualified employee health insurance expenses
17 taken into account under subsection (a) with respect to
18 any qualified employee for any taxable year shall not ex-
19 ceed the maximum employer contribution for self-only cov-
20 erage or family coverage (as applicable) determined under
21 section 8906(a) of title 5, United States Code, for the cal-
22 endar year in which such taxable year begins.

23 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
24 poses of this section—

25 “(1) QUALIFIED SMALL EMPLOYER.—

1 “(A) IN GENERAL.—The term ‘qualified
2 small employer’ means any small employer
3 which—

4 “(i) provides eligibility for health in-
5 surance coverage (after any waiting period
6 (as defined in section 9801(b)(4))) to all
7 qualified employees of the employer,

8 “(ii) pays at least 70 percent of the
9 cost of such coverage (60 percent in the
10 case of family coverage) for each qualified
11 employee, and

12 “(iii) in the case of a small employer
13 which is located in a State which has es-
14 tablished a health insurance purchasing
15 pool under section 3 of the Small Business
16 Health Care Act of 2003, joins such pool.

17 “(B) TRANSITION RULE FOR NEW
18 PLANS.—

19 “(i) IN GENERAL.—If a small em-
20 ployer (or any predecessor) did not provide
21 health insurance coverage to the qualified
22 employees of the employer during the em-
23 ployer’s precompliance period, then sub-
24 paragraph (A) shall be applied to such em-
25 ployer for the first 5 taxable years fol-

1 lowing such period by substituting ‘50 per-
2 cent’ for ‘70 percent’ in clause (ii) (or for
3 ‘60 percent’ in such clause, in the case of
4 family coverage).

5 “(ii) PRECOMPLIANCE PERIOD.—For
6 purposes of clause (i), the precompliance
7 periods are—

8 “(I) the period beginning with
9 the small employer’s taxable year pre-
10 ceding its first taxable year beginning
11 after the date of the enactment of this
12 section, and

13 “(II) the period beginning with
14 the small employer’s taxable year pre-
15 ceding the first taxable year for which
16 the employer meets the requirement of
17 subparagraph (A)(i).

18 An employer not in existence for any pe-
19 riod shall be treated in the same manner
20 as an employer which is in existence and
21 not providing coverage.

22 “(C) SMALL EMPLOYER.—

23 “(i) IN GENERAL.—For purposes of
24 this paragraph, the term ‘small employer’
25 means, with respect to any calendar year,

1 any employer if such employer employed
2 an average of not less than 2 and not more
3 than 100 qualified employees on business
4 days during either of the 2 preceding cal-
5 endar years. For purposes of the preceding
6 sentence, a preceding calendar year may be
7 taken into account only if the employer
8 was in existence throughout such year.

9 “(ii) EMPLOYERS NOT IN EXISTENCE
10 IN PRECEDING YEAR.—In the case of an
11 employer which was not in existence
12 throughout the 1st preceding calendar
13 year, the determination under clause (i)
14 shall be based on the average number of
15 qualified employees that it is reasonably
16 expected such employer will employ on
17 business days in the current calendar year.

18 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
19 ANCE EXPENSES.—

20 “(A) IN GENERAL.—The term ‘qualified
21 employee health insurance expenses’ means any
22 amount paid by an employer for health insur-
23 ance coverage to the extent such amount is at-
24 tributable to coverage provided to any employee
25 while such employee is a qualified employee.

1 “(B) EXCEPTION FOR AMOUNTS PAID
2 UNDER SALARY REDUCTION ARRANGEMENTS.—
3 No amount paid or incurred for health insur-
4 ance coverage pursuant to a salary reduction
5 arrangement shall be taken into account under
6 subparagraph (A).

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

10 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-
11 fied employee’ means an employee of an employer
12 who, with respect to any period, is not provided
13 health insurance coverage under—

14 “(A) a health plan of the employee’s
15 spouse,

16 “(B) title XVIII, XIX, or XXI of the So-
17 cial Security Act,

18 “(C) chapter 17 of title 38, United States
19 Code,

20 “(D) chapter 55 of title 10, United States
21 Code,

22 “(E) chapter 89 of title 5, United States
23 Code, or

24 “(F) any other provision of law.

