

109TH CONGRESS
1ST SESSION

H. R. 2002

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

APRIL 28, 2005

Mr. MOORE of Kansas 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 Affordability Act of 2005”.

1 **SEC. 2. CREDIT FOR HEALTH INSURANCE EXPENSES OF**
2 **SMALL BUSINESSES.**

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. 45J. SMALL BUSINESS HEALTH INSURANCE EX-**
8 **PENSES.**

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

16 “(b) **APPLICABLE PERCENTAGE.**—For purposes of
17 subsection (a), the applicable percentage is—

18 “(1) in the case of insurance purchased as a
19 member of a qualified health benefit purchasing coa-
20 lition (as defined in section 9841), 40 percent, and

21 “(2) in the case of insurance not described in
22 paragraph (1), 30 percent.

23 “(c) **LIMITATIONS.**—

24 “(1) **PER EMPLOYEE DOLLAR LIMITATION.**—

25 The amount of expenses taken into account under

1 subsection (a) with respect to any employee for any
2 taxable year shall not exceed—

3 “(A) in the case of insurance purchased as
4 a member of a coalition referred to in sub-
5 section (b)(1)—

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

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

10 “(B) in any other case—

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

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

15 In the case of an employee who is covered for only
16 a portion of such taxable year, the limitation under
17 the preceding sentence shall be an amount which
18 bears the same ratio to such limitation (determined
19 without regard to this sentence) as such portion
20 bears to the entire taxable year.

21 “(2) PERIOD OF COVERAGE.—Expenses may be
22 taken into account under subsection (a) only with
23 respect to coverage for the 4-year period beginning
24 on the later of—

1 “(A) the date of the enactment of this sec-
2 tion, or

3 “(B) the earliest date that the employee is
4 covered under the plan.

5 “(3) EMPLOYER MUST BEAR 65 PERCENT OF
6 COST AND COVER 70 PERCENT OF QUALIFIED EM-
7 PLOYEES.—Expenses may be taken into account
8 under subsection (a) only if—

9 “(A) at least 65 percent of the cost of the
10 coverage (without regard to this section) is
11 borne by the employer, and

12 “(B) the plan provides health insurance
13 coverage to at least 70 percent of the qualified
14 employees of such employer.

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

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

19 “(2) QUALIFIED EMPLOYEE.—

20 “(A) IN GENERAL.—The term ‘qualified
21 employee’ means any employee of an employer
22 if the annual rate of such employee’s compensa-
23 tion (as defined in section 414(s)) does not ex-
24 ceed \$40,000.

1 “(B) TREATMENT OF CERTAIN EMPLOY-
2 EES.—The term ‘employee’ shall include a
3 leased employee within the meaning of section
4 414(n).

5 “(C) REDUCTION OF CREDIT FOR EMPLOY-
6 EES EARNING MORE THAN \$30,000.—If the an-
7 nual rate of an employee’s compensation (as de-
8 fined in section 414(s)) exceeds \$30,000, the
9 applicable limitation under subsection (c)(1)
10 (determined without regard to this clause) shall
11 be reduced (but not below zero) by an amount
12 which bears the same ratio to such limitation as
13 such excess bears to \$10,000.

14 “(D) EMPLOYEES HAVING FAMILY COV-
15 ERAGE.—In the case of an employee who has
16 family coverage—

17 “(i) subparagraph (A) shall be applied
18 by substituting ‘\$50,000’ for ‘\$40,000’,
19 and

20 “(ii) subparagraph (C) shall be ap-
21 plied by substituting ‘\$40,000’ for
22 ‘\$30,000’.

23 “(3) SMALL EMPLOYER.—The term ‘small em-
24 ployer’ has the meaning given to such term by sec-

1 tion 4980D(d)(2); except that only qualified employ-
2 ees shall be taken into account.

3 “(e) SPECIAL RULES.—

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

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

11 “(3) INFLATION ADJUSTMENT.—In the case of
12 any taxable year beginning in a calendar year after
13 2006, each dollar amount contained in subsections
14 (c)(1) and (d)(2)(B) shall be increased by an
15 amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year in which the taxable year begins, deter-
20 mined by substituting ‘calendar year 2005’ for
21 ‘calendar year 1992’ in subparagraph (B)
22 thereof.

23 Any increase determined under the preceding sen-
24 tence shall be rounded to the nearest multiple of
25 \$50.

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 2010.”.

