

108TH CONGRESS  
1ST SESSION

# S. 906

To provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 11, 2003

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

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## A BILL

To provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, 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 “Health Care Access  
5       for Small Businesses Act of 2003”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) For most of the past 16 years, the number  
9       of Americans without health insurance has been on  
10      the rise, reaching more than 41,000,000 in 2002.

1           (2) People without health insurance are less  
2           likely to get preventive care and often delay or forgo  
3           needed care. They are therefore more likely than  
4           those with health insurance to be hospitalized for  
5           conditions that could have been avoided.

6           (3) Not only are the health and financial cir-  
7           cumstances of uninsured Americans adversely af-  
8           fected by the lack of health insurance, their care is  
9           ultimately being paid for in the least efficient man-  
10          ner: after they get sick.

11          (4) People who were uninsured during any part  
12          of 2001 received \$99,000,000,000 in care, of which  
13          \$34,500,000,000 was not paid for either out of  
14          pocket or by a private or public insurance source.  
15          Federal, State, and local governments covered 85  
16          percent of such uncompensated care, amounting to  
17          \$30,000,000,000.

18          (5) Private health insurance enrollees also help  
19          pay for uncompensated care through higher pre-  
20          miums.

21          (6) Covering more Americans will not only con-  
22          tribute to better overall health, it will lower the  
23          amount of health care costs assumed by taxpayers,  
24          businesses, and consumers.

1           (7) Helping small businesses gain access to af-  
 2           fordable health care benefits is essential to insuring  
 3           more Americans.

4           (8) Eighty-two percent of uninsured people are  
 5           part of working families.

6           (9) More than 1/2 of small businesses with less  
 7           than 50 employees do not offer their employees  
 8           health insurance.

9           (10) Innovative community-based solutions have  
 10          developed and should serve as a model for insuring  
 11          more Americans.

12 **SEC. 3. THREE-SHARE PROGRAMS.**

13          The Social Security Act (42 U.S.C. 301 et seq.) is  
 14          amended by adding at the end the following:

15          **“TITLE XXII—PROVIDING FOR**  
 16                               **THE UNINSURED**

17 **“SEC. 2201. THREE-SHARE PROGRAMS.**

18          “(a) CERTIFICATION.—

19               “(1) IN GENERAL.—The Secretary, acting  
 20               through the Administrator, shall promulgate regula-  
 21               tions for the certification of three-share programs  
 22               for purposes of section 36 of the Internal Revenue  
 23               Code.

24               “(2) THREE-SHARE PROGRAM REQUIRE-  
 25               MENTS.—

1           “(A) IN GENERAL.—The Administrator  
2           shall require, for purposes of a certification  
3           under regulations under paragraph (1) that  
4           each three-share program shall—

5                   “(i) be either a non-profit or local  
6                   governmental entity;

7                   “(ii) define a region in which such  
8                   program will provide services;

9                   “(iii) have the capacity to carry out  
10                  administrative functions of managing  
11                  health plans, including monthly billings,  
12                  verification/enrollment of eligible employers  
13                  and employees, maintenance of member-  
14                  ship rosters, development of member mate-  
15                  rials (such as handbooks and identification  
16                  cards), customer service, and claims proc-  
17                  essing; and

18                  “(iv) have community involvement, as  
19                  determined by the Administrator.

20           “(B) PAYMENT.—To obtain the certifi-  
21           cation described in paragraph (1), a three-share  
22           program shall pay the costs of services provided  
23           under subparagraph (A)(ii) by charging a  
24           monthly premium for each covered individual to  
25           be divided as follows:

1           “(i) Not more than thirty percent of  
 2           such fee shall be paid by a qualified em-  
 3           ployee desiring coverage under the three-  
 4           share program.

5           “(ii) At least seventy percent of such  
 6           fee shall be paid by the qualified employer  
 7           of such a qualified employee.

8           “(3) COVERAGE.—

9           “(A) IN GENERAL.—To obtain the certifi-  
 10          cation described in paragraph (1) a 3-share  
 11          program shall provide at least the following  
 12          benefits:

13               “(i) Physicians services.

14               “(ii) In-patient hospital services.

15               “(iii) Out-patient services.

16               “(iv) Emergency room visits.

17               “(v) Emergency ambulance services.

18               “(vi) Diagnostic lab fees and x-rays.

19               “(vii) Prescription drug benefits.

20           “(B) LIMITATION.—Nothing in subpara-  
 21          graph (A) shall be construed to require that a  
 22          three-share program provide coverage for serv-  
 23          ices performed outside the region described in  
 24          paragraph (2)(A)(i).

1           “(C) PREEXISTING CONDITIONS.—A pro-  
 2           gram described in subparagraph (A) shall not  
 3           be eligible for certification under paragraph (1)  
 4           if any individual can be excluded from coverage  
 5           under such program because of a preexisting  
 6           health condition.

