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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 83**

Session of  
2005

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INTRODUCED BY GREENLEAF, TARTAGLIONE, O'PAKE, KASUNIC, RAFFERTY,  
COSTA, M. WHITE, PIPPY, ORIE, GORDNER AND BOSCOLA,  
JANUARY 31, 2005

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REFERRED TO BANKING AND INSURANCE, JANUARY 31, 2005

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AN ACT

1 Amending the act of June 26, 2001 (P.L.755, No.77), entitled "An  
2 act establishing a special fund and account for money  
3 received by the Commonwealth from the Master Settlement  
4 Agreement with tobacco manufacturers; providing for home and  
5 community-based care, for tobacco use prevention and  
6 cessation efforts, for Commonwealth universal research  
7 enhancement, for hospital uncompensated care, for health  
8 investment insurance, for medical assistance for workers with  
9 disabilities, for regional biotechnology research centers,  
10 for the HealthLink Program, for community-based health care  
11 assistance programs, for PACE reinstatement and PACENET  
12 expansion, for medical education loan assistance and for  
13 percentage allocation and appropriation of moneys," adding  
14 definitions, expanding adult basic coverage insurance; and  
15 providing for a health insurance tax credit for small  
16 employers.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

19 Section 1. Section 1302 of the act of June 26, 2001  
20 (P.L.755, No.77), known as the Tobacco Settlement Act, is  
21 amended by adding definitions to read:

22 Section 1302. Definitions.

23 The following words and phrases when used in this chapter  
24 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

3 "Qualified adult." A person who is self-employed or an  
4 active employee of a small employer, and at least 19 years of  
5 age, but less than 65 years of age and whose household income  
6 exceeds 200% of the Federal poverty level at the time of  
7 eligibility determination.

8 "Small employer." A person, firm, corporation, partnership  
9 or association which employed, on at least 50% of its working  
10 days during the preceding year, at least two but not more than  
11 50 employees.

12 Section 2. The act is amended by adding sections to read:

13 Section 1305. Qualified adults and small employers.

14 (a) Eligibility.--A qualified adult shall be eligible to  
15 purchase adult basic coverage insurance if the qualified adult  
16 has not been covered by a health insurance plan, a self-  
17 insurance plan or a self-funded plan during the three months  
18 immediately preceding the determination of eligibility. In  
19 addition, a small employer shall be eligible to purchase adult  
20 basic coverage insurance if it has not provided health insurance  
21 coverage, directly or indirectly, to qualified adults anytime  
22 during the 12 months immediately preceding the determination of  
23 eligibility.

24 (b) Payment.--A qualified adult or small employer seeking to  
25 purchase adult basic coverage insurance shall:

26 (1) Submit an application to the department.

27 (2) Be responsible for any required copayments for  
28 health care services rendered under the benefit package in  
29 section 1303(f)(2).

30 (3) Pay the cost of the adult basic coverage insurance

1 actually incurred by the department or its contractors.

2 Section 1306. Small employer health insurance tax credit.

3 (a) Credit for health insurance expense.--

4 (1) A taxpayer who incurs a qualified health insurance  
5 expense in a taxable year may apply for a health insurance  
6 premium tax credit as provided in this section. By September  
7 15, a taxpayer must submit an application to the department  
8 for a qualified health insurance expense incurred in the  
9 taxable year that ended in the prior calendar year.

10 (2) A taxpayer that is eligible under paragraph (1)  
11 shall receive a health insurance premium tax credit for the  
12 taxable year in an amount up to \$30,000 per small employer.

13 (3) By December 15 of the calendar year following the  
14 close of the taxable year during which a qualified health  
15 insurance expense was incurred, the department shall notify  
16 the taxpayer of the amount of the taxpayer's health insurance  
17 tax credit approved by the department.

18 (b) Carryover, carryback, refund and assignment of credit.--

19 (1) If a taxpayer cannot use the entire amount of the  
20 health insurance tax credit for the taxable year in which the  
21 health insurance tax credit is first approved, then the  
22 excess may be carried over to succeeding taxable years and  
23 used as a credit against the qualified tax liability of the  
24 taxpayers for those taxable years. Each time that the health  
25 insurance tax credit is carried over to a succeeding taxable  
26 year, it shall be reduced by the amount that was used as a  
27 credit during the immediately preceