

109TH CONGRESS
2D SESSION

S. 2701

To amend the Internal Revenue Code of 1986 to provide a refundable credit for high deductible health plans for uninsured individuals.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2006

Mr. SANTORUM (for himself, Mrs. DOLE, and 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 provide a refundable credit for high deductible health plans for uninsured individuals.

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. REFUNDABLE CREDIT FOR HIGH DEDUCTIBLE**
4 **HEALTH PLANS FOR UNINSURED INDIVID-**
5 **UALS.**

6 (a) ALLOWANCE OF CREDIT.—

7 (1) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code
9 of 1986 (relating to refundable personal credits) is

1 amended by inserting after section 35 the following
 2 new section:

3 **“SEC. 35A. HIGH DEDUCTIBLE HEALTH PLANS FOR UNIN-**
 4 **SURED INDIVIDUALS.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 6 dividual, there shall be allowed as a credit against the tax
 7 imposed by this subtitle for the taxable year an amount
 8 equal to the amount paid by the taxpayer during such tax-
 9 able year for qualified health insurance for the taxpayer
 10 and the taxpayer’s spouse and dependents.

11 “(b) LIMITATIONS.—

12 “(1) IN GENERAL.—The amount allowed as a
 13 credit under subsection (a) to the taxpayer for the
 14 taxable year shall not exceed the lesser of—

15 “(A) 90 percent of the sum of the amounts
 16 paid by the taxpayer for qualified health insur-
 17 ance for each individual referred to in sub-
 18 section (a) for coverage months of such indi-
 19 vidual during the taxable year, or

20 “(B) \$3,000.

21 “(2) MONTHLY LIMITATION.—

22 “(A) IN GENERAL.—For purposes of para-
 23 graph (1), amounts paid by the taxpayer for
 24 qualified health insurance for an individual for
 25 any coverage month of such individual during

the taxable year shall not be taken into account to the extent such amounts exceed the amount equal to $\frac{1}{12}$ of—

“(i) \$1,111 if such individual is the taxpayer,

“(ii) \$1,111 if—

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

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

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

“(iii) \$1,111 if such individual has attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year,

“(iv) one-half of the amount described in clause (i) if such individual has not attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year.

“(B) LIMITATION TO 2 YOUNG DEPENDENTS.—If there are more than 2 individuals described in subparagraph (A)(iv) with respect to

the taxpayer for any coverage month, the aggregate amounts paid by the taxpayer for qualified health insurance for such individuals which may be taken into account under paragraph (1) shall not exceed $\frac{1}{12}$ of the dollar amount in effect under subparagraph (A)(i) for the coverage month.

“(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

“(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

“(ii) who does not live apart from such taxpayer’s spouse at all times during the taxable year,

any dollar limitation imposed under this paragraph on amounts paid for qualified health insurance for individuals described in subparagraph (A)(iv) shall be divided equally between the taxpayer and the taxpayer’s spouse unless they agree on a different division.

“(3) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR ONE-PERSON COVERAGE.—

“(A) PHASEOUT FOR UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with one-person coverage, if such individual has modified adjusted gross income—

“(i) in excess of \$15,000 for a taxable year but not in excess of \$20,000, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

“(I) the excess of modified adjusted gross income in excess of \$15,000, bears to

“(II) \$5,000, or

“(ii) in excess of \$20,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

1 “(I) the excess of modified ad-
2 justed gross income in excess of
3 \$20,000, bears to

4 “(II) \$10,000.

5 “(B) PHASEOUT FOR OTHER INDIVID-
6 UALS.—In the case of a taxpayer (other than
7 an individual described in subparagraph (A) or
8 (C)) with one-person coverage, if the taxpayer
9 has modified adjusted gross income in excess of
10 \$25,000 for a taxable year, the 90 percent
11 under paragraph (1)(B) shall be reduced by the
12 number of percentage points which bears the
13 same ratio to 90 percentage points as—

14 “(i) the excess of modified adjusted
15 gross income in excess of \$25,000, bears to

16 “(ii) \$15,000.