7           “(b) STARTUP GRANTS FOR THREE-SHARE PRO-  
 8 GRAMS.—

9           “(1) ESTABLISHMENT.—The Administrator  
 10          may award startup grants to eligible entities to es-  
 11          tablish three-share programs for certification under  
 12          subsection (a).

13          “(2) THREE-SHARE PROGRAM PLAN.—Each en-  
 14          tity desiring a grant under this subsection shall de-  
 15          velop a plan for the establishment and operation of  
 16          a three-share program that meets the requirements  
 17          of paragraphs (2) and (3) of subsection (a).

18          “(3) APPLICATION.—Each entity desiring a  
 19          grant under this subsection shall submit an applica-  
 20          tion to the Administrator at such time, in such man-  
 21          ner and containing such information as the Adminis-  
 22          trator may require, including—

23                 “(A) the three-share program plan de-  
 24                 scribed in paragraph (2); and

1                   “(B) an assurance that the eligible entity  
2                   will—

3                   “(i) determine a benefit package;

4                   “(ii) recruit businesses and employees  
5                   for the three-share program;

6                   “(iii) build and manage a network of  
7                   health providers or contract with an exist-  
8                   ing network or licensed insurance provider;  
9                   and

10                  “(iv) manage all administrative needs.

11                  “(4) NUMBER OF GRANTS.—An eligible entity  
12                  may receive only 1 grant under this subsection for  
13                  each three-share program and may not receive a  
14                  grant for such program under both this subsection  
15                  and subsection (c).

16                  “(c) GRANTS FOR EXISTING THREE-SHARE PRO-  
17 GRAMS TO MEET CERTIFICATION REQUIREMENTS.—

18                  “(1) IN GENERAL.—The Administrator may  
19                  award grants to three-share programs that are oper-  
20                  ating on the date of enactment of this section, to as-  
21                  sist such programs in meeting the certification re-  
22                  quirements of subsection (a).

23                  “(2) NUMBER OF GRANTS.—An eligible entity  
24                  may receive only 1 grant under this subsection for  
25                  a three-share program and may not receive a grant

1       for such program under both this subsection and  
2       subsection (b).

3           “(3) APPLICATION.—Each eligible entity desir-  
4       ing a grant under this subsection shall submit an  
5       application to the Administrator at such time, in  
6       such manner, and containing such information as  
7       the Administrator may require.

8       “(d) RISK POOL GRANTS.—

9           “(1) IN GENERAL.—The Administrator may  
10       award grants to eligible entities administering cer-  
11       tified three-share programs to enhance the risk pools  
12       of such programs.

13           “(2) NUMBER OF GRANTS.—An eligible entity  
14       administering a three-share program described in  
15       paragraph (1) may receive only 1 grant under this  
16       subsection for such three-share program.

17           “(3) APPLICATION.—Each eligible entity desir-  
18       ing a grant under this subsection shall submit an  
19       application to the Administrator at such time, in  
20       such manner, and containing such information as  
21       the Administrator may require.

22       “(e) APPLICATION OF STATE LAWS.—Nothing in this  
23       Act shall be construed to preempt State law.

24       “(f) DISTRESSED BUSINESS FORMULA.—



1           “(1) IN GENERAL.—Not later than 60 days  
 2           after the date of enactment of this section, the Ad-  
 3           ministrator of the Health Resources and Services  
 4           Administration shall develop a formula to determine  
 5           which businesses qualify as distressed businesses for  
 6           purposes of this Act.

7           “(2) EFFECT ON INSURANCE MARKET.—Grant-  
 8           ing eligibility to a distressed business using the for-  
 9           mula under paragraph (1) shall not interfere with  
 10          the insurance market. Any business found to have  
 11          reduced benefits to qualify as a distressed business  
 12          under the formula under paragraph (1) shall not be  
 13          eligible for any three-share program certified pursu-  
 14          ant to this section.

15          “(g) DEFINITIONS.—In this section:

16                 “(1) ADMINISTRATOR.—The term ‘Adminis-  
 17                 trator’ means the Administrator of the Health Re-  
 18                 sources and Services Administration.

19                 “(2) COVERED INDIVIDUAL.—The term ‘cov-  
 20                 ered individual’ means—

21                         “(A) a qualified employee; or

22                         “(B) a child under the age of 23 or a  
 23                         spouse of such qualified employee who—

1 “(i) lacks access to health care cov-  
 2 erage through their employment or em-  
 3 ployer;

4 “(ii) lacks access to health coverage  
 5 through a family member;

6 “(iii) is not eligible for coverage under  
 7 the medicare program under title XVIII or  
 8 the medicaid program under title XIX; and

9 “(iv) does not qualify for benefits  
 10 under the State Children’s Health Insur-  
 11 ance Program under title XXI.

