

108TH CONGRESS  
1ST SESSION

# S. 86

To amend the Internal Revenue Code of 1986 to provide a credit for the health insurance expenses of small businesses.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mrs. CLINTON (for herself and Mr. DURBIN) 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 provide a credit for the health insurance expenses of small businesses.

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 Employer Tax  
5 Assistance for Health Coverage Act of 2003”.

6 **SEC. 2. CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH  
7 INSURANCE EXPENSES.**

8       (a) IN GENERAL.—Subpart D of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by  
2 adding at the end the following:

3 **SEC. 45G. SMALL BUSINESS EMPLOYEE HEALTH INSUR-  
4 ANCE EXPENSES.**

5       “(a) GENERAL RULE.—For purposes of section 38,  
6 in the case of an employer, the employee health insurance  
7 expenses credit determined under this section is an  
8 amount equal to the applicable percentage of the amount  
9 paid by the taxpayer during the taxable year for qualified  
10 employee health insurance expenses.

11       “(b) APPLICABLE PERCENTAGE.—For purposes of  
12 subsection (a), the applicable percentage is equal to—

13           “(1) in the case of an employer with not more  
14 than 10 qualified employees the average annual rate  
15 of wages of whom paid or incurred by such employer  
16 during the taxable year does not exceed \$10,000, 50  
17 percent,

18           “(2) in the case of an employer with not more  
19 than 10 qualified employees the average annual rate  
20 of wages of whom paid or incurred by such employer  
21 during the taxable year exceeds \$10,000, the excess  
22 of—

23           “(A) 50 percent, over

24           “(B) the percentage points equal to—

25           “(i) the product of—

1                             “(I) 1.667, and

2                             “(II) the amount by which such

3                             average annual rate of wages exceeds

4                             \$10,000, divided by

5                             “(ii) 1,000,

6                             “(3) in the case of an employer with more than

7                             10 qualified employees the average annual rate of

8                             wages of whom paid or incurred by such employer

9                             during the taxable year does not exceed \$10,000, the

10                            excess of—

11                             “(A) 50 percent, over

12                             “(B) the percentage points equal to the

13                             product of—

14                             “(i) 1.25, and

15                             “(ii) the number of qualified employ-

16                             ees in excess of 10, and

17                             “(4) in the case of an employer with more than

18                             10 qualified employees the average annual rate of

19                             wages of whom paid or incurred by such employer

20                             during the taxable year exceeds \$10,000, the excess

21                             of—

22                             “(A) the percentage which would be deter-

23                             mined under paragraph (3) for such an em-

24                             ployer, over

25                             “(B) the percentage points equal to—

1                             “(i) the product of—  
2                                     “(I) the number of qualified em-  
3                                     ployees divided by 6, and  
4                                     “(II) the amount by which such  
5                                     average annual rate of wages exceeds  
6                                     \$10,000, divided by  
7                                     “(ii) 1,000.

8 For purposes of this subsection, the applicable percentage  
9 is equal to zero if the applicable percentage determined  
10 under paragraph (2), (3), or (4) is less than zero. For  
11 purposes of this subsection, in the case of an employer  
12 with not more than 50 qualified employees the average an-  
13 nual rate of wages of whom paid or incurred by such em-  
14 ployer during the taxable year does not exceed \$30,000,  
15 the applicable percentage shall not be less than the per-  
16 centage otherwise determined under this subsection or 5  
17 percent.

18                             “(c) PER EMPLOYEE DOLLAR LIMITATION.—

19                             “(1) IN GENERAL.—The amount of qualified  
20                                     employee health insurance expenses taken into ac-  
21                                     count under subsection (a) with respect to any qual-  
22                                     fied employee for any taxable year shall not ex-  
23                                     ceed—

24                             “(A) \$2,000 in the case of self-only cov-  
25                                     erage, and

1                   “(B) \$5,000 in the case of family coverage.

2                   “(2) LIMITATION WITH RESPECT TO COVERAGE  
3                   FOR PORTION OF YEAR.—In the case of the coverage  
4                   of a qualified employee for only a portion of the tax-  
5                   able year, the limitation under paragraph (1) shall  
6                   be an amount which bears the same ratio to such  
7                   limitation (determined without regard to this sen-  
8                   tence) as such portion bears to the entire taxable  
9                   year.

