

108TH CONGRESS
1ST SESSION

H. R. 1936

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

MAY 1, 2003

Mr. MOORE (for himself, Mr. HOLDEN, Mrs. TAUSCHER, Mr. KIND, Mr. ROSS, Mr. ABERCROMBIE, Mr. BOYD, Mr. TURNER of Texas, Mr. BERRY, Mr. STENHOLM, and Mr. SANDLIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Small Business, 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 2003”.

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, 2003.

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. 45G. 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), 40 percent, and

11 “(2) in the case of insurance not described in
12 paragraph (1), 30 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) in the case of insurance purchased as
19 a member of a coalition referred to in sub-
20 section (b)(1)—

21 “(i) \$800 in the case of self-only cov-
22 erage, and

23 “(ii) \$2,000 in the case of family cov-
24 erage, and

25 “(B) in any other case—

1 “(i) \$600 in the case of self-only cov-
2 erage, and

3 “(ii) \$1,500 in the case of family cov-
4 erage.

5 In the case of an employee who is covered by a new
6 health plan of the employer for only a portion of
7 such taxable year, the limitation under the preceding
8 sentence shall be an amount which bears the same
9 ratio to such limitation (determined without regard
10 to this sentence) as such portion bears to the entire
11 taxable year.

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

17 “(3) EMPLOYER MUST BEAR 65 PERCENT OF
18 COST.—Expenses may be taken into account under
19 subsection (a) only if at least 65 percent of the cost
20 of the coverage (without regard to this section) is
21 borne by the employer.

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

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

1 “(2) NEW HEALTH PLAN.—

2 “(A) IN GENERAL.—The term ‘new health
3 plan’ means any arrangement of the employer
4 which provides health insurance coverage to em-
5 ployees if—

6 “(i) such employer (and any prede-
7 cessor employer) did not establish or main-
8 tain such arrangement (or any similar ar-
9 rangement) at any time during the 2 tax-
10 able years ending prior to the taxable year
11 in which the credit under this section is
12 first allowed, and

13 “(ii) such arrangement provides
14 health insurance coverage to at least 70
15 percent of the qualified employees of such
16 employer.

17 “(B) QUALIFIED EMPLOYEE.—

18 “(i) IN GENERAL.—The term ‘quali-
19 fied employee’ means any employee of an
20 employer if the annual rate of such em-
21 ployee’s compensation (as defined in sec-
22 tion 414(s)) does not exceed \$40,000.

23 “(ii) TREATMENT OF CERTAIN EM-
24 PLOYEES.—The term ‘employee’ shall in-

1 clude a leased employee within the mean-
2 ing of section 414(n).

3 “(iii) REDUCTION OF CREDIT FOR EM-
4 PLOYEES EARNING MORE THAN \$30,000.—
5 If the annual rate of an employee’s com-
6 pensation (as defined in section 414(s)) ex-
7 ceeds \$30,000, the limitation under sub-
8 section (c)(1) (determined without regard
9 to this clause) shall be reduced (but not
10 below zero) by an amount which bears the
11 same ratio to such limitation as such ex-
12 cess bears to \$10,000.

13 “(iv) EMPLOYEES HAVING FAMILY
14 COVERAGE.—In the case of an employee
15 who has family coverage—

16 “(I) clause (i) shall be applied by
17 substituting ‘\$50,000’ for ‘\$40,000’,
18 and

19 “(II) clause (iii) shall be applied
20 by substituting ‘\$40,000’ for
21 ‘\$30,000’.

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

1 “(e) SPECIAL RULES.—

2 “(1) CERTAIN RULES MADE APPLICABLE.—For
3 purposes of this section, rules similar to the rules of
4 section 52 shall apply.

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

9 “(3) INFLATION ADJUSTMENT.—In the case of
10 any taxable year beginning in a calendar year after
11 2004, each dollar amount contained in subsections
12 (c)(1) and (d)(2)(B) shall be increased by an
13 amount equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment deter-
16 mined under section 1(f)(3) for the calendar
17 year in which the taxable year begins, deter-
18 mined by substituting ‘calendar year 2003’ for
19 ‘calendar year 1992’ in subparagraph (B)
20 thereof.

21 Any increase determined under the preceding sen-
22 tence shall be rounded to the nearest multiple of
23 \$50.

24 “(f) TERMINATION.—This section shall not apply to
25 expenses paid or incurred by an employer with respect to

1 any arrangement established on or after January 1,
2 2010.”.

3 (b) CREDIT TO BE PART OF GENERAL BUSINESS
4 CREDIT.—Section 38(b) of such Code (relating to current
5 year business credit) is amended by striking “plus” at the
6 end of paragraph (13), by striking the period at the end
7 of paragraph (14) and inserting “, plus”, and by adding
8 at the end the following:

9 “(15) in the case of a small employer (as de-
10 fined in section 45G(d)(3)), the health insurance
11 credit determined under section 45G(a).”

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

16 “(11) NO CARRYBACK OF SECTION 45G CREDIT
17 BEFORE EFFECTIVE DATE.—No portion of the un-
18 used business credit for any taxable year which is
19 attributable to the employee health insurance ex-
20 penses credit determined under section 45G may be
21 carried back to a taxable year beginning before Jan-
22 uary 1, 2004.”

