

108TH CONGRESS
2D SESSION

S. 2893

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 2004

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, 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 “Save Act”.

1 **TITLE I—REFUNDABLE HEALTH**
 2 **INSURANCE CREDIT**

3 **SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
 4 **COVERAGE.**

5 (a) IN GENERAL.—Subpart C of part IV of sub-
 6 chapter A of chapter 1 of the Internal Revenue Code of
 7 1986 (relating to refundable credits) is amended by redес-
 8 ignating section 36 as section 37 and by inserting after
 9 section 35 the following new section:

10 **“SEC. 36. HEALTH INSURANCE COSTS.**

11 “(a) IN GENERAL.—In the case of an individual,
 12 there shall be allowed as a credit against the tax imposed
 13 by this subtitle an amount equal to the amount paid dur-
 14 ing the taxable year for qualified health insurance for the
 15 taxpayer, his spouse, and dependents.

16 “(b) LIMITATIONS.—

17 “(1) IN GENERAL.—The amount allowed as a
 18 credit under subsection (a) to the taxpayer for the
 19 taxable year shall not exceed the sum of the monthly
 20 limitations for coverage months during such taxable
 21 year for each individual referred to in subsection (a)
 22 for whom the taxpayer paid during the taxable year
 23 any amount for coverage under qualified health in-
 24 surance.

25 “(2) PHASEOUT OF AMOUNT.—

1 “(A) REDUCTION BASED ON ADJUSTED
 2 GROSS INCOME.—The amount determined under
 3 paragraph (1) for any taxable year shall be re-
 4 duced (but not below zero) by the amount de-
 5 termined under subparagraph (B).

6 “(B) AMOUNT OF REDUCTION.—The
 7 amount determined under this subparagraph
 8 with respect to any amount determined under
 9 paragraph (1) shall be the amount which bears
 10 the same ratio to such amount determined
 11 under paragraph (1) as—

12 “(i) the excess of—

13 “(I) the taxpayer’s adjusted
 14 gross income for such taxable year,
 15 over

16 “(II) the applicable dollar
 17 amount, bears to

18 “(ii) \$10,000.

19 The rules of subparagraphs (B) and (C) of sec-
 20 tion 219(g)(2) shall apply to any reduction
 21 under this subparagraph.

22 “(C) DEFINITIONS.—For purposes of this
 23 paragraph—

“(i) adjusted gross income shall be determined in the same manner as under section 408A(c)(3)(C)(i), and

“(ii) the applicable dollar amount is—

“(I) in the case of a taxpayer filing a joint return, an amount equal to 350 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act, for a family of 4) for the taxable year,

“(II) in the case of any other taxpayer (other than a married individual filing a separate return), 350 percent of the poverty line (as so defined for an individual) for the taxable year, and

“(III) in the case of a married individual filing a separate return, zero.

“(3) MONTHLY LIMITATION.—

“(A) IN GENERAL.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to $\frac{1}{12}$ th of—

“(i) the base amount, plus

1 “(ii) 50 percent of the amount paid in
2 excess of the base amount.

3 “(B) BASE AMOUNT.—For purposes of this
4 paragraph, the base amount is—

5 “(i) \$1,000 if such individual is the
6 taxpayer,

7 “(ii) \$500 if—

8 “(I) such individual is the spouse
9 of the taxpayer,

10 “(II) the taxpayer and such
11 spouse are married as of the first day
12 of such month, and

13 “(III) the taxpayer files a joint
14 return for the taxable year, and

15 “(iii) \$500 if such individual is an in-
16 dividual for whom a deduction under sec-
17 tion 151(c) is allowable to the taxpayer for
18 such taxable year.

19 “(C) LIMITATION ON NUMBER OF INDIVID-
20 UALS OTHER THAN TAXPAYER.—Not more than
21 3 individuals may be taken into account by the
22 taxpayer under clauses (ii) and (iii) of subpara-
23 graph (B).

24 “(D) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of an individual—
25

1 “(i) who is married (within the mean-
 2 ing of section 7703) as of the close of the
 3 taxable year but does not file a joint return
 4 for such year, and

5 “(ii) who does not live apart from
 6 such individual’s spouse at all times during
 7 the taxable year,
 8 the limitation imposed by subparagraph (C)
 9 shall be divided equally between the individual
 10 and the individual’s spouse unless they agree on
 11 a different division.

12 “(4) COVERAGE MONTH.—For purposes of this
 13 subsection—

14 “(A) IN GENERAL.—The term ‘coverage
 15 month’ means, with respect to an individual,
 16 any month if—

17 “(i) as of the first day of such month
 18 such individual is covered by qualified
 19 health insurance, and

20 “(ii) the premium for coverage under
 21 such insurance for such month is paid by
 22 the taxpayer.

23 “(B) EMPLOYER-SUBSIDIZED COV-
 24 ERAGE.—

1 “(i) IN GENERAL.—Such term shall
 2 not include any month for which such indi-
 3 vidual participates in any subsidized health
 4 plan (within the meaning of section
 5 162(l)(2)) maintained by any employer of
 6 the taxpayer or of the spouse of the tax-
 7 payer.

8 “(ii) PREMIUMS TO NONSUBSIDIZED
 9 PLANS.—If an employer of the taxpayer or
 10 the spouse of the taxpayer maintains a
 11 health plan which is not a subsidized
 12 health plan (as so defined) and which con-
 13 stitutes qualified health insurance, em-
 14 ployee contributions to the plan shall be
 15 treated as amounts paid for qualified
 16 health insurance.

17 “(C) CAFETERIA PLAN AND FLEXIBLE
 18 SPENDING ACCOUNT BENEFICIARIES.—Such
 19 term shall not include any month during a tax-
 20 able year if any amount is not includible in the
 21 gross income of the taxpayer for such year
 22 under section 106 with respect to—

23 “(i) a benefit chosen under a cafeteria
 24 plan (as defined in section 125(d)), or

1 “(ii) a benefit provided under a flexi-
2 ble spending or similar arrangement.

3 “(D) MEDICARE AND MEDICAID.—Such
4 term shall not include any month with respect
5 to an individual if, as of the first day of such
6 month, such individual—

7 “(i) is entitled to any benefits under
8 title XVIII of the Social Security Act, or

9 “(ii) is a participant in the program
10 under title XIX or XXI of such Act.

11 “(E) CERTAIN OTHER COVERAGE.—Such
12 term shall not include any month during a tax-
13 able year with respect to an individual if, at any
14 time during such year, any benefit is provided
15 to such individual under—

16 “(i) chapter 89 of title 5, United
17 States Code,

18 “(ii) chapter 55 of title 10, United
19 States Code,

20 “(iii) chapter 17 of title 38, United
21 States Code, or

22 “(iv) any medical care program under
23 the Indian Health Care Improvement Act.

24 “(F) PRISONERS.—Such term shall not in-
25 clude any month with respect to an individual

1 if, as of the first day of such month, such indi-
2 vidual is imprisoned under Federal, State, or
3 local authority.

4 “(G) INSUFFICIENT PRESENCE IN UNITED
5 STATES.—Such term shall not include any
6 month during a taxable year with respect to an
7 individual if such individual is present in the
8 United States on fewer than 183 days during
9 such year (determined in accordance with sec-
10 tion 7701(b)(7)).

11 “(5) COORDINATION WITH DEDUCTION FOR
12 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
13 DIVIDUALS.—In the case of a taxpayer who is eligi-
14 ble to deduct any amount under section 162(l) for
15 the taxable year, this section shall apply only if the
16 taxpayer elects not to claim any amount as a deduc-
17 tion under such section for such year.

18 “(c) REDUCED CREDIT FOR PARTICIPANTS IN
19 HEALTH PLANS OF EMPLOYERS.—In the case of any indi-
20 vidual who participates in a subsidized health plan (within
21 the meaning of section 162(l)(2)) maintained by any em-
22 ployer of the taxpayer or of the spouse of the taxpayer
23 (not including a cafeteria plan (as defined in section
24 125(d)), there shall be allowed to the taxpayer one-half
25 of the credit that would be allowed to the taxpayer under

1 subsection (a) (determined without regard to the partici-
 2 pation in the health plan) if the monthly limitation were
 3 determined without the addition of the amount described
 4 in subsection (b)(3)(A)(ii).

5 “(d) QUALIFIED HEALTH INSURANCE.—For pur-
 6 poses of this section—

7 “(1) IN GENERAL.—The term ‘qualified health
 8 insurance’ means insurance which constitutes med-
 9 ical care as defined in section 213(d) without regard
 10 to—

11 “(A) paragraph (1)(C) thereof, and

12 “(B) so much of paragraph (1)(D) thereof
 13 as relates to qualified long-term care insurance
 14 contracts.

15 “(2) EXCLUSION OF CERTAIN OTHER CON-
 16 TRACTS.—Such term shall not include insurance if a
 17 substantial portion of its benefits are excepted bene-
 18 fits (as defined in section 9832(c)).

