

109TH CONGRESS  
2D SESSION

# H. R. 5288

To establish a small business health benefits program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2006

Mr. ALLEN (for himself, Mr. CARNAHAN, Mr. DOGGETT, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. BALDWIN, Mrs. CAPPS, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To establish a small business health benefits program.

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       Plans Act of 2006”.

6       **SEC. 2. SMALL BUSINESS HEALTH BENEFITS PROGRAM**  
7               **(SBHBP).**

8       (a) ESTABLISHMENT.—The Secretary of Health and  
9       Human Services shall establish a small business health  
10      benefits program under which small employers may offer

1 health insurance coverage to employees and their depend-  
2 ents.

3 (b) PROGRAM ELEMENTS.—Under the SBHBP:

4 (1) ACCESS TO INSURANCE.—Small employers  
5 are provided access, for years beginning on or after  
6 January 1, 2007, to qualified health pooling ar-  
7 rangements under which their employees may elect  
8 self-only or family health insurance coverage under  
9 at least 2 health insurance coverage policies, regard-  
10 less of whether premium assistance referred to in  
11 paragraph (2) is available with respect to such em-  
12 ployer.

13 (2) PREMIUM ASSISTANCE FOR SMALL EMPLOY-  
14 ERS.—Premium assistance is available under sub-  
15 section (c) to assist small employers in the payment  
16 of premiums for the health insurance coverage pro-  
17 vided.

18 (3) EMPLOYER SHARE OF PREMIUMS.—

19 (A) IN GENERAL.—Small employers are  
20 provided access to health insurance coverage,  
21 and may be eligible for premium assistance  
22 under subsection (c), only if they pay (before  
23 the application of any premium assistance  
24 under subsection (c)) at least 50 percent of the  
25 premiums for coverage of their employees, but

1 such employers are not required to pay for the  
2 portion of the premiums for dependents of em-  
3 ployees.

4 (B) CONSTRUCTION.—Nothing in this sec-  
5 tion shall be construed as preventing an em-  
6 ployee from applying the payment described in  
7 subparagraph (A) towards the payment of pre-  
8 miums for family health insurance coverage.

9 (4) HEALTH INSURANCE COVERAGE.—

10 (A) IN GENERAL.—Health insurance cov-  
11 erage offered thereunder shall meet the fol-  
12 lowing requirements:

13 (i) The Secretary determines that the  
14 coverage is substantially similar to health  
15 benefits coverage in any of the four largest  
16 health benefit plans (determined by enroll-  
17 ment) offered under chapter 89 of title 5,  
18 United States Code.

19 (ii) The coverage complies with State  
20 laws and regulations (including applicable  
21 benefit mandates and other consumer pro-  
22 tections) for group health insurance cov-  
23 erage for the State in which the coverage  
24 is offered.

1 (iii) The coverage does not discrimi-  
2 nate, through underwriting, the imposition  
3 of a pre-existing condition exclusion (as de-  
4 fined in section 701(b)(1)(A) of the Em-  
5 ployee Retirement Income Security Act of  
6 1974 or section 9801(b)(1)(A) of the In-  
7 ternal Revenue Code of 1986), differential  
8 benefits, differential premiums, or other-  
9 wise, against an employee or dependent on  
10 the basis of health status.

11 (iv) The Secretary determines that the  
12 coverage provided to employees is coordi-  
13 nated, in accordance with regulations pre-  
14 scribed by the Secretary, with other cov-  
15 erage provided under governmental health  
16 benefits programs under which health ben-  
17 efits coverage is available to such employ-  
18 ees.

19 (B) STANDARDS FOR PARTICIPATING  
20 HEALTH INSURERS.—In administering the pro-  
21 gram, the Secretary shall promote participation  
22 by health insurers that establish—

23 (i) integration of health information  
24 technology tools to promote quality;

25 (ii) chronic disease management;

1 (iii) preventive health care services;  
2 and  
3 (iv) evidence-based medicine consider-  
4 ations of prescription drugs and other  
5 treatment that take into account the indi-  
6 vidual medical circumstances of individuals  
7 enrolled in the program.

8 (5) ENROLLMENT.—In administering the pro-  
9 gram, the Secretary shall provide that employee en-  
10 rollment (and changes in enrollment) are limited to  
11 an annual open enrollment period, except in the case  
12 of qualifying events (such as change in family sta-  
13 tus) specified by the Secretary and consistent with  
14 section 701(f) of the Employee Retirement Income  
15 Security Act of 1974 (29 U.S.C. 1181(f)).

16 (c) PREMIUM ASSISTANCE.—Under the SBHBP, the  
17 Secretary shall establish a program of premium assistance  
18 for small employers. Such program shall provide for a slid-  
19 ing scale of assistance to such employers taking into ac-  
20 count the following:

- 21 (1) The number of employees of the employer.  
22 (2) The average wage level of such employees  
23 relative to the average wage level for employees in  
24 the same geographic area.  
25 (3) The profit margin of the employer.

1       (d) REINSURANCE FOR CATASTROPHIC COSTS FOR  
2 CERTAIN HEALTH INSURANCE ISSUERS.—

3           (1) IN GENERAL.—In the case of health insur-  
4       ance coverage offered under the SBHBP by a health  
5       insurance issuer that participates in a qualified  
6       health pooling arrangement, the Secretary shall pro-  
7       vide for reinsurance coverage for 75 percent of cov-  
8       ered claims that exceed, for an individual for a year,  
9       an amount determined by the Secretary for such  
10      year which is not less than the minimum amount  
11      specified in paragraph (2).

12          (2) MINIMUM AMOUNT.—The minimum amount  
13      specified in this paragraph is—

14           (A) for the first year in which this section  
15      is in effect, \$100,000; or

16           (B) for a subsequent year is the minimum  
17      amount specified in this paragraph for a pre-  
18      vious year, increased by the Secretary's esti-  
19      mate of the average annual percentage increase  
20      in health insurance coverage with a median  
21      level of premiums for the previous year.

22      Any amount determined under subparagraph (B)  
23      which is not a multiple of \$1,000 shall be rounded  
24      to the nearest multiple of \$1,000.

1 (e) QUALIFIED HEALTH POOLING ARRANGEMENT.—

2 For purposes of this section, the term “qualified health  
3 pooling arrangement” means, with respect to employees  
4 employed in any State for any year—

5 (1) except as provided in subparagraph (B), an  
6 arrangement established by (and operating under  
7 the oversight of) such State for purposes of this sec-  
8 tion, in accordance with regulations of the Secretary,  
9 which provides for pooling of health insurance cov-  
10 erage offered for such year in such State, and

11 (2) in any case in which there is not in effect  
12 for any year an arrangement described in subpara-  
13 graph (A) established by such State, the national  
14 health pooling arrangement established under sec-  
15 tion 3.

16 The Secretary shall determine, within a reasonable time  
17 prior to each year, whether there is a qualified health pool-  
18 ing arrangement described in paragraph (1) with respect  
19 to employees employed in any State.

20 (f) SMALL EMPLOYER DEFINED.—

21 (1) IN GENERAL.—For purposes of this Act, ex-  
22 cept as otherwise provided in this subsection, the  
23 term “small employer” means an employer with 50  
24 or fewer employees, as determined under regulations  
25 promulgated by the Secretary.

1           (2) CONTINUATION OF PARTICIPATION.—An  
2       employer whose employees are provided health insur-  
3       ance coverage under the SBHBP while the employer  
4       is a small employer as defined in paragraph (1) and  
5       who thereafter has more than 50 employees shall  
6       continue to be treated as a small employer.

7           (3) EMPLOYERS NOT IN EXISTENCE IN PRE-  
8       CEDING YEAR.—In the case of an employer which  
9       was not in existence for the full year prior to the  
10      date on which the employer applies to participate in  
11      SBHBP, the determination of whether such em-  
12      ployer meets the requirements of paragraph (1) shall  
13      be based on the average number of employees that  
14      it is reasonably expected such employer will employ  
15      on business days in the employer's first full year.

16          (4) WAIVER.—The Secretary may waive the  
17      limitations relating to the size of an employer which  
18      may participate under SBHBP on a case by case  
19      basis if the Secretary determines that such employer  
20      makes a compelling case for such a waiver. In mak-  
21      ing determinations under this paragraph, the Sec-  
22      retary shall consider the effects of the employment  
23      of temporary and seasonal workers and other related  
24      factors.

25          (g) OTHER DEFINITIONS.—For purposes of this Act:

1           (1) The terms “employee” and “dependent”  
2       have the meanings given such terms by the Sec-  
3       retary in regulations and shall be based upon the  
4       definitions of such terms used for purposes of the  
5       Federal employee health benefits program estab-  
6       lished under chapter 89 of title 5, United States  
7       Code.

8           (2) The terms “health insurance coverage” and  
9       “health insurance issuer” have the meanings given  
10      such terms in section 2791(b) of the Public Health  
11      Service Act (42 U.S.C. 300gg–91(b)).

12          (3) The term “Secretary” means the Secretary  
13      of Health and Human Services.

14          (4) The term “SBHBP” means the small busi-  
15      ness health benefits program established under this  
16      section.

17          (5) The term “State” has the meaning given  
18      such term in section 2791(d)(14) of the Public  
19      Health Service Act (42 U.S.C. 300gg–91(d)(14)).

20      (h) GRANTS FOR ESTABLISHMENT OF STATE QUALI-  
21      FIED HEALTH POOLING ARRANGEMENTS.—

22          (1) IN GENERAL.—The Secretary shall provide  
23      grants to States for the establishment and initial ad-  
24      ministration of qualified health pooling arrange-  
25      ments described in subsection (e)(1).

1           (2) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated such sums  
3           as may be necessary to carry out this subsection.

4 **SEC. 3. ESTABLISHMENT OF NATIONAL HEALTH POOLING**  
5 **ARRANGEMENT.**

6           (a) IN GENERAL.—The Secretary of Health and  
7 Human Services and the Secretary of Labor, acting jointly  
8 and in consultation with the Director of the Office of Per-  
9 sonnel Management, shall provide for—

10           (1) the offering on a timely basis consistent  
11 with section 2 of a national health pooling arrange-  
12 ment to eligible small employers; and

13           (2) appropriate oversight over any such ar-  
14 rangement.

15           (b) SPECIFIC REQUIREMENTS.—In carrying out sub-  
16 section (a), the Secretaries shall—

17           (1) model the national health pooling arrange-  
18 ment on the Federal employees health benefits pro-  
19 gram under chapter 89 of title 5, United States  
20 Code, to the extent practicable and consistent with  
21 the other requirements of this Act; and

22           (2) consistent with paragraph (1), negotiate the  
23 most affordable and substantial coverage possible for  
24 small employers.

25           (c) DEFINITIONS.—For purposes of this section—

1           (1) the term “Secretaries” means the Secretary  
2           of Health and Human Services and the Secretary of  
3           Labor; and

4           (2) the term “national health pooling arrange-  
5           ment” means an arrangement which provides for  
6           pooling of health insurance coverage offered for any  
7           year in all States which do not have in effect for  
8           such year an arrangement for pooling of health in-  
9           surance coverage offered in such States.

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