25 “(4) EMPLOYEE—The term ‘employee’—

1 “(A) means any individual, with respect to
2 any calendar year, who is reasonably expected
3 to receive at least \$5,000 and not more than
4 \$100,000 of compensation from the employer
5 during such year,

6 “(B) does not include an employee within
7 the meaning of section 401(e)(1), and

8 “(C) includes a leased employee within the
9 meaning of section 414(n).

10 “(5) COMPENSATION.—The term ‘compensa-
11 tion’ means amounts described in section
12 6051(a)(3).

13 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-
14 poses of this section, rules similar to the rules of section
15 52 shall apply.

16 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
17 or credit under any other provision of this chapter shall
18 be allowed with respect to qualified employee health insur-
19 ance expenses taken into account under subsection (a).”.

20 (b) CREDIT TO BE PART OF GENERAL BUSINESS
21 CREDIT.—Section 38(b) of the Internal Revenue Code of
22 1986 (relating to current year business credit) is amended
23 by striking “plus” at the end of paragraph (14), by strik-
24 ing the period at the end of paragraph (15) and inserting
25 “, plus”, and by adding at the end the following:

1 “(16) the employee health insurance expenses
2 credit determined under section 45G.”.

3 (c) NO CARRYBACKS.—Subsection (d) of section 39
4 of the Internal Revenue Code of 1986 (relating to
5 carryback and carryforward of unused credits) is amended
6 by adding at the end the following:

7 “(11) NO CARRYBACK OF SECTION 45G CREDIT
8 BEFORE EFFECTIVE DATE.—No portion of the un-
9 used business credit for any taxable year which is
10 attributable to the employee health insurance ex-
11 penses credit determined under section 45G may be
12 carried back to a taxable year ending before the date
13 of the enactment of section 45G.”.

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for subpart D of part IV of subchapter A of chapter 1
16 of the Internal Revenue Code of 1986 is amended by add-
17 ing at the end the following:

 “Sec. 45G. Employee health insurance expenses.”.

18 (e) EMPLOYER OUTREACH.—The Internal Revenue
19 Service shall, in conjunction with the Small Business Ad-
20 ministration, develop materials and implement an edu-
21 cational program to ensure that business personnel are
22 aware of—

23 (1) the eligibility criteria for the tax credit pro-
24 vided under section 45G of the Internal Revenue
25 Code of 1986 (as added by this section),

1 (2) the methods to be used in calculating such
2 credit, and

3 (3) the documentation needed in order to claim
4 such credit,

5 so that the maximum number of eligible businesses may
6 claim the tax credit.

7 (f) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts paid or incurred in tax-
9 able years beginning after the date of the enactment of
10 this Act.

11 **SEC. 3. HEALTH INSURANCE PURCHASING POOLS.**

12 (a) MATCHING FUNDS FOR OPERATION OF POOLS.—

13 (1) IN GENERAL.—In the case of a State or a
14 unit of local government that establishes a health in-
15 surance purchasing pool, the Secretary of Health
16 and Human Services shall provide, from the funds
17 allocated under subsection (b), a grant equal to the
18 applicable percentage of the administrative costs as-
19 sociated with such pool.

20 (2) APPLICABLE PERCENTAGE.—For purposes
21 of paragraph (1), the applicable percentage is—

22 (A) 75 percent for the initial year of the
23 grant;

24 (B) 50 percent for year succeeding the
25 year to which subparagraph (A) is applicable;

1 (C) 25 percent for the year succeeding the
 2 year to which subparagraph (B) is applicable;
 3 and

4 (D) zero thereafter.

5 (3) SPECIAL RULE FOR LOCAL GOVERNMENT
 6 PURCHASING POOLS.—The Secretary of Health and
 7 Human Services shall not provide a grant under this
 8 section to any unit of a local government unless such
 9 unit of local government submits to the Secretary a
 10 certificate from the State in which such unit of local
 11 government is located authorizing such grant.

12 (4) HEALTH INSURANCE PURCHASING POOL.—
 13 For purposes of this section, the term “health insur-
 14 ance purchasing pool” means a purchasing pool for
 15 small employers (as defined under section 45G of
 16 the Internal Revenue Code of 1986) for the purpose
 17 of providing health insurance coverage (as defined in
 18 such section) to qualified employees (as defined in
 19 such section).

20 (b) FUNDING.—Out of the money in the Treasury of
 21 the United States not otherwise appropriated, there are
 22 authorized and appropriated such sums as are necessary
 23 to carry out this section.

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