19 “(e) MEDICAL SAVINGS ACCOUNT AND HEALTH SAV-
 20 INGS ACCOUNT CONTRIBUTIONS.—

21 “(1) IN GENERAL.—If a deduction would (but
 22 for paragraph (2)) be allowed under section 220 or
 23 223 to the taxpayer for a payment for the taxable
 24 year to the medical savings account or health sav-
 25 ings account of an individual, subsection (a) shall be

1 applied by treating such payment as a payment for
2 qualified health insurance for such individual.

3 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
4 tion shall be allowed under section 220 or 223 for
5 that portion of the payments otherwise allowable as
6 a deduction under section 220 or 223 for the taxable
7 year which is equal to the amount of credit allowed
8 for such taxable year by reason of this subsection.

9 “(f) SPECIAL RULES.—

10 “(1) COORDINATION WITH MEDICAL EXPENSE
11 AND HIGH DEDUCTIBLE HEALTH PLAN DEDUC-
12 TIONS.—The amount which would (but for this
13 paragraph) be taken into account by the taxpayer
14 under section 213 or 224 for the taxable year shall
15 be reduced by the credit (if any) allowed by this sec-
16 tion to the taxpayer for such year.

17 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
18 credit shall be allowed under this section to any indi-
19 vidual with respect to whom a deduction under sec-
20 tion 151 is allowable to another taxpayer for a tax-
21 able year beginning in the calendar year in which
22 such individual’s taxable year begins.

23 “(3) DENIAL OF DOUBLE BENEFIT.—No credit
24 shall be allowed under subsection (a) if the credit
25 under section 35 is allowed and no credit shall be al-

1 lowed under 35 if a credit is allowed under this sec-
2 tion 35.

3 “(4) ELECTION NOT TO CLAIM CREDIT.—This
4 section shall not apply to a taxpayer for any taxable
5 year if such taxpayer elects to have this section not
6 apply for such taxable year.

7 “(5) INFLATION ADJUSTMENT.—In the case of
8 any taxable year beginning in a calendar year after
9 2005, each dollar amount contained in subsection
10 (b)(3)(B) shall be increased by an amount equal
11 to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year in which the taxable year begins, deter-
16 mined by substituting ‘calendar year 2004’ for
17 ‘calendar year 1992’ in subparagraph (B)
18 thereof.

19 Any increase determined under the preceding sen-
20 tence shall be rounded to the nearest multiple of \$50
21 (\$25 in the case of the dollar amount in subsection
22 (b)(3)(B)(iii)).’.”.

23 (b) INFORMATION REPORTING.—

24 (1) IN GENERAL.—Subpart B of part III of
25 subchapter A of chapter 61 of such Code (relating

1 to information concerning transactions with other
 2 persons) is amended by inserting after section 6050T
 3 the following new section:

4 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
 5 **QUALIFIED HEALTH INSURANCE.**

6 “(a) IN GENERAL.—Any person who, in connection
 7 with a trade or business conducted by such person, re-
 8 ceives payments during any calendar year from any indi-
 9 vidual for coverage of such individual or any other indi-
 10 vidual under creditable health insurance, shall make the
 11 return described in subsection (b) (at such time as the
 12 Secretary may by regulations prescribe) with respect to
 13 each individual from whom such payments were received.

14 “(b) FORM AND MANNER OF RETURNS.—A return
 15 is described in this subsection if such return—

16 “(1) is in such form as the Secretary may pre-
 17 scribe, and

18 “(2) contains—

19 “(A) the name, address, and TIN of the
 20 individual from whom payments described in
 21 subsection (a) were received,

22 “(B) the name, address, and TIN of each
 23 individual who was provided by such person
 24 with coverage under creditable health insurance

1 by reason of such payments and the period of
2 such coverage, and

3 “(C) such other information as the Sec-
4 retary may reasonably prescribe.

5 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
6 poses of this section, the term ‘creditable health insurance’
7 means qualified health insurance (as defined in section
8 36(c)) other than—

9 “(1) insurance under a subsidized group health
10 plan maintained by an employer, or

11 “(2) to the extent provided in regulations pre-
12 scribed by the Secretary, any other insurance cov-
13 ering an individual if no credit is allowable under
14 section 36 with respect to such coverage.

