

108TH CONGRESS  
2D SESSION

# S. 2359

To amend the Internal Revenue Code of 1986 to provide a refundable tax credit for small business health insurance costs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 28, 2004

Mr. REID 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 a refundable tax credit for small business health insurance costs, 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 “Healthy Employees,  
5 Healthy Small Businesses Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In 2002, 44,000,000 Americans were with-  
9 out health insurance for the entire year, and the

1 vast majority of these uninsured people are in work-  
2 ing families.

3 (2) The number of employees in a business  
4 greatly affects the likelihood of whether or not its  
5 employees are offered health insurance. In 2003, 98  
6 percent of firms with over 200 employees offered  
7 health benefits, while only 55 percent of firms with  
8 under 10 workers did.

9 (3) Among uninsured workers in 2001, over  
10 half held jobs with companies having fewer than 100  
11 employees.

12 (4) The cost of health insurance for employers  
13 is very high. On average, in 2003, the total cost of  
14 an individual health plan was \$3,383, of which the  
15 employee paid an average of \$508 and the employer  
16 paid an average of \$2875. For a family policy, the  
17 average cost was \$9,068, with the employer bearing  
18 \$6,656 and the employee shouldering \$2,412.

19 **SEC. 3. REFUNDABLE CREDIT FOR SMALL BUSINESS EM-**  
20 **PLOYEE HEALTH INSURANCE EXPENSES.**

21 (a) IN GENERAL.—Subpart C of part IV of sub-  
22 chapter A of chapter 1 of the Internal Revenue Code of  
23 1986 (relating to refundable credits) is amended by redес-  
24 ignating section 36 as section 37 and inserting after sec-  
25 tion 35 the following new section:

1 **“SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE**  
2 **EXPENSES.**

3 “(a) DETERMINATION OF AMOUNT.—In the case of  
4 a qualified small employer, there shall be allowed as a  
5 credit against the tax imposed by this subtitle for the tax-  
6 able year an amount equal to the expense amount de-  
7 scribed in subsection (b) paid by the taxpayer during the  
8 taxable year.

9 “(b) SUBSECTION (b) EXPENSE AMOUNT.—For pur-  
10 poses of this section—

11 “(1) IN GENERAL.—The expense amount de-  
12 scribed in this subsection is the applicable percent-  
13 age of the amount of qualified employee health in-  
14 surance expenses of each qualified employee.

15 “(2) APPLICABLE PERCENTAGE.—For purposes  
16 of paragraph (1), the applicable percentage is equal  
17 to—

18 “(A) for any qualified small employer de-  
19 scribed in subparagraph (A) of paragraph (4),  
20 50 percent,

21 “(B) for any qualified small employer de-  
22 scribed in subparagraph (B) of paragraph (4),  
23 35 percent, and

24 “(C) for any qualified small employer de-  
25 scribed in subparagraph (C) of paragraph (4),  
26 25 percent.

1 “(3) PER EMPLOYEE DOLLAR LIMITATION.—

2 “(A) IN GENERAL.—The amount of quali-  
3 fied employee health insurance expenses taken  
4 into account under paragraph (1) with respect  
5 to any qualified employee for any taxable year  
6 shall not exceed—

7 “(i) for any qualified small employer  
8 described in subparagraph (A) of para-  
9 graph (4)—

10 “(I) \$1,500 in the case of self-  
11 only coverage, and

12 “(II) \$3,400 in the case of family  
13 coverage,

14 “(ii) for any qualified small employer  
15 described in subparagraph (B) of para-  
16 graph (4)—

17 “(I) \$1,100 in the case of self-  
18 only coverage, and

19 “(II) \$2,400 in the case of family  
20 coverage, and

21 “(iii) for any qualified small employer  
22 described in subparagraph (C) of para-  
23 graph (4)—

24 “(I) \$750 in the case of self-only  
25 coverage, and

1 “(II) \$1,700 in the case of family  
2 coverage.

3 “(B) INFLATION ADJUSTMENT.—

4 “(i) IN GENERAL.—In the case of any  
5 taxable year beginning after 2006, each  
6 dollar amount referred to in subparagraph  
7 (A) shall be increased by an amount equal  
8 to—

9 “(I) such dollar amount, multi-  
10 plied by

11 “(II) the cost-of-living adjust-  
12 ment determined under section  
13 (1)(f)(3) for the calendar year in  
14 which the taxable year begins, by sub-  
15 stituting ‘2005’ for ‘1992’.

16 “(ii) ROUNDING.—If any amount as  
17 adjusted under clause (i) is not a multiple  
18 of \$100, such amount shall be rounded to  
19 the next lowest multiple of \$100.