17 “(C) MARRIED FILING SEPARATE RE-
18 TURN.—In the case of a taxpayer who is mar-
19 ried filing a separate return for the taxable year
20 and who has one-person coverage, if the tax-
21 payer has modified adjusted gross income in ex-
22 cess of \$12,500 for the taxable year, the 90
23 percent under paragraph (1)(B) shall be re-
24 duced by the number of percentage points

1 which bears the same ratio to 90 percentage
2 points as—

3 “(i) the excess of modified adjusted
4 gross income in excess of \$12,500, bears to
5 “(ii) \$7,500.

6 “(4) INCOME PHASEOUT OF CREDIT PERCENT-
7 AGE FOR COVERAGE OF MORE THAN ONE PERSON.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), in the case of a taxpayer
10 with coverage of more than one person, if the
11 taxpayer has modified adjusted gross income in
12 excess of \$25,000 for a taxable year, the 90
13 percent under paragraph (1)(B) shall be re-
14 duced by the number of percentage points
15 which bears the same ratio to 90 percentage
16 points as—

17 “(i) the excess of modified adjusted
18 gross income in excess of \$25,000, bears to
19 “(ii) \$35,000.

20 “(B) MARRIED FILING SEPARATE RE-
21 TURN.—In the case of a taxpayer who is mar-
22 ried filing a separate return for the taxable year
23 and who has coverage of more than one person,
24 if the taxpayer has modified adjusted gross in-
25 come in excess of \$12,500 for the taxable year,

1 the 90 percent under paragraph (1)(B) shall be
 2 reduced by the number of percentage points
 3 which bears the same ratio to 90 percentage
 4 points as—

5 “(i) the excess of modified adjusted
 6 gross income in excess of \$12,500, bears to

7 “(ii) \$17,500.

8 “(5) ROUNDING.—Any percentage resulting
 9 from a reduction under paragraphs (3) and (4) shall
 10 be rounded to the nearest one-tenth of a percent.

11 “(6) MODIFIED ADJUSTED GROSS INCOME.—
 12 The term ‘modified adjusted gross income’ means
 13 adjusted gross income determined—

14 “(A) without regard to this section and
 15 sections 911, 931, and 933, and

16 “(B) after application of sections 86, 135,
 17 137, 219, 221, and 469.

18 “(7) ADJUSTMENTS OF PHASEOUT LEVELS FOR
 19 AREAS WITH HIGHER POVERTY LEVELS.—The
 20 \$15,000 and \$20,000 dollar amounts contained in
 21 paragraph (3)(A), the \$25,000 dollar amounts con-
 22 tained in paragraphs (3)(B) and (4)(A), and the
 23 \$12,500 dollar amounts contained in paragraphs
 24 (3)(C) and (4)(B) shall (after any adjustment under
 25 subsection (g)(2) for any taxable year) be adjusted

1 for such taxable year by multiplying each such dollar
2 amount—

3 “(A) by 1.15, in the case of any taxpayer
4 residing in a State or territory where the offi-
5 cial poverty line for a family of 4 exceeds
6 \$20,000 but does not exceed \$24,000, and

7 “(B) by 1.25, in the case of any taxpayer
8 residing in a State or territory where the offi-
9 cial poverty line for a family of 4 exceeds
10 \$24,000.

11 “(c) COVERAGE MONTH.—For purposes of this sec-
12 tion—

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

15 “(A) as of the first day of such month
16 such individual is covered by qualified health in-
17 surance, and

18 “(B) the premium for coverage under such
19 insurance for such month is paid by the tax-
20 payer.

21 “(2) GROUP HEALTH PLAN COVERAGE.—

22 “(A) IN GENERAL.—The term ‘coverage
23 month’ shall not include any month for which
24 such individual participates in any group health

1 plan (within the meaning of section 5000 with-
 2 out regard to section 5000(d)).