15 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
16 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
17 QUIRED.—Every person required to make a return under
18 subsection (a) shall furnish to each individual whose name
19 is required under subsection (b)(2)(A) to be set forth in
20 such return a written statement showing—

21 “(1) the name and address of the person re-
22 quired to make such return and the phone number
23 of the information contact for such person,

24 “(2) the aggregate amount of payments de-
25 scribed in subsection (a) received by the person re-

1 quired to make such return from the individual to
 2 whom the statement is required to be furnished, and
 3 “(3) the information required under subsection
 4 (b)(2)(B) with respect to such payments.

5 The written statement required under the preceding sen-
 6 tence shall be furnished on or before January 31 of the
 7 year following the calendar year for which the return
 8 under subsection (a) is required to be made.

9 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
 10 MADE BY 2 OR MORE PERSONS.—Except to the extent
 11 provided in regulations prescribed by the Secretary, in the
 12 case of any amount received by any person on behalf of
 13 another person, only the person first receiving such
 14 amount shall be required to make the return under sub-
 15 section (a).”.

16 (2) ASSESSABLE PENALTIES.—

17 (A) Subparagraph (B) of section
 18 6724(d)(1) of such Code (relating to defini-
 19 tions) is amended by redesignating clauses (xii)
 20 through (xviii) as clauses (xiii) through (xix),
 21 respectively, and by inserting after clause (xi)
 22 the following new clause:

23 “(xii) section 6050U (relating to re-
 24 turns relating to payments for qualified
 25 health insurance),”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting “, or”, and by adding at the end the following new subparagraph:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following new item:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”.

(c) CONFORMING AMENDMENTS.—

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

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

“Sec. 36. Health insurance costs.

“Sec. 37. Overpayments of tax.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2004.

4 **SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PUR-**
 5 **CHASERS OF QUALIFIED HEALTH INSUR-**
 6 **ANCE.**

7 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
 8 enue Code of 1986 (relating to miscellaneous provisions)
 9 is amended by adding at the end the following new section:
 10 **“SEC. 7528. ADVANCE PAYMENT OF HEALTH INSURANCE**
 11 **CREDIT FOR PURCHASERS OF QUALIFIED**
 12 **HEALTH INSURANCE.**

13 “(a) GENERAL RULE.—In the case of an eligible indi-
 14 vidual, the Secretary shall make payments to the provider
 15 of such individual’s qualified health insurance equal to
 16 such individual’s qualified health insurance credit advance
 17 amount with respect to such provider.

18 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this
 19 section, the term ‘eligible individual’ means any indi-
 20 vidual—

21 “(1) who purchases qualified health insurance
 22 (as defined in section 36(c)), and

23 “(2) for whom a qualified health insurance
 24 credit eligibility certificate is in effect.

1 “(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGI-
2 BILITY CERTIFICATE.—For purposes of this section, a
3 qualified health insurance credit eligibility certificate is a
4 statement furnished by an individual to the Secretary
5 which—

6 “(1) certifies that the individual will be eligible
7 to receive the credit provided by section 36 for the
8 taxable year,

9 “(2) estimates the amount of such credit for
10 such taxable year, and

11 “(3) provides such other information as the
12 Secretary may require for purposes of this section.

13 “(d) QUALIFIED HEALTH INSURANCE CREDIT AD-
14 VANCE AMOUNT.—For purposes of this section, the term
15 ‘qualified health insurance credit advance amount’ means,
16 with respect to any provider of qualified health insurance,
17 the Secretary’s estimate of the amount of credit allowable
18 under section 36 to the individual for the taxable year
19 which is attributable to the insurance provided to the indi-
20 vidual by such provider.

21 “(e) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary to carry out the pur-
23 poses of this section, including regulations modifying re-
24 capture rules for any overpayment of the qualified health
25 insurance credit advance amount which equals at least 2

1 percent of the taxpayer's adjusted gross income for the
 2 taxable year by allowing periodic payments in lieu of a
 3 lump-sum payment for any such taxpayer whose savings
 4 and income warrant such modification.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
 6 for chapter 77 of such Code is amended by adding at the
 7 end the following new item:

“Sec. 7528. Advance payment of health insurance credit for pur-
 chasers of qualified health insurance.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable year beginning after the
 10 date of the enactment of this Act.

11 **TITLE II—HEALTH SAVINGS** 12 **ACCOUNTS**

13 **SEC. 201. DEDUCTION OF PREMIUMS FOR HIGH DEDUCT-** 14 **IBLE HEALTH PLANS.**

15 (a) IN GENERAL.—Part VII of subchapter B of chap-
 16 ter 1 of the Internal Revenue Code of 1986 (relating to
 17 additional itemized deductions for individuals) is amended
 18 by redesignating section 224 as section 225 and by insert-
 19 ing after section 223 the following new section:

20 **“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH** 21 **PLANS.**

22 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 23 vidual, there shall be allowed as a deduction for the tax-
 24 able year the aggregate amount paid by such individual

1 as premiums under a high deductible health plan with re-
 2 spect to months during such year for which such indi-
 3 vidual is an eligible individual with respect to such health
 4 plan.