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

1 “(d) CREDIT FOR SMALL BUSINESS HEALTH INSUR-
2 ANCE EXPENSES.—

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

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

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

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

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to amounts paid or incurred in tax-
20 able years beginning after December 31, 2003, for ar-
21 rangements established after the date of the enactment
22 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, 2010, and

18 “(B) with respect to start-up costs of a co-
 19 alition which are paid or incurred after Decem-
 20 ber 31, 2012.”.

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**
6 **COALITION.**

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 health care service providers, health in-
9 surers, or insurance agents or brokers which
10 may have a conflict of interest with the pur-
11 poses of the coalition.

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 it is feasible and advisable, enter
7 into agreements with 3 or more unaffiliated, quali-
8 fied licensed health plans, to offer benefits to mem-
9 bers,

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

12 “(4)(A) serve a geographical area which, under
13 the State certification procedures referred to in sub-
14 section (a)(2), is significant, and

15 “(B) market to all eligible members in that
16 area, and

17 “(5) carry out other functions provided for
18 under this section.

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

21 “(1) perform any activity (including certifi-
22 cation or enforcement) relating to compliance or li-
23 censing of health plans,

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

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

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

9 “(g) RELATION TO OTHER LAWS.—

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

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

1 history, industry, age, gender, or other underwriting
2 factors.

3 “(3) NO WAIVER OF HIPAA REQUIREMENTS.—
4 Nothing in this section shall be construed to change
5 the obligation of health insurance issuers to comply
6 with the requirements of title XXVII of the Public
7 Health Service Act with respect to health insurance
8 coverage offered to small employers in the small
9 group market through a qualified health benefit pur-
10 chasing coalition.

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

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

22 “(2) EMPLOYERS NOT IN EXISTENCE IN PRE-
23 CEDING YEAR.—In the case of an employer which
24 was not in existence throughout the 1st preceding
25 calendar year, the determination under paragraph

1 (1) shall be based on the average number of quali-
2 fied employees that it is reasonably expected such
3 employer will employ on business days in the current
4 calendar year.”.

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

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

8 (c) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to taxable years beginning after
10 December 31, 2002.

11 **SEC. 5. STATE GRANT PROGRAM FOR MARKET INNOVA-**
12 **TION.**

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

22 (1) Alternative group purchasing or pooling ar-
23 rangements, such as a purchasing cooperatives for
24 small businesses, reinsurance pools, or high risk
25 pools.

1 (2) Individual or small group market reforms.

2 (3) Consumer education and outreach.

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

5 (b) SCOPE; DURATION.—The program shall be lim-
6 ited to not more than 10 States and to a total period of
7 5 years, beginning on the date the first demonstration
8 grant is made.

9 (c) CONDITIONS FOR DEMONSTRATION GRANTS.—

10 (1) IN GENERAL.—The Secretary may not pro-
11 vide for a demonstration grant to a State under the
12 program unless the Secretary finds that under the
13 proposed demonstration grant—

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

20 (B) the State will comply with applicable
21 Federal laws;

22 (C) the State will not discriminate among
23 participants on the basis of any health status-
24 related factor (as defined in section 2791(d)(9)
25 of the Public Health Service Act), except to the

1 extent a State wishes to focus on populations
2 that otherwise would not obtain health insur-
3 ance because of such factors; and

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

8 (2) APPLICATION.—The Secretary shall not
9 provide a demonstration grant under the program to
10 a State unless—

11 (A) the State submits to the Secretary
12 such an application, in such a form and man-
13 ner, as the Secretary specifies;

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

20 (C) the Secretary determines that the dem-
21 onstration grant will be used consistent with
22 this section.

23 (3) FOCUS.—A demonstration grant proposal
24 under section need not cover all uninsured individ-

1 uals in a State or all health care benefits with re-
2 spect to such individuals.

3 (d) EVALUATION.—The Secretary shall enter into a
4 contract with an appropriate entity outside the Depart-
5 ment of Health and Human Services to conduct an overall
6 evaluation of the program at the end of the program pe-
7 riod. Such evaluation shall include an analysis of improve-
8 ments in access, costs, quality of care, or choice of cov-
9 erage, under different demonstration grants.

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

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

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

1 **SEC. 6. GRANT PROGRAM TO FACILITATE HEALTH BENE-**
2 **FITS INFORMATION FOR SMALL EMPLOYERS.**

3 (a) IN GENERAL.—The Small Business Administra-
4 tion shall award grants to 1 or more States, local govern-
5 ments, and non-profit organizations for the purposes of—

6 (1) demonstrating new and effective ways to
7 provide information about the benefits of health in-
8 surance to small employers, including tax benefits,
9 increased productivity of employees, and decreased
10 turnover of employees,

11 (2) making employers aware of their current
12 rights in the marketplace under State and Federal
13 health insurance reforms, and

14 (3) making employers aware of the tax treat-
15 ment of insurance premiums.

16 (b) AUTHORIZATION.—There is authorized to be ap-
17 propriated \$10,000,000 for each of the first 5 fiscal years
18 beginning after the date of the enactment of this Act for
19 grants under subsection (a).

○