

107TH CONGRESS  
1ST SESSION

# S. 674

To amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 2 (legislative day, MARCH 30), 2001

Ms. COLLINS (for herself and Ms. LANDRIEU) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, 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 “Access to Affordable  
5 Health Care Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) More than 43,000,000 Americans currently  
2           lack health insurance.

3           (2) The great majority of the uninsured are  
4           members of families with at least 1 full-time worker.

5           (3) Nearly half of the uninsured workers are in  
6           firms with fewer than 25 employees.

7           (4) Small employers generally face higher costs  
8           for health insurance than do larger firms, which  
9           makes small firms less likely to offer coverage.

10          (5) According to the Congressional Budget Of-  
11          fice, only 42 percent of small-firm establishments  
12          with fewer than 50 employees offer health insurance  
13          to their employees.

14          (6) The smaller the firm size, the less likely it  
15          is to offer coverage. According to the Employee Ben-  
16          efit Research Institute (EBRI), in 1998, among pri-  
17          vate sector workers in firms with fewer than 10 em-  
18          ployees, 27.4 percent received health insurance from  
19          their employers in their own name, compared with  
20          66.5 percent of workers in firms with 1,000 or more  
21          employees.

22          (b) PURPOSE.—The purpose of this Act is to provide  
23          new tax incentives to make health insurance more afford-  
24          able for small businesses, thus encouraging those busi-  
25          nesses that do not currently offer health insurance to do

1 so and discouraging businesses that currently do offer  
2 health insurance from dropping coverage because of rising  
3 costs.

4 **SEC. 3. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-**  
5 **PENSES.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-  
7 chapter A of chapter 1 of the Internal Revenue Code of  
8 1986 (relating to business-related credits) is amended by  
9 adding at the end the following:

10 **“SEC. 45E. EMPLOYEE HEALTH INSURANCE EXPENSES.**

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

17 “(b) APPLICABLE PERCENTAGE.—For purposes of  
18 subsection (a), the applicable percentage is equal to—

19 “(1) 50 percent in the case of an employer with  
20 less than 10 employees, and

21 “(2) 30 percent in the case of an employer with  
22 more than 9 but less than 26 employees.

23 “(c) PER EMPLOYEE DOLLAR LIMITATION.—The  
24 amount of qualified employee health insurance expenses  
25 taken into account under subsection (a) with respect to

1 any qualified employee for any taxable year shall not  
2 exceed—

3 “(1) \$2,000 in the case of self-only coverage,  
4 and

5 “(2) \$4,000 in the case of family coverage (as  
6 so defined).

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

9 “(1) DETERMINATION OF EMPLOYMENT.—

10 “(A) IN GENERAL.—An employer shall be  
11 considered an employer described in paragraph  
12 (1) or (2) of subsection (b) if such employer  
13 employed an average of the number of employ-  
14 ees described in such paragraph on business  
15 days during either of the 2 preceding calendar  
16 years. For purposes of the preceding sentence,  
17 a preceding calendar year may be taken into ac-  
18 count only if the employer was in existence  
19 throughout such year.

20 “(B) EMPLOYERS NOT IN EXISTENCE IN  
21 PRECEDING YEAR.—In the case of an employer  
22 which was not in existence throughout the 1st  
23 preceding calendar year, the determination  
24 under subparagraph (A) shall be based on the  
25 average number of employees that it is reason-

1 ably expected such employer will employ on  
2 business days in the current calendar year.

3 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
4 ANCE EXPENSES.—

5 “(A) IN GENERAL.—The term ‘qualified  
6 employee health insurance expenses’ means any  
7 amount paid by an employer for health insur-  
8 ance coverage to the extent such amount is at-  
9 tributable to coverage provided to any employee  
10 while such employee is a qualified employee.

11 “(B) EXCEPTION FOR AMOUNTS PAID  
12 UNDER SALARY REDUCTION ARRANGEMENTS.—  
13 No amount paid or incurred for health insur-  
14 ance coverage pursuant to a salary reduction  
15 arrangement shall be taken into account under  
16 subparagraph (A).

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

20 “(3) QUALIFIED EMPLOYEE.—

21 “(A) IN GENERAL.—The term ‘qualified  
22 employee’ means, with respect to any period, an  
23 employee of an employer if the total amount of  
24 wages paid or incurred by such employer to

1 such employee at an annual rate during the  
2 taxable year is not less than \$5,000.

3 “(B) TREATMENT OF CERTAIN EMPLOY-  
4 EES.—For purposes of subparagraph (A), the  
5 term ‘employee’—

6 “(i) shall not include an employee  
7 within the meaning of section 401(c)(1),  
8 but

9 “(ii) shall include a leased employee  
10 within the meaning of section 414(n).