3 “(B) EXCEPTION FOR CERTAIN PER-
 4 MITTED COVERAGE.—Subparagraph (A) shall
 5 not apply to an individual if the individual’s
 6 only coverage under a group health plan for a
 7 month is coverage described in clause (i) or (ii)
 8 of section 223(c)(1)(B).

9 “(3) EMPLOYER-PROVIDED COVERAGE.—The
 10 term ‘coverage month’ shall not include any month
 11 during a taxable year if any amount is not includible
 12 in the gross income of the taxpayer for such year
 13 under section 106 (other than coverage described in
 14 clause (i) or (ii) of section 223(c)(1)(B)).

15 “(4) MEDICARE, MEDICAID, AND SCHIP.—The
 16 term ‘coverage month’ shall not include any month
 17 with respect to an individual if, as of the first day
 18 of such month, such individual—

19 “(A) is entitled to any benefits under part
 20 A of title XVIII of the Social Security Act or
 21 is enrolled under part B of such title, or

22 “(B) is enrolled in the program under title
 23 XIX or XXI of such Act (other than under sec-
 24 tion 1928 of such Act).

1 “(5) CERTAIN OTHER COVERAGE.—The term
2 ‘coverage month’ shall not include any month with
3 respect to an individual if, at any time during such
4 month, any benefit is provided to such individual
5 under—

6 “(A) chapter 89 of title 5, United States
7 Code, or

8 “(B) chapter 55 of title 10, United States
9 Code.

10 “(6) PRISONERS.—The term ‘coverage month’
11 shall not include any month with respect to an indi-
12 vidual if, as of the first day of such month, such in-
13 dividual is imprisoned under Federal, State, or local
14 authority.

15 “(7) INSUFFICIENT PRESENCE IN UNITED
16 STATES.—The term ‘coverage month’ shall not in-
17 clude any month during a taxable year with respect
18 to an individual if such individual is present in the
19 United States on fewer than 183 days during such
20 year (determined in accordance with section
21 7701(b)(7)).

22 “(d) QUALIFIED HEALTH INSURANCE.—For pur-
23 poses of this section, the term ‘qualified health insurance’
24 means any high deductible health plan (within the mean-
25 ing of section 223(c)(2)).

1 “(e) ARCHER MSA AND HEALTH SAVINGS ACCOUNT
2 CONTRIBUTIONS.—

3 “(1) IN GENERAL.—If a deduction would (but
4 for paragraph (2)) be allowed under section 220 or
5 223 to the taxpayer for a payment for the taxable
6 year to the Archer MSA or health savings account
7 of an individual, subsection (a) shall be applied by
8 treating such payment as a payment for qualified
9 health insurance for such individual.

10 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
11 tion shall be allowed under section 220 or 223 for
12 that portion of the payments otherwise allowable as
13 a deduction under section 220 or 223 for the taxable
14 year which is equal to the amount of credit allowed
15 for such taxable year by reason of this subsection.

16 “(f) DEPENDENTS.—For purposes of this section—

17 “(1) DEPENDENT DEFINED.—The term ‘de-
18 pendent’ has the meaning given to such term by sec-
19 tion 152 (determined without regard to subsections
20 (b)(1), (b)(2), and (d)(1)(B) thereof).

21 “(2) SPECIAL RULE FOR DEPENDENT CHILD OF
22 DIVORCED PARENTS.—An individual who is a child
23 to whom section 152(e) applies shall be treated as
24 a dependent of the custodial parent for a coverage

1 month unless the custodial and noncustodial parent
2 provide otherwise.

3 “(3) DENIAL OF CREDIT TO DEPENDENTS.—No
4 credit shall be allowed under this section to any indi-
5 vidual with respect to whom a deduction under sec-
6 tion 151(c) is allowable to another taxpayer for a
7 taxable year beginning in the calendar year in which
8 such individual’s taxable year begins.