5 “(b) DEFINITIONS.—For purposes of this section—

6 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 7 individual’ has the meaning given such term by sec-
 8 tion 223(c)(1).

9 “(2) HIGH DEDUCTIBLE HEALTH PLAN.—The
 10 term ‘high deductible health plan’ has the meaning
 11 given such term by section 223(c)(2).

12 “(c) SPECIAL RULES.—

13 “(1) DEDUCTION ALLOWABLE FOR ONLY 1
 14 PLAN.—For purposes of this section, in the case of
 15 an individual covered by more than 1 high deductible
 16 health plan for any month, the individual may only
 17 take into account amounts paid for 1 of such plans
 18 for such month.

19 “(2) EMPLOYER PROVIDED COVERAGE.—

20 “(A) IN GENERAL.—No deduction shall be
 21 allowed to an individual under subsection (a)
 22 for any amount paid for coverage under a high
 23 deductible health plan for a month if that indi-
 24 vidual participates in any coverage for such
 25 month that is excluded (in whole or in part)

1 from the gross income of the individual or the
2 individual's spouse under section 106.

3 “(B) CAFETERIA PLANS, ETC.—Employer
4 contributions to a cafeteria plan or a flexible
5 spending or similar arrangement which are ex-
6 cluded from gross income under section 106
7 shall be treated for purposes of this section as
8 paid by the employer.

9 “(3) CONTRIBUTIONS TO HEALTH SAVINGS AC-
10 COUNT REQUIRED.—A deduction shall not be al-
11 lowed under subsection (a) for a taxable year with
12 respect to such individual if such individual is not al-
13 lowed a deduction under section 223 for such tax-
14 able year.

15 “(4) MEDICAL AND HEALTH SAVINGS AC-
16 COUNTS.—Subsection (a) shall not apply with re-
17 spect to any amount which is paid or distributed out
18 of an Archer MSA or a health savings account which
19 is not included in gross income under section 220(f)
20 or 223(f), as the case may be.

21 “(5) COORDINATION WITH DEDUCTION FOR
22 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-
23 UALS.—The amount taken into account by the tax-
24 payer in computing the deduction under section

1 162(l) shall not be taken into account under this
2 section.

3 “(6) COORDINATION WITH MEDICAL EXPENSE
4 DEDUCTION.—The amount taken into account by
5 the taxpayer in computing the deduction under this
6 section shall not be taken into account under section
7 213.”.

8 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL
9 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
10 of section 62 of such Code is amended by inserting after
11 paragraph (19) the following new paragraph:

12 “(20) PREMIUMS FOR HIGH DEDUCTIBLE
13 HEALTH PLANS.—The deduction allowed by section
14 224.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for part VII of subchapter B of chapter 1 of such Code
17 is amended by striking the last item and inserting the following new items:
18

“Sec. 224. Premiums for high deductible health plans.

“Sec. 225. Cross reference.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2004.

1 **SEC. 202. CREDIT FOR CONTRIBUTIONS TO HEALTH SAV-**
 2 **INGS ACCOUNTS OF SMALL BUSINESS EM-**
 3 **PLOYEES.**

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

8 **“SEC. 45G. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH**
 9 **SAVINGS ACCOUNTS.**

10 “(a) GENERAL RULE.—For purposes of section 38,
 11 in the case of an eligible employer, the small employer
 12 HSA contribution credit determined under this section for
 13 any taxable year with respect to each employee who is an
 14 eligible individual (as defined in section 223(c)(1)) is an
 15 amount equal to the lesser of—

16 “(1) the amount contributed by such employer
 17 to any health savings account (as defined in section
 18 223(d) of such employee during the taxable year, or

19 “(2) \$200 (\$500, if such employee has family
 20 coverage under a high deductible health plan (as de-
 21 fined in section 223(c)(2)).

22 “(b) ELIGIBLE EMPLOYER.—For purposes of this
 23 section, the term ‘eligible employer’ means, with respect
 24 to any taxable year, an employer which had no more than
 25 100 employees who received at least \$5,000 of compensa-
 26 tion from the employer for the preceding taxable year.