11 “(C) WAGES.—The term ‘wages’ has the  
12 meaning given such term by section 3121(a)  
13 (determined without regard to any dollar limita-  
14 tion contained in such section).

15 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
16 poses of this section, rules similar to the rules of section  
17 52 shall apply.

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

22 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
23 CREDIT.—Section 38(b) of the Internal Revenue Code of  
24 1986 (relating to current year business credit) is amended  
25 by striking “plus” at the end of paragraph (12), by strik-

1 ing the period at the end of paragraph (13) and inserting  
2 “, plus”, and by adding at the end the following:

3 “(14) the employee health insurance expenses  
4 credit determined under section 45E.”.

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

9 “(10) NO CARRYBACK OF SECTION 45E CREDIT  
10 BEFORE EFFECTIVE DATE.—No portion of the un-  
11 used business credit for any taxable year which is  
12 attributable to the employee health insurance ex-  
13 penses credit determined under section 45E may be  
14 carried back to a taxable year ending before January  
15 1, 2002.”.

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

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

20 (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to amounts paid or incurred in tax-  
22 able years beginning after December 31, 2001.

1 **SEC. 4. DEDUCTION FOR HEALTH AND LONG-TERM CARE**  
 2 **INSURANCE COSTS OF INDIVIDUALS NOT**  
 3 **PARTICIPATING IN EMPLOYER-SUBSIDIZED**  
 4 **HEALTH PLANS.**

5 (a) IN GENERAL.—Part VII of subchapter B of chap-  
 6 ter 1 of the Internal Revenue Code of 1986 is amended  
 7 by redesignating section 222 as section 223 and by insert-  
 8 ing after section 221 the following new section:

9 **“SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE**  
 10 **COSTS.**

11 “(a) IN GENERAL.—In the case of an individual,  
 12 there shall be allowed as a deduction an amount equal to  
 13 the applicable percentage of the amount paid during the  
 14 taxable year for insurance which constitutes medical care  
 15 for the taxpayer and the taxpayer’s spouse and depend-  
 16 ents.

17 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 18 subsection (a), the applicable percentage shall be deter-  
 19 mined in accordance with the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2002, 2003, 2004 .....	25
2005 and 2006 .....	50
2007 and thereafter .....	100.

20 “(c) LIMITATION BASED ON OTHER COVERAGE.—

21 “(1) COVERAGE UNDER CERTAIN SUBSIDIZED  
 22 EMPLOYER PLANS.—

1           “(A) IN GENERAL.—Subsection (a) shall  
2 not apply to any taxpayer for any calendar  
3 month for which the taxpayer participates in  
4 any health plan maintained by any employer of  
5 the taxpayer or of the spouse of the taxpayer if  
6 50 percent or more of the cost of coverage  
7 under such plan (determined under section  
8 4980B and without regard to payments made  
9 with respect to any coverage described in sub-  
10 section (e)) is paid or incurred by the employer.

11           “(B) EMPLOYER CONTRIBUTIONS TO CAF-  
12 ETERIA PLANS, FLEXIBLE SPENDING ARRANGE-  
13 MENTS, AND MEDICAL SAVINGS ACCOUNTS.—  
14 Employer contributions to a cafeteria plan, a  
15 flexible spending or similar arrangement, or a  
16 medical savings account which are excluded  
17 from gross income under section 106 shall be  
18 treated for purposes of subparagraph (A) as  
19 paid by the employer.

20           “(C) AGGREGATION OF PLANS OF EM-  
21 PLOYER.—A health plan which is not otherwise  
22 described in subparagraph (A) shall be treated  
23 as described in such subparagraph if such plan  
24 would be so described if all health plans of per-  
25 sons treated as a single employer under sub-

1 sections (b), (c), (m), or (o) of section 414 were  
 2 treated as one health plan.

3 “(D) SEPARATE APPLICATION TO HEALTH  
 4 INSURANCE AND LONG-TERM CARE INSUR-  
 5 ANCE.—Subparagraphs (A) and (C) shall be  
 6 applied separately with respect to—

7 “(i) plans which include primarily cov-  
 8 erage for qualified long-term care services  
 9 or are qualified long-term care insurance  
 10 contracts, and

11 “(ii) plans which do not include such  
 12 coverage and are not such contracts.