12 “(3) DISTRESSED BUSINESS.—The term ‘dis-  
 13 tressed business’ means a business that—

14 “(A) in light of economic hardship and ris-  
 15 ing health care premiums may be forced to dis-  
 16 continue or scale back its health care coverage;  
 17 and

18 “(B) qualifies as a distressed business ac-  
 19 cording to the formula under subsection (f).

20 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-  
 21 tity’ means an entity that meets the requirements of  
 22 subsection (a)(2)(A).

23 “(5) FULL TIME.—The term ‘full time’, for  
 24 purposes of employment, means regularly working at  
 25 least 35 hours per week.

1           “(6) QUALIFIED EMPLOYEE.—The term ‘quali-  
2       fied employee’ means any individual employed by a  
3       qualified employer who meets certain criteria includ-  
4       ing—

5                   “(A) working full time;

6                   “(B) lacking access to health coverage  
7       through a family member or common law part-  
8       ner;

9                   “(C) not being eligible for coverage under  
10      the medicare program under title XVIII or the  
11      medicaid program under title XIX; and

12                  “(D) agreeing that the share of fees de-  
13      scribed in subsection (a)(2)(B)(i) shall be paid  
14      in the form of payroll deductions from the  
15      wages of such individual.

16           “(7) QUALIFIED EMPLOYER.—The term ‘quali-  
17      fied employer’ means an employer as defined in sec-  
18      tion 3(d) of the Fair Labor Standards Act of 1938  
19      (29 U.S.C. 203(d)) who—

20                   “(A) is a small business concern as defined  
21      in section 3(a) of the Small Business Act (15  
22      U.S.C. 632);

23                   “(B) is located in the region described in  
24      subsection (a)(2)(A)(i); and

1           “(C) has not contributed to the health care  
 2           benefits of its employees for at least 12 months  
 3           consecutively or currently provides insurance  
 4           but is classified as a distressed business.

5           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
 6           are authorized to be appropriated to carry out this section  
 7           \$50,000,000 for fiscal year 2004 and such sums as may  
 8           be necessary for each subsequent fiscal year.”.

9           **SEC. 4. REFUNDABLE CREDIT FOR PORTION OF EMPLOYER**

10                           **COSTS OF THREE-SHARE PROGRAM.**

11           (a) IN GENERAL.—Subpart C of part IV of sub-  
 12           chapter A of chapter 1 of the Internal Revenue Code of  
 13           1986 (relating to refundable credits) is amended by redes-  
 14           ignating section 36 as section 37 and inserting after sec-  
 15           tion 35 the following new section:

16           **“SEC. 36. EMPLOYER COSTS OF THREE-SHARE PROGRAM.**

17           “(a) IN GENERAL.—In the case of an eligible em-  
 18           ployer, there shall be allowed as a credit against the tax  
 19           imposed by this subtitle an amount equal to 40 percent  
 20           of the costs of a three-share program resulting from the  
 21           participation of the taxpayer in such program during the  
 22           taxable year.

23           “(b) ELIGIBLE EMPLOYER.—For purposes of this  
 24           section, the term ‘eligible employer’ means any employer  
 25           which pays or incurs at least 70 percent of the costs of

1 a three-share program resulting from the participation of  
 2 the taxpayer in such program during the taxable year.

3 “(c) THREE-SHARE PROGRAM.—For purposes of this  
 4 section, the term ‘three-share program’ means an em-  
 5 ployee health care coverage program approved for partici-  
 6 pation by an eligible employer pursuant to title XXII of  
 7 the Social Security Act.

8 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction  
 9 or credit under any other provision of this chapter shall  
 10 be allowed with respect to costs of a three-share program  
 11 taken into account under subsection (a).

12 “(e) ADVANCED REFUNDABILITY.—The Secretary  
 13 shall provide for the advanced refundability of the credit  
 14 allowed under this section to be made in quarterly pay-  
 15 ments to taxpayers providing such information as the Sec-  
 16 retary requires in order to make a proper determination  
 17 of such payments.

18 “(f) REGULATIONS.—The Secretary may prescribe  
 19 such regulations and other guidance as may be necessary  
 20 or appropriate to carry out this section.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Paragraph (2) of section 1324(b) of title  
 23 31, United States Code, is amended by inserting be-  
 24 fore the period “, or from section 36 of such Code”.

1           (2) The table of sections for subpart C of part  
2       IV of chapter 1 of the Internal Revenue Code of  
3       1986 is amended by striking the last item and in-  
4       serting the following new items:

          “Sec. 36. Employer costs of three-share program.  
          “Sec. 37. Overpayments of tax.”.

5       (c) EFFECTIVE DATE.—The amendments made by  
6       this section shall apply to taxable years beginning after  
7       the date of the enactment of this Act.

○