1 “(c) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) AGGREGATION RULES.—All persons treat-
4 ed as a single employer under subsection (a) or (b)
5 of section 52, or subsection (n) or (o) of section 414,
6 shall be treated as one person.

7 “(2) DISALLOWANCE OF DEDUCTION.—No de-
8 duction shall be allowed for that portion of contribu-
9 tions to any health savings accounts for the taxable
10 year which is equal to the credit determined under
11 subsection (a).

12 “(3) ELECTION NOT TO CLAIM CREDIT.—This
13 section shall not apply to a taxpayer for any taxable
14 year if such taxpayer elects to have this section not
15 apply for such taxable year.”.

16 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
17 NESS CREDIT.—Section 38(b) of such Code (defining cur-
18 rent year business credit) is amended by striking “plus”
19 at the end of paragraph (14), by striking the period at
20 the end of paragraph (15) and inserting “, plus”, and by
21 adding at the end the following new paragraph:

22 “(16) in the case of an eligible employer (as de-
23 fined in section 45G(b)), the small employer HSA
24 contribution credit determined under section
25 45G(a).”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 39(d) of such Code is amended by
3 adding at the end the following new paragraph:

4 “(11) NO CARRYBACK OF SMALL EMPLOYER
5 HSA CONTRIBUTION CREDIT BEFORE JANUARY 1,
6 2005.—No portion of the unused business credit for
7 any taxable year which is attributable to the small
8 employer HSA contribution credit determined under
9 section 45G may be carried back to a taxable year
10 beginning before January 1, 2005.”.

11 (2) Subsection (c) of section 196 of such Code
12 is amended by striking “and” at the end of para-
13 graph (9), by striking the period at the end of para-
14 graph (10) and inserting “, and”, and by adding at
15 the end the following new paragraph:

16 “(11) the small employer HSA contribution
17 credit determined under section 45G(a).”.

18 (3) The table of sections for subpart D of part
19 IV of subchapter A of chapter 1 of such Code is
20 amended by adding at the end the following new
21 item:

“Sec. 45G. Small employer contributions to health savings ac-
counts.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to contributions made in taxable
24 years beginning after December 31, 2004.

1 **TITLE III—STATE HIGH RISK**
 2 **POOLS**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “State High Risk Pool
 5 Funding Extension Act of 2004”.

6 **SEC. 302. EXTENSION OF FUNDING FOR OPERATION OF**
 7 **STATE HIGH RISK HEALTH INSURANCE**
 8 **POOLS.**

9 Section 2745 of the Public Health Service Act (42
 10 U.S.C. 300gg–45) is amended to read as follows:

11 **“SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.**

12 “(a) EXTENSION OF SEED GRANTS TO STATES.—
 13 The Secretary shall provide from the funds appropriated
 14 under subsection (d)(1)(A) a grant of up to \$1,000,000
 15 to each State that has not created a qualified high risk
 16 pool as of the date of the enactment of this section for
 17 the State’s costs of creation and initial operation of such
 18 a pool.

19 “(b) GRANTS FOR OPERATIONAL LOSSES.—

20 “(1) IN GENERAL.—In the case of a State that
 21 has established a qualified high risk pool that—

22 “(A) restricts premiums charged under the
 23 pool to no more than 150 percent of the pre-
 24 mium for applicable standard risk rates;

1 “(B) offers a choice of two or more cov-
2 erage options through the pool; and

3 “(C) has in effect a mechanism reasonably
4 designed to ensure continued funding of losses
5 incurred by the State after the end of fiscal
6 year 2004 in connection with operation of the
7 pool;

8 the Secretary shall provide, from the funds appro-
9 priated under subsection (d)(1)(B)(i) and allotted to
10 the State under paragraph (2), a grant for the losses
11 incurred by the State in connection with the oper-
12 ation of the pool.

13 “(2) ALLOTMENT.—The amounts appropriated
14 under subsection (d)(1)(B)(i) for a fiscal year shall
15 be made available to the States (or the entities that
16 operate the high risk pool under applicable State
17 law) as follows:

18 “(A) An amount equal to 50 percent of the
19 appropriated amount for the fiscal year shall be
20 allocated in equal amounts among each eligible
21 State that applies for assistance under this sub-
22 section.

23 “(B) An amount equal to 25 percent of the
24 appropriated amount for the fiscal year shall be
25 allocated among the States so that the amount

provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

“(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).

“(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

“(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool, the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(ii), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

1 “(2) BENEFITS.—A State shall use amounts re-
 2 ceived under a grant under this subsection to pro-
 3 vide one or more of the following benefits:

4 “(A) Low-income premium subsidies.

5 “(B) A reduction in premium trends, ac-
 6 tual premiums, or other cost-sharing require-
 7 ments.

8 “(C) An expansion or broadening of the
 9 pool of individuals eligible for coverage, includ-
 10 ing eliminating waiting lists, increasing enroll-
 11 ment caps, or providing flexibility in enrollment
 12 rules.

13 “(D) Less stringent rules, or additional
 14 waiver authority, with respect to coverage of
 15 pre-existing conditions.

16 “(E) Increased benefits.

17 “(F) The establishment of disease manage-
 18 ment programs.

19 “(3) LIMITATION.—In allotting amounts under
 20 this subsection, the Secretary shall ensure that no
 21 State receives an amount that exceeds 10 percent of
 22 the amount appropriated for the fiscal year involved
 23 under subsection (d)(1)(B)(ii).

24 “(4) RULE OF CONSTRUCTION.—Nothing in
 25 this subsection shall be construed to prohibit States

1 that, on the date of enactment of the State High
 2 Risk Pool Funding Extension Act of 2004, are in
 3 the process of implementing programs to provide
 4 benefits of the type described in paragraph (2), from
 5 being eligible for a grant under this subsection.

6 “(d) FUNDING.—

7 “(1) IN GENERAL.—Out of any money in the
 8 Treasury of the United States not otherwise appro-
 9 priated, there are authorized and appropriated—

10 “(A) \$15,000,000 for the period of fiscal
 11 years 2004 and 2005 to carry out subsection
 12 (a); and

13 “(B) \$75,000,000 for each of fiscal years
 14 2005 through 2009, of which—

15 “(i) two-thirds of the amount appro-
 16 priated for a fiscal year shall be made
 17 available for allotments under subsection
 18 (b)(2); and

19 “(ii) one-third of the amount appro-
 20 priated for a fiscal year shall be made
 21 available for allotments under subsection
 22 (c)(2).

23 “(2) AVAILABILITY.—Funds appropriated
 24 under this subsection for a fiscal year shall remain

1 available for obligation through the end of the fol-
 2 lowing fiscal year.

3 “(3) REALLOTMENT.—If, on June 30 of each
 4 fiscal year, the Secretary determines that all
 5 amounts appropriated under paragraph (1)(B)(ii)
 6 for the fiscal year will not be allotted, such remain-
 7 ing amounts shall be allotted among States receiving
 8 grants under subsection (b) for the fiscal year in
 9 amounts determined pursuant to the formula under
 10 subsection (b)(2).

11 “(4) NO ENTITLEMENT.—Nothing in this sec-
 12 tion shall be construed as providing a State with an
 13 entitlement to a grant under this section.

14 “(e) APPLICATIONS.—To be eligible for a grant under
 15 this section, a State shall submit to the Secretary an appli-
 16 cation at such time, in such manner, and containing such
 17 information as the Secretary may require.

18 “(f) DEFINITIONS.—In this section:

19 “(1) QUALIFIED HIGH RISK POOL.—

20 “(A) IN GENERAL.—The term ‘qualified
 21 high risk pool’ has the meaning given such term
 22 in section 2744(c)(2), except that with respect
 23 to subparagraph (A) of such section a State
 24 may elect to provide for the enrollment of eligi-
 25 ble individuals through—

1 “(i) a combination of a qualified high
 2 risk pool and an acceptable alternative
 3 mechanism; or

4 “(ii) other health insurance coverage
 5 described in subparagraph (B).

6 “(B) HEALTH INSURANCE COVERAGE.—
 7 Health insurance coverage described in this
 8 subparagraph is individual health insurance
 9 coverage—

10 “(i) that meets the requirements of
 11 section 2741;

12 “(ii) that is subject to limits on the
 13 rates charged to individuals;

14 “(iii) that is available to all individ-
 15 uals eligible for health insurance coverage
 16 under this title who are not able to partici-
 17 pate in a qualified high risk pool; and

18 “(iv) the defined rate limit of which
 19 does not exceed the limit allowed for a
 20 qualified risk pool that is otherwise eligible
 21 to receive assistance under a grant under
 22 this section.

23 “(C) OTHER COVERAGE.—In addition to
 24 coverage described in subparagraph (B), a
 25 State may provide for the offering of health in-

1 surance coverage that provides first dollar cov-
2 erage, limits on cost-sharing, and comprehensive
3 medical, hospital and surgical coverage, if the
4 limits on rates for such coverage do not exceed
5 the limit described in subparagraph (B)(iv) by
6 more than 25 percentage points.