9 “(g) INFLATION ADJUSTMENTS.—

10 “(1) CREDIT AND HEALTH INSURANCE
11 AMOUNTS.—In the case of any taxable year begin-
12 ning after 2007, each dollar amount referred to in
13 subsections (b)(1)(B) and (b)(2)(A) shall be in-
14 creased by an amount equal to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
17 mined under section 213(d)(10)(B)(ii) for the
18 calendar year in which the taxable year begins,
19 determined by substituting ‘2006’ for ‘1996’ in
20 subclause (II) thereof.

21 If any amount as adjusted under the preceding sen-
22 tence is not a multiple of \$10, such amount shall be
23 rounded to the nearest multiple of \$10.

24 “(2) INCOME PHASEOUT AMOUNTS.—In the
25 case of any taxable year beginning after 2007, each

dollar amount referred to in paragraph (3), (4),
(7)(A), and (7)(B) of subsection (b) shall be in-
creased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment deter-
mined under section 1(f)(3) for the calendar
year in which the taxable year begins, deter-
mined by substituting ‘calendar year 2006’ for
‘calendar year 1992’ in subparagraph (B)
thereof.

If any amount as adjusted under the preceding sen-
tence is not a multiple of \$50, such amount shall be
rounded to the next lowest multiple of \$50.

“(h) SPECIAL RULES.—

“(1) COORDINATION WITH MEDICAL EXPENSE
DEDUCTION AND DEDUCTION FOR PREMIUMS FOR
HIGH DEDUCTIBLE HEALTH PLANS.—The amount
which would (but for this paragraph) be taken into
account by the taxpayer under section 213 for the
taxable year shall be reduced by the credit (if any)
allowed by this section to the taxpayer for such year.

“(2) COORDINATION WITH DEDUCTION FOR
HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
DIVIDUALS.—No credit shall be allowable under this

1 section for a taxable year if a deduction is allowed
2 under section 162(l) for the taxable year.

3 “(3) COORDINATION WITH ADVANCE PAY-
4 MENT.—Rules similar to the rules of section
5 35(g)(1) shall apply to any credit to which this sec-
6 tion applies.

7 “(4) COORDINATION WITH SECTION 35.—If a
8 taxpayer is eligible for the credit allowed under this
9 section and section 35 for any month, the taxpayer
10 shall elect which credit is to be allowed with respect
11 to such month.

12 “(i) EXPENSES MUST BE SUBSTANTIATED.—A pay-
13 ment for insurance to which subsection (a) applies may
14 be taken into account under this section only if the tax-
15 payer substantiates such payment in such form as the Sec-
16 retary may prescribe.

17 “(j) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be necessary to carry out the pur-
19 poses of this section.”.

20 (b) INFORMATION REPORTING.—

21 (1) IN GENERAL.—Subpart B of part III of
22 subchapter A of chapter 61 of the Internal Revenue
23 Code of 1986 (relating to information concerning
24 transactions with other persons) is amended by in-
25 serting after section 6050T the following:

1 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
2 **QUALIFIED HEALTH INSURANCE.**

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

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

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

15 “(2) contains—

16 “(A) the name, address, and TIN of the
17 individual from whom payments described in
18 subsection (a) were received,

19 “(B) the name, address, and TIN of each
20 individual who was provided by such person
21 with coverage under creditable health insurance
22 by reason of such payments and the period of
23 such coverage,

24 “(C) the aggregate amount of payments
25 described in subsection (a), and

1 “(D) such other information as the Sec-
2 retary may reasonably prescribe.

3 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
4 poses of this section, the term ‘creditable health insurance’
5 means qualified health insurance (as defined in section
6 35A(d)).

7 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
8 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
9 QUIRED.—Every person required to make a return under
10 subsection (a) shall furnish to each individual whose name
11 is required under subsection (b)(2)(A) to be set forth in
12 such return a written statement showing—

13 “(1) the name and address of the person re-
14 quired to make such return and the phone number
15 of the information contact for such person,

16 “(2) the aggregate amount of payments de-
17 scribed in subsection (a) received by the person re-
18 quired to make such return from the individual to
19 whom the statement is required to be furnished, and

20 “(3) the information required under subsection
21 (b)(2)(B) with respect to such payments.