13 “(2) COVERAGE UNDER CERTAIN FEDERAL  
 14 PROGRAMS.—

15 “(A) IN GENERAL.—Subsection (a) shall  
 16 not apply to any amount paid for any coverage  
 17 for an individual for any calendar month if, as  
 18 of the first day of such month, the individual is  
 19 covered under any medical care program de-  
 20 scribed in—

21 “(i) title XVIII, XIX, or XXI of the  
 22 Social Security Act,

23 “(ii) chapter 55 of title 10, United  
 24 States Code,

1                   “(iii) chapter 17 of title 38, United  
2 States Code,

3                   “(iv) chapter 89 of title 5, United  
4 States Code, or

5                   “(v) the Indian Health Care Improve-  
6 ment Act.

7                   “(B) EXCEPTIONS.—

8                   “(i) QUALIFIED LONG-TERM CARE.—  
9 Subparagraph (A) shall not apply to  
10 amounts paid for coverage under a quali-  
11 fied long-term care insurance contract.

12                   “(ii) CONTINUATION COVERAGE OF  
13 FEHBP.—Subparagraph (A)(iv) shall not  
14 apply to coverage which is comparable to  
15 continuation coverage under section  
16 4980B.

17                   “(d) LONG-TERM CARE DEDUCTION LIMITED TO  
18 QUALIFIED LONG-TERM CARE INSURANCE CON-  
19 TRACTS.—In the case of a qualified long-term care insur-  
20 ance contract, only eligible long-term care premiums (as  
21 defined in section 213(d)(10)) may be taken into account  
22 under subsection (a).

23                   “(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF  
24 ANCILLARY COVERAGE PREMIUMS.—Any amount paid as  
25 a premium for insurance which provides for—

1           “(1) coverage for accidents, disability, dental  
2           care, vision care, or a specified illness, or

3           “(2) making payments of a fixed amount per  
4           day (or other period) by reason of being hospitalized.  
5           shall not be taken into account under subsection (a).

6           “(f) SPECIAL RULES.—

7           “(1) COORDINATION WITH DEDUCTION FOR  
8           HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
9           DIVIDUALS.—The amount taken into account by the  
10          taxpayer in computing the deduction under section  
11          162(l) shall not be taken into account under this  
12          section.

13          “(2) COORDINATION WITH MEDICAL EXPENSE  
14          DEDUCTION.—The amount taken into account by  
15          the taxpayer in computing the deduction under this  
16          section shall not be taken into account under section  
17          213.

18          “(g) REGULATIONS.—The Secretary shall prescribe  
19          such regulations as may be appropriate to carry out this  
20          section, including regulations requiring employers to re-  
21          port to their employees and the Secretary such informa-  
22          tion as the Secretary determines to be appropriate.”.

23          (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
24          PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
25          of section 62 of the Internal Revenue Code of 1986 is

1 amended by inserting after paragraph (17) the following  
2 new item:

3           “(18) HEALTH AND LONG-TERM CARE INSUR-  
4 ANCE COSTS.—The deduction allowed by section  
5 222.”.

6           (c) CLERICAL AMENDMENT.—The table of sections  
7 for part VII of subchapter B of chapter 1 of the Internal  
8 Revenue Code of 1986 is amended by striking the last  
9 item and inserting the following new items:

                  “Sec. 222. Health and long-term care insurance costs.  
                  “Sec. 223. Cross reference.”.

10           (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2001.

13 **SEC. 5. DEDUCTION FOR 100 PERCENT OF HEALTH INSUR-**  
14 **ANCE COSTS OF SELF-EMPLOYED INDIVID-**  
15 **UALS.**

16           (a) IN GENERAL.—Paragraph (1) of section 162(l)  
17 of the Internal Revenue Code of 1986 is amended to read  
18 as follows:

19           “(1) ALLOWANCE OF DEDUCTION.—In the case  
20 of an individual who is an employee within the  
21 meaning of section 401(c)(1), there shall be allowed  
22 as a deduction under this section an amount equal  
23 to 100 percent of the amount paid during the tax-  
24 able year for insurance which constitutes medical

1 care for the taxpayer and the taxpayer's spouse and  
2 dependents.”.

3 (b) CLARIFICATION OF LIMITATIONS ON OTHER COV-  
4 ERAGE.—The first sentence of section 162(l)(2)(B) of the  
5 Internal Revenue Code of 1986 is amended to read as fol-  
6 lows: “Paragraph (1) shall not apply to any taxpayer for  
7 any calendar month for which the taxpayer participates  
8 in any subsidized health plan maintained by any employer  
9 (other than an employer described in section 401(c)(4))  
10 of the taxpayer or the spouse of the taxpayer.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2001.

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