7 “(2) STANDARD RISK RATE.—The term ‘stand-
8 ard risk rate’ means a rate—

9 “(A) determined under the State high risk
10 pool by considering the premium rates charged
11 by other health insurers offering health insur-
12 ance coverage to individuals in the insurance
13 market served;

14 “(B) that is established using reasonable
15 actuarial techniques; and

16 “(C) that reflects anticipated claims expe-
17 rience and expenses for the coverage involved.

18 “(3) STATE.—The term ‘State’ means any of
19 the 50 States and the District of Columbia.”.

1 **TITLE IV—VOLUNTARY CHOICE**
 2 **COOPERATIVES**

3 **SEC. 401. GRANTS FOR THE ESTABLISHMENT AND OPER-**
 4 **ATION OF COOPERATIVES.**

5 Subpart 1 of part B of title XXVII of the Public
 6 Health Service Act (42 U.S.C. 300gg–41 et seq.) is
 7 amended by adding at the end thereof the following:

8 **“SEC. 2746. GRANTS FOR THE ESTABLISHMENT AND OPER-**
 9 **ATION OF COOPERATIVES.**

10 “(a) IN GENERAL.—The Secretary may award grants
 11 to States for the establishment and operation of health
 12 insurance purchasing cooperatives that meet the require-
 13 ments of subsection (c).

14 “(b) USE OF FUNDS.—Amounts provided under a
 15 grant under subsection (a) shall be used—

16 “(1) for the establishment and operation of
 17 health insurance purchasing cooperatives that meet
 18 the requirements of this section;

19 “(2) for the support and training of the profes-
 20 sional staff of the cooperative;

21 “(3) in the case of a State that is not operating
 22 a health insurance purchasing cooperative on the
 23 date on which an application for a grant under this
 24 section is submitted by the State, for the conduct of

1 a feasibility study relating to the proposed activities
2 of the cooperative; and

3 “(4) for other activities determined appropriate
4 by the Secretary; and

5 “(c) REQUIREMENTS OF COOPERATIVES.—To be eli-
6 gible to receive a grant under subsection (a), a State shall
7 demonstrate to the Secretary that the purchasing coopera-
8 tive to be established or operated under the grant—

9 “(1) has a membership consisting solely of at
10 least two eligible employers;

11 “(2) is a nonprofit entity certified under State
12 law;

13 “(3) is organized as an independent health in-
14 surance purchasing entity with a commission that
15 meets requirements similar to the requirements im-
16 posed with respect to the administration of State
17 high risk pools that receive funds under section
18 2745;

19 “(4) is wholly owned and administered by the
20 members of the cooperative;

21 “(5) accepts all eligible employers within the
22 area served by the cooperative as members if such
23 employers request such membership;

1 “(6) provides assistance to the members in
2 pooling the health insurance purchasing power of
3 such members;

4 “(7) provides for the collection and distribution
5 of data, and the conduct of other activities, to im-
6 prove the quality of health care decisionmaking; and

7 “(8) meets such other requirements as the Sec-
8 retary determines appropriate.

9 “(d) DUTIES OF COOPERATIVES.—Each health insur-
10 ance purchasing cooperative that receive funds under this
11 section shall—

12 “(1) enter into agreements with insurers offer-
13 ing health insurance coverage that meets the guide-
14 lines developed under subsection (e);

15 “(2) enter into agreements with member eligible
16 employers to provide insurance through the coopera-
17 tive to the employees of such employers;

18 “(3) enroll only eligible employees and their
19 families;

20 “(4) provide enrollee information to the State;
21 and

22 “(5) carry out other functions provided for by
23 the Secretary.

1 “(e) QUALIFYING HEALTH INSURANCE COVERAGE.—

2 For purposes of this section, qualifying health insurance

3 coverage shall be coverage that is—

4 “(1) fully insured;

5 “(2) approved by the department of insurance

6 for the State in which the coverage is offered; and

7 “(3) creditable coverage as described in section

8 2701(c)(1).

9 “(f) ELIGIBLE EMPLOYERS.—In this section, the

10 term ‘eligible employer’ means an employer—

11 “(1) that employs 100 or fewer employees (as

12 determined in accordance with section 2791(e)(6));

13 or

14 “(2) regardless of size, that self insures.

15 “(g) AUTHORIZATION OF APPROPRIATIONS.—There

16 is authorized to be appropriated, such sums as may be

17 necessary to carry out this section.”.

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