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 (18), by striking the period at the end
9 of paragraph (19) and inserting “, plus”, and by adding
10 at the end the following:

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

14 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
15 such Code is amended by adding at the end the following
16 new subsection:

17 “(e) CREDIT FOR SMALL BUSINESS HEALTH INSUR-
18 ANCE EXPENSES.—

19 “(1) IN GENERAL.—No deduction shall be al-
20 lowed for that portion of the expenses (otherwise al-
21 lowable as a deduction) taken into account in deter-
22 mining the credit under section 45J for the taxable
23 year which is equal to the amount of the credit de-
24 termined for such taxable year under section 45J(a).

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

5 (d) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 of such Code is amended by adding at the end the fol-
8 lowing:

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

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid or incurred in tax-
11 able years beginning after December 31, 2005.

12 **SEC. 3. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO**
13 **QUALIFIED HEALTH BENEFIT PURCHASING**
14 **COALITIONS.**

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

19 “(k) CERTAIN QUALIFIED HEALTH BENEFIT PUR-
20 CHASING COALITION DISTRIBUTIONS.—

21 “(1) IN GENERAL.—For purposes of subsection
22 (g), sections 170, 501, 507, 509, and 2522, and this
23 chapter, a qualified health benefit purchasing coali-
24 tion distribution by a private foundation shall be

1 considered to be a distribution for a charitable pur-
2 pose.

3 “(2) QUALIFIED HEALTH BENEFIT PUR-
4 CHASING COALITION DISTRIBUTION.—For purposes
5 of paragraph (1)—

6 “(A) IN GENERAL.—The term ‘qualified
7 health benefit purchasing coalition distribution’
8 means any amount paid or incurred by a pri-
9 vate foundation to or on behalf of a qualified
10 health benefit purchasing coalition (as defined
11 in section 9841) for purposes of payment or re-
12 imbursement of amounts paid or incurred in
13 connection with the establishment and mainte-
14 nance of such coalition.

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

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

19 “(ii) as payment to, or for the benefit
20 of, members (or employees or affiliates of
21 such members) of such coalition, or

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

1 “(3) TERMINATION.—This subsection shall not
2 apply—

3 “(A) to qualified health benefit purchasing
4 coalition distributions paid or incurred after
5 December 31, 2010, and

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

9 (b) QUALIFIED HEALTH BENEFIT PURCHASING CO-
10 ALITION.—

11 (1) IN GENERAL.—Chapter 100 of such Code
12 (relating to group health plan requirements) is
13 amended by adding at the end the following new
14 subchapter:

15 **“Subchapter D—Qualified Health Benefit**
16 **Purchasing Coalition**

 “Sec. 9841. Qualified health benefit purchasing coalition.

17 **“SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING CO-**
18 **ALITION.**

19 “(a) IN GENERAL.—A qualified health benefit pur-
20 chasing coalition is a private not-for-profit corporation
21 which—

22 “(1) sells health insurance through State li-
23 censed health insurance issuers in the State in which

1 the employers to which such coalition is providing
2 insurance are located, and

3 “(2) establishes to the Secretary, under State
4 certification procedures or other procedures as the
5 Secretary may provide by regulation, that such coali-
6 tion meets the requirements of this section.

7 “(b) BOARD OF DIRECTORS.—

8 “(1) IN GENERAL.—Each purchasing coalition
9 under this section shall be governed by a Board of
10 Directors.

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

13 “(3) MEMBERSHIP.—The Board of Directors
14 shall—

15 “(A) be composed of representatives of the
16 members of the coalition, in equal number, in-
17 cluding small employers and employee rep-
18 resentatives of such employers, but

19 “(B) not include other interested parties,
20 such as health care service providers, health in-
21 surers, or insurance agents or brokers which
22 may have a conflict of interest with the pur-
23 poses of the coalition.

24 “(c) MEMBERSHIP OF COALITION.—

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

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

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

11 “(d) DUTIES OF PURCHASING COALITIONS.—Each
12 purchasing coalition shall—

13 “(1) enter into agreements with small employ-
14 ers (and, at the discretion of its Board, with individ-
15 uals and other employers) to provide health insur-
16 ance benefits to employees and retirees of such em-
17 ployers,

18 “(2) where it is feasible and advisable, enter
19 into agreements with 3 or more unaffiliated, quali-
20 fied licensed health plans, to offer benefits to mem-
21 bers,

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

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

4 “(B) market to all eligible members in that
5 area, and

6 “(5) carry out other functions provided for
7 under this section.

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

10 “(1) perform any activity (including certifi-
11 cation or enforcement) relating to compliance or li-
12 censing of health plans,

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

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

18 “(f) ADDITIONAL REQUIREMENTS FOR PURCHASING
19 COALITIONS.—As provided by the Secretary in regula-
20 tions, a purchasing coalition shall be subject to require-
21 ments similar to the requirements of a group health plan
22 under this chapter.

