

112TH CONGRESS
1ST SESSION

S. 1049

To lower health premiums and increase choice for small businesses.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2011

Mr. KYL (for himself, Mr. BARRASSO, Mr. BURR, Mr. COBURN, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To lower health premiums and increase choice for 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Small Business Health Relief Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—MAKING COVERAGE AFFORDABLE FOR SMALL
BUSINESSES**

Sec. 101. Protecting American jobs and wages.

Sec. 102. Increasing flexibility for small businesses.

- Sec. 103. Increasing choices for Americans.
 Sec. 104. Protecting patients from higher premiums.
 Sec. 105. Ensuring affordable coverage.

TITLE II—INCREASING CONSUMER CONTROL

- Sec. 201. Repeal of the restriction on over-the-counter medicines.
 Sec. 202. Repeal of the annual cap.

TITLE III—ALLOWING INDIVIDUALS TO KEEP COVERAGE THEY
 LIKE

- Sec. 301. Allowing individuals to keep the coverage they have if they like it.

1 **TITLE I—MAKING COVERAGE AF-**
 2 **FORDABLE FOR SMALL BUSI-**
 3 **NESSES**

4 **SEC. 101. PROTECTING AMERICAN JOBS AND WAGES.**

5 Sections 1513 and 1514 and subsections (e), (f), and
 6 (g) of section 10106 of the Patient Protection and Afford-
 7 able Care Act (Public Law 111–148) and the amendments
 8 made by such sections and subsections are repealed and
 9 the Internal Revenue Code of 1986 shall be applied and
 10 administered as if such provisions and amendments had
 11 never been enacted.

12 **SEC. 102. INCREASING FLEXIBILITY FOR SMALL BUSI-**
 13 **NESSES.**

14 Section 1302(c)(2) of the Patient Protection and Af-
 15 fordable Care Act (Public Law 111–148) is repealed.

16 **SEC. 103. INCREASING CHOICES FOR AMERICANS.**

17 (a) **QUALIFIED HEALTH PLAN COVERAGE SATISFIED**
 18 **BY HIGH DEDUCTIBLE HEALTH PLAN WITH HEALTH**
 19 **SAVINGS ACCOUNT.**—Section 1302(e) of the Patient Pro-

1 tection and Affordable Care Act (42 U.S.C. 18022(e)) is
2 amended to read as follows:

3 “(e) HIGH DEDUCTIBLE HEALTH PLAN WITH
4 HEALTH SAVINGS ACCOUNT.—A health plan not pro-
5 viding a bronze, silver, gold, or platinum level of coverage
6 shall be treated as meeting the requirements of subsection
7 (d) with respect to any plan year for any enrollee if the
8 plan meets the requirements for a high deductible health
9 plan under section 223(c)(2) of the Internal Revenue Code
10 of 1986 and such enrollee has established a health savings
11 account (as defined in section 223(d)(1) of such Code) in
12 relation to such plan.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subparagraph (C) of section 1312(d)(3) of
15 the Patient Protection and Affordable Care Act (42
16 U.S.C. 18032(d)(3)) is amended by striking “, ex-
17 cept” and all that follows through “1302(e)(2)”.

18 (2) Subparagraph (A) of section 36B(c)(3) of
19 the Internal Revenue Code of 1986, as added by sec-
20 tion 1401(a) of the Patient Protection and Afford-
21 able Care Act (Public Law 111–148) is amended by
22 striking “, except” and all that follows through
23 “such Act”.

24 (3) Subparagraph (B) of section 1334(e)(1) of
25 the Patient Protection and Affordable Care Act (42

1 U.S.C. 18054(e)(1)) is amended by striking “and
2 catastrophic coverage”.

3 **SEC. 104. PROTECTING PATIENTS FROM HIGHER PRE-**
4 **MIUMS.**

5 Section 9010 of the Patient Protection and Afford-
6 able Care Act (Public Law 111–148), as amended by sec-
7 tion 10905 of such Act, is repealed.

8 **SEC. 105. ENSURING AFFORDABLE COVERAGE.**

9 Section 2701(a)(1)(A)(iii) of the Public Health Serv-
10 ice Act (42 U.S.C. 300(a)(1)(A)(iii)), as added by section
11 1201 of the Patient Protection and Affordable Care Act
12 (Public Law 111–148), is amended by striking “, except”
13 and all that follows through “2707(c)”.

14 **TITLE II—INCREASING**
15 **CONSUMER CONTROL**

16 **SEC. 201. REPEAL OF THE RESTRICTION ON OVER-THE-**
17 **COUNTER MEDICINES.**

18 Section 9003 of the Patient Protection and Afford-
19 able Care Act (Public Law 111–148) and the amendments
20 made by such section are repealed; and the Internal Rev-
21 enue Code of 1986 shall be applied as if such section, and
22 amendments, had never been enacted.

23 **SEC. 202. REPEAL OF THE ANNUAL CAP.**

24 Sections 9005 and 10902 of the Patient Protection
25 and Affordable Care Act (Public Law 111–148) and sec-

1 tion 1403 of the Health Care and Education Reconcili-
 2 ation Act of 2010 (Public Law 111–152) and the amend-
 3 ments made by such sections are repealed.

4 **TITLE III—ALLOWING INDIVIDUALS TO KEEP COVERAGE**
 5 **THEY LIKE**
 6 **THEY LIKE**

7 **SEC. 301. ALLOWING INDIVIDUALS TO KEEP THE COV-**
 8 **ERAGE THEY HAVE IF THEY LIKE IT.**

9 (a) IN GENERAL.—Section 1251(a)(2) of the Patient
 10 Protection and Affordable Care Act (42 U.S.C. 18011) is
 11 amended—

12 (1) by striking “Except as provided in para-
 13 graph (3),” and inserting the following:

14 “(A) IN GENERAL.—Except as provided in
 15 paragraphs (3) and (4),”; and

16 (2) by adding at the end the following:

17 “(B) PROTECTING EMPLOYERS AND CON-
 18 SUMERS WITH GRANDFATHERED COVERAGE.—

19 “(i) IN GENERAL.—A group health
 20 plan or health insurance coverage in which
 21 an individual is enrolled on or after March
 22 23, 2010, but before any plan year begin-
 23 ning not later than 1 year after the date
 24 of the enactment of this subparagraph, and
 25 which is deemed to be a grandfathered

1 health plan under this section, shall con-
2 tinue to be considered a grandfathered
3 health plan with respect to such individual
4 regardless of any modification to the cost-
5 sharing levels, employer contribution rates,
6 or covered benefits under such plan or cov-
7 erage as otherwise permitted under this
8 Act (and the amendments made by this
9 Act).

10 “(ii) REGULATIONS.—The Secretary
11 shall promulgate regulations to clarify the
12 application of clause (i) to a plan or cov-
13 erage that continues to be a grandfathered
14 health plan pursuant to such clause.”.

15 (b) EFFECTIVE DATE; PREVIOUSLY PROMULGATED
16 REGULATIONS VOIDED.—

17 (1) EFFECTIVE DATE.—The amendments made
18 by this section shall take effect as if included in the
19 enactment of the Patient Protection and Affordable
20 Care Act.

21 (2) PREVIOUSLY PROMULGATED REGULATIONS
22 VOIDED.—Any regulations relating to section
23 1251(a)(2) of such Act promulgated before the date

1 of the enactment of this Act shall have no force or
2 effect.

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