

108TH CONGRESS  
1ST SESSION

# H. R. 1937

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2003

Mr. MOORE 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

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## 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 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 for employees of such  
 5 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 for only  
6 a portion of such taxable year, the limitation under  
7 the preceding sentence shall be an amount which  
8 bears the same ratio to such limitation (determined  
9 without regard to this sentence) as such portion  
10 bears to the entire taxable year.

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

15 “(A) the date of the enactment of this sec-  
16 tion, or

17 “(B) the earliest date that the employee is  
18 covered under the plan.

19 “(3) EMPLOYER MUST BEAR 65 PERCENT OF  
20 COST AND COVER 70 PERCENT OF QUALIFIED EM-  
21 PLOYEES.—Expenses may be taken into account  
22 under subsection (a) only if—

23 “(A) at least 65 percent of the cost of the  
24 coverage (without regard to this section) is  
25 borne by the employer, and

1           “(B) the plan provides health insurance  
2           coverage to at least 70 percent of the qualified  
3           employees of such employer.

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

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

8           “(2) QUALIFIED EMPLOYEE.—

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

14          “(B) TREATMENT OF CERTAIN EMPLOY-  
15          EES.—The term ‘employee’ shall include a  
16          leased employee within the meaning of section  
17          414(n).

18          “(C) REDUCTION OF CREDIT FOR EMPLOY-  
19          EES EARNING MORE THAN \$30,000.—If the an-  
20          nual rate of an employee’s compensation (as de-  
21          fined in section 414(s)) exceeds \$30,000, the  
22          limitation under subsection (c)(1) (determined  
23          without regard to this clause) shall be reduced  
24          (but not below zero) by an amount which bears

1 the same ratio to such limitation as such excess  
 2 bears to \$10,000.

3 “(D) EMPLOYEES HAVING FAMILY COV-  
 4 ERAGE.—In the case of an employee who has  
 5 family coverage—

6 “(i) subparagraph (A) shall be applied  
 7 by substituting ‘\$50,000’ for ‘\$40,000’,  
 8 and

9 “(ii) subparagraph (C) shall be ap-  
 10 plied by substituting ‘\$40,000’ for  
 11 ‘\$30,000’.

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

16 “(e) SPECIAL RULES.—

17 “(1) CERTAIN RULES MADE APPLICABLE.—For  
 18 purposes of this section, rules similar to the rules of  
 19 section 52 shall apply.

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

24 “(3) INFLATION ADJUSTMENT.—In the case of  
 25 any taxable year beginning in a calendar year after

1       2004, each dollar amount contained in subsections  
 2       (c)(1) and (d)(2)(B) shall be increased by an  
 3       amount equal to—

4               “(A) such dollar amount, multiplied by

5               “(B) the cost-of-living adjustment deter-  
 6       mined under section 1(f)(3) for the calendar  
 7       year in which the taxable year begins, deter-  
 8       mined by substituting ‘calendar year 2003’ for  
 9       ‘calendar year 1992’ in subparagraph (B)  
 10       thereof.

11       Any increase determined under the preceding sen-  
 12       tence shall be rounded to the nearest multiple of  
 13       \$50.

14       “(f) TERMINATION.—This section shall not apply to  
 15       expenses paid or incurred by an employer with respect to  
 16       any arrangement established on or after January 1,  
 17       2010.”.

18       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 19       CREDIT.—Section 38(b) of such Code (relating to current  
 20       year business credit) is amended by striking “plus” at the  
 21       end of paragraph (13), by striking the period at the end  
 22       of paragraph (14) and inserting “, plus”, and by adding  
 23       at the end the following:

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

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

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

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

18           “(d) CREDIT FOR SMALL BUSINESS HEALTH INSUR-  
19      ANCE EXPENSES.—

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



1       terminated for such taxable year under section  
2       45G(a).

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

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

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

11       (f) EFFECTIVE DATE.—The amendments made by  
12      this section shall apply to amounts paid or incurred in tax-  
13      able years beginning after December 31, 2003, for ar-  
14      rangements established after the date of the enactment  
15      of this Act.

16      **SEC. 4. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO**  
17                               **QUALIFIED HEALTH BENEFIT PURCHASING**  
18                               **COALITIONS.**

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

23               “(k) CERTAIN QUALIFIED HEALTH BENEFIT PUR-  
24      CHASING COALITION DISTRIBUTIONS.—

1           “(1) IN GENERAL.—For purposes of subsection  
2           (g), sections 170, 501, 507, 509, and 2522, and this  
3           chapter, a qualified health benefit purchasing coal-  
4           ition distribution by a private foundation shall be  
5           considered to be a distribution for a charitable pur-  
6           pose.

7           “(2) QUALIFIED HEALTH BENEFIT PUR-  
8           CHASING COALITION DISTRIBUTION.—For purposes  
9           of paragraph (1)—

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

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

22                   “(i) for the purchase of real property,  
23                   “(ii) as payment to, or for the benefit  
24                   of, members (or employees or affiliates of  
25                   such members) of such coalition, or

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

4 “(3) TERMINATION.—This subsection shall not  
 5 apply—

6 “(A) to qualified health benefit purchasing  
 7 coalition distributions paid or incurred after  
 8 December 31, 2010, and

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

12 (b) QUALIFIED HEALTH BENEFIT PURCHASING CO-  
 13 ALITION.—

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

18 **“Subchapter D—Qualified Health Benefit**  
 19 **Purchasing Coalition**

“Sec. 9841. Qualified health benefit purchasing coalition.

20 **“SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING**  
 21 **COALITION.**

22 “(a) IN GENERAL.—A qualified health benefit pur-  
 23 chasing coalition is a private not-for-profit corporation  
 24 which—

1           “(1) sells health insurance through State li-  
2           censed health insurance issuers in the State in which  
3           the employers to which such coalition is providing  
4           insurance are located, and

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

9           “(b) BOARD OF DIRECTORS.—

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

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

15           “(3) MEMBERSHIP.—The Board of Directors  
16           shall—

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

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

1 “(c) MEMBERSHIP OF COALITION.—

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

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

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

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

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

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

23 “(3) offer to members at least 1 open enroll-  
24 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, 2002.



1 **SEC. 5. 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 the continuation after  
8 the completion of the demonstration grant pe-  
9 riod; and

10 (C) the Secretary determines that the dem-  
11 onstration grant will be used consistent with  
12 this section.

13 (3) FOCUS.—A demonstration grant proposal  
14 under section need not cover all uninsured individ-  
15 uals 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.—Notwithstanding the previous provisions of this

1 section, under the program the Secretary may provide for  
 2 a portion of the amounts appropriated under subsection  
 3 (f) (not to exceed \$5,000,000) to be made available to any  
 4 State for initial planning grants to permit States to de-  
 5 velop demonstration grant proposals under the previous  
 6 provisions of this section.

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

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

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

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

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

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

4           (3) making employers aware of the tax treat-  
5       ment of insurance premiums.

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

○