20 “(4) QUALIFIED SMALL EMPLOYERS DE-  
21 SCRIBED.—A qualified small employer is described  
22 in—

23 “(A) this subparagraph if such employer  
24 employed an average of 9 or fewer employees  
25 (as determined under subsection (c)(1)(A)(ii)),

1           “(B) this subparagraph if such employer  
2 employed an average of more than 9 but less  
3 than 25 employees (as so determined), and

4           “(C) this subparagraph if such employer  
5 employed an average of more than 24 but not  
6 more than 50 employees (as so determined).

7           “(c) DEFINITIONS.—For purposes of this section—

8           “(1) QUALIFIED SMALL EMPLOYER.—

9           “(A) IN GENERAL.—The term ‘qualified  
10 small employer’ means, with respect to any cal-  
11 endar year, any employer if—

12           “(i) such employer pays or incurs at  
13 least 75 percent of the qualified employee  
14 health insurance expenses of each qualified  
15 employee (determined without regard to  
16 subsection (b)(3)), and

17           “(ii) such employer employed an aver-  
18 age of 50 or fewer employees on business  
19 days during either of the 2 preceding cal-  
20 endar years.

21           For purposes of clause (ii), a preceding cal-  
22 endar year may be taken into account only if  
23 the employer was in existence throughout such  
24 year.

1           “(B) EMPLOYERS NOT IN EXISTENCE IN  
2           PRECEDING YEAR.—In the case of an employer  
3           which was not in existence throughout the 1st  
4           preceding calendar year, the determination  
5           under subparagraph (A)(ii) shall be based on  
6           the average number of employees that it is rea-  
7           sonably expected such employer will employ on  
8           business days in the current calendar year.

9           “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
10          ANCE EXPENSES.—

11           “(A) IN GENERAL.—The term ‘qualified  
12           employee health insurance expenses’ means any  
13           amount paid by an employer for health insur-  
14           ance coverage (as defined in section 9832(b)(1))  
15           to the extent such amount is attributable to  
16           coverage provided to any employee while such  
17           employee is a qualified employee.

18           “(B) EXCEPTION FOR AMOUNTS PAID  
19           UNDER SALARY REDUCTION ARRANGEMENTS.—  
20           No amount paid or incurred for health insur-  
21           ance coverage pursuant to a salary reduction  
22           arrangement shall be taken into account under  
23           subparagraph (A).

24           “(3) QUALIFIED EMPLOYEE.—

1           “(A) IN GENERAL.—The term ‘qualified  
2 employee’ means, with respect to any period, an  
3 employee of an employer if—

4           “(i) the annual amount of hours in  
5 the employ of such employer by such em-  
6 ployee is at least 400 hours,

7           “(ii) the total amount of wages paid  
8 or incurred by such employer to such em-  
9 ployee at an annual rate during the taxable  
10 year is at least \$5,000, and

11           “(iii) such employee is not eligible  
12 for—

13           “(I) any benefits under title  
14 XVIII, XIX, or XXI of the Social Se-  
15 curity Act, or

16           “(II) any other publicly-spon-  
17 sored health insurance program.

18           “(B) TREATMENT OF CERTAIN EMPLOY-  
19 EES.—For purposes of subparagraph (A), the  
20 term ‘employee’—

21           “(i) shall not include an employee  
22 within the meaning of section 401(c)(1),  
23 and

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

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

5           “(d) CERTAIN RULES MADE APPLICABLE.—For pur-  
6           poses of this section, rules similar to the rules of section  
7           52 shall apply.

8           “(e) COORDINATION WITH DEDUCTION FOR HEALTH  
9           INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—  
10          In the case of a taxpayer who is eligible to deduct any  
11          amount under section 162(l) for the taxable year, this sec-  
12          tion shall apply only if the taxpayer elects not to claim  
13          any amount as a deduction under such section for such  
14          year.”.

15          (b) CONFORMING AMENDMENTS.—

16                 (1) Paragraph (2) of section 1324(b) of title  
17                 31, United States Code, is amended by inserting be-  
18                 fore the period “, or from section 36 of such Code”.

19                 (2) The table of sections for subpart C of part  
20                 IV of subchapter A of chapter 1 of the Internal Rev-  
21                 enue Code of 1986 is amended by striking the last  
22                 item and inserting the following new items:

                  “Sec. 36. Small business employee health insurance expenses.

                  “Sec. 37. Overpayments of tax.”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to amounts paid or incurred in tax-  
3 able years beginning after December 31, 2004.

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