10                  “(d) SPECIAL RULES AND DEFINITIONS.—For pur-  
11                  poses of this section—

12                  “(1) DETERMINATION OF EMPLOYMENT.—

13                  “(A) IN GENERAL.—An employer shall be  
14                  considered an employer described in subsection  
15                  (b) if such employer employed an average of the  
16                  number of employees described in such sub-  
17                  section on business days during either of the 2  
18                  preceding calendar years. For purposes of the  
19                  preceding sentence, a preceding calendar year  
20                  may be taken into account only if the employer  
21                  was in existence throughout such year.

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

1       under subparagraph (A) shall be based on the  
2       average number of employees that it is reason-  
3       ably expected such employer will employ on  
4       business days in the current calendar year.

5       “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
6       ANCE EXPENSES.—

7           “(A) IN GENERAL.—The term ‘qualified  
8       employee health insurance expenses’ means any  
9       amount paid by an employer for health insur-  
10       ance coverage if such coverage is provided to at  
11       least 50 percent of the qualified employees of  
12       the employer.

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

19           “(C) HEALTH INSURANCE COVERAGE.—  
20       The term ‘health insurance coverage’ has the  
21       meaning given such term by paragraph (1) of  
22       section 9832(b) (determined by disregarding  
23       the last sentence of paragraph (2) of such sec-  
24       tion).

25       “(3) QUALIFIED EMPLOYEE.—

1                   “(A) IN GENERAL.—The term ‘qualified  
2                   employee’ means any employee who normally  
3                   works more than 30 hours per week for the em-  
4                   ployer other than an employee who—

5                   “(i) is eligible to participate in any  
6                   subsidized health plan (within the meaning  
7                   of section 162(l)(2)) maintained by any  
8                   employer of the employee or of the spouse  
9                   of the employee,

10                   “(ii) is entitled to any benefits under  
11                   title XVIII of the Social Security Act,

12                   “(iii) is a participant in the program  
13                   under title XIX or XXI of such Act, or

14                   “(iv) is eligible for any benefit pro-  
15                   vided to such employee under—

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

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

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

22                   “(IV) any medical care program  
23                   under the Indian Health Care Im-  
24                   provement Act.

1                         “(B) TREATMENT OF CERTAIN EMPLOY-  
2                         EES.—The term ‘employee’ shall include—

3                             “(i) an employee within the meaning  
4                             of section 401(c)(1), and  
5                             “(ii) a leased employee within the  
6                             meaning of section 414(n).

7                         “(4) WAGES.—The term ‘wages’ has the mean-  
8                         ing given such term by section 3121(a) (determined  
9                         without regard to any dollar limitation contained in  
10                         such section).

11                         “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
12                         poses of this section, rules similar to the rules of section  
13                         52 shall apply.

14                         “(f) DENIAL OF DOUBLE BENEFIT.—No deduction  
15                         or credit under any other provision of this chapter shall  
16                         be allowed with respect to qualified employee health insur-  
17                         ance expenses taken into account under subsection (a).”.

18                         (b) CREDIT TO BE PART OF GENERAL BUSINESS  
19                         CREDIT.—Section 38(b) of the Internal Revenue Code of  
20                         1986 (relating to current year business credit) is amended  
21                         by striking “plus” at the end of paragraph (14), by strik-  
22                         ing the period at the end of paragraph (15) and inserting  
23                         “, plus”, and by adding at the end the following:

24                         “(16) the employee health insurance expenses  
25                         credit determined under section 45G.”.

1       (c) NO CARRYBACKS.—Subsection (d) of section 39  
2 of the Internal Revenue Code of 1986 (relating to  
3 carryback and carryforward of unused credits) is amended  
4 by adding at the end the following:

5               “(11) NO CARRYBACK OF SECTION 45G CREDIT  
6 BEFORE EFFECTIVE DATE.—No portion of the un-  
7 used business credit for any taxable year which is  
8 attributable to the employee health insurance ex-  
9 penses credit determined under section 45G may be  
10 carried back to a taxable year ending before January  
11 1, 2003.”.

12       (d) CLERICAL AMENDMENT.—The table of sections  
13 for subpart D of part IV of subchapter A of chapter 1  
14 of the Internal Revenue Code of 1986 is amended by add-  
15 ing at the end the following:

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

16       (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to amounts paid or incurred in tax-  
18 able years beginning after December 31, 2002, for cov-  
19 erage established after the date of the enactment of this  
20 Act.