23 “(g) RELATION TO OTHER LAWS.—

24 “(1) PREEMPTION OF STATE FICTITIOUS
25 GROUP LAWS.—Requirements (commonly referred to

1 as fictitious group laws) relating to grouping and
2 similar requirements for health insurance coverage
3 are preempted to the extent such requirements im-
4 pede the establishment and operation of qualified
5 health benefit purchasing coalitions.

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

16 “(3) NO WAIVER OF HIPAA REQUIREMENTS.—
17 Nothing in this section shall be construed to change
18 the obligation of health insurance issuers to comply
19 with the requirements of title XXVII of the Public
20 Health Service Act with respect to health insurance
21 coverage offered to small employers in the small
22 group market through a qualified health benefit pur-
23 chasing coalition.

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

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

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

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

“SUBCHAPTER D. QUALIFIED HEALTH BENEFIT PURCHASING COALITION”.

21 (c) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to taxable years beginning after
23 December 31, 2004.

1 **SEC. 4. STATE GRANT PROGRAM FOR MARKET INNOVA-**
2 **TION.**

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

12 (1) Alternative group purchasing or pooling ar-
13 rangements, such as a purchasing cooperatives for
14 small businesses, reinsurance pools, or high risk
15 pools.

16 (2) Individual or small group market reforms.

17 (3) Consumer education and outreach.

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

20 (b) SCOPE; DURATION.—The program shall be lim-
21 ited to not more than 10 States and to a total period of
22 5 years, beginning on the date the first demonstration
23 grant is made.

24 (c) CONDITIONS FOR DEMONSTRATION GRANTS.—

25 (1) IN GENERAL.—The Secretary may not pro-
26 vide for a demonstration grant to a State under the

1 program unless the Secretary finds that under the
2 proposed demonstration grant—

3 (A) the State will provide for demonstrated
4 increase of access for some portion of the exist-
5 ing uninsured population through a market in-
6 novation (other than merely through a financial
7 expansion of a program initiated before the
8 date of the enactment of this Act);

9 (B) the State will comply with applicable
10 Federal laws;

11 (C) the State will not discriminate among
12 participants on the basis of any health status-
13 related factor (as defined in section 2791(d)(9)
14 of the Public Health Service Act), except to the
15 extent a State wishes to focus on populations
16 that otherwise would not obtain health insur-
17 ance because of such factors; and

18 (D) the State will provide for such evalua-
19 tion, in coordination with the evaluation re-
20 quired under subsection (d), as the Secretary
21 may specify.

22 (2) APPLICATION.—The Secretary shall not
23 provide a demonstration grant under the program to
24 a State unless—

1 (A) the State submits to the Secretary
2 such an application, in such a form and man-
3 ner, as the Secretary specifies;

4 (B) the application includes information
5 regarding how the demonstration grant will ad-
6 dress issues such as governance, targeted popu-
7 lation, expected cost, and continuation after the
8 completion of the demonstration grant period;
9 and

10 (C) the Secretary determines that the dem-
11 onstration grant will be used in a manner con-
12 sistent with this section.

13 (3) FOCUS.—A demonstration grant proposal
14 under this section need not cover all uninsured indi-
15 viduals in a State or all health care benefits with re-
16 spect to such individuals.

17 (d) EVALUATION.—The Secretary shall enter into a
18 contract with an appropriate entity outside the Depart-
19 ment of Health and Human Services to conduct an overall
20 evaluation of the program at the end of the program pe-
21 riod. Such evaluation shall include an analysis of improve-
22 ments in access, costs, quality of care, or choice of cov-
23 erage, under different demonstration grants.

24 (e) OPTION TO PROVIDE FOR INITIAL PLANNING
25 GRANTS.—The Secretary may provide for a portion of the

1 amounts appropriated under subsection (f) (not to exceed
2 \$5,000,000) to be made available to any State for initial
3 planning grants to permit States to develop demonstration
4 grant proposals under this section.

5 (f) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated \$100,000,000 for each
7 fiscal year to carry out this section. Amounts appropriated
8 under this subsection shall remain available until ex-
9 pended.

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

13 **SEC. 5. GRANT PROGRAM TO FACILITATE HEALTH BENE-**
14 **FITS INFORMATION FOR SMALL EMPLOYERS.**

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

18 (1) demonstrating new and effective ways to
19 provide information about the benefits of health in-
20 surance to small employers, including tax benefits,
21 increased productivity of employees, and decreased
22 turnover of employees,

23 (2) making employers aware of their current
24 rights in the marketplace under State and Federal
25 health insurance reforms, and

1 (3) making employers aware of the tax treat-
2 ment of insurance premiums.

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

○