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

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

8 (2) ASSESSABLE PENALTIES.—

9 (A) Subparagraph (B) of section
 10 6724(d)(1) of such Code (relating to defini-
 11 tions) is amended by redesignating clauses (xiii)
 12 through (xviii) as clauses (xiv) through (xix),
 13 respectively, and by inserting after clause (xii)
 14 the following:

15 “(xiii) section 6050U (relating to re-
 16 turns relating to payments for qualified
 17 health insurance),”.

18 (B) Paragraph (2) of section 6724(d) of
 19 such Code is amended by striking “or” at the
 20 end of subparagraph (AA), by striking the pe-
 21 riod at the end of the subparagraph (BB) and
 22 inserting “, or”, and by adding at the end the
 23 following:

1 “(CC) section 6050U(d) (relating to re-
 2 turns relating to payments for qualified health
 3 insurance).”.

4 (3) CLERICAL AMENDMENT.—The table of sec-
 5 tions for subpart B of part III of subchapter A of
 6 chapter 61 of such Code is amended by inserting
 7 after the item relating to section 6050T the fol-
 8 lowing:

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

9 (c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B
 10 of chapter 75 of the Internal Revenue Code of 1986 (relat-
 11 ing to other offenses) is amended by adding at the end
 12 the following:

13 **“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO**
 14 **HEALTH INSURANCE TAX CREDIT.**

15 “Any person who knowingly misuses Department of
 16 the Treasury names, symbols, titles, or initials to convey
 17 the false impression of association with, or approval or en-
 18 dorsement by, the Department of the Treasury of any in-
 19 surance products or health coverage in connection with the
 20 credit for health insurance costs under section 35A shall
 21 on conviction thereof be fined not more than \$10,000, or
 22 imprisoned not more than 1 year, or both.”.

23 (d) CONFORMING AMENDMENTS.—

24 (1) Paragraph (2) of section 1324(b) of title
 25 31, United States Code, is amended by inserting be-

1 fore the period “, or from section 35A of such
2 Code”.

3 (2) The table of sections for subpart C of part
4 IV of subchapter A of chapter 1 of the Internal Rev-
5 enue Code of 1986 is amended by inserting after the
6 item relating to section 36 the following new item:

“Sec. 35A. High deductible health plans for uninsured individuals.”.

7 (3) The table of sections for subchapter B of
8 chapter 75 of such Code is amended by adding at
9 the end the following:

“Sec. 7276. Penalties for offenses relating to health insurance tax credit.”.

10 (e) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall apply to taxable years beginning after Decem-
14 ber 31, 2006.

15 (2) PENALTIES.—The amendments made by
16 subsections (c) and (d)(3) shall take effect on the
17 date of the enactment of this Act.

18 **SEC. 2. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF**
19 **QUALIFIED HEALTH INSURANCE.**

20 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
21 enue Code of 1986 (relating to miscellaneous provisions)
22 is amended by adding at the end the following:

1 **“SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HIGH DE-**
2 **DUCTIBLE HEALTH PLAN COSTS OF ELIGIBLE**
3 **INDIVIDUALS.**

4 “Not later than July 1, 2007, the Secretary shall es-
5 tablish a program for making payments to providers of
6 qualified health insurance (as defined in section 35A(d))
7 on behalf of individuals eligible for the credit under section
8 35A. Such payments shall be made on the basis of modi-
9 fied adjusted gross income of eligible individuals for the
10 preceding taxable year.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 77 of the Internal Revenue Code of 1986 is
13 amended by adding at the end the following:

“Sec. 7529. Advance payment of credit for high deductible health plan costs
of eligible individuals.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on July 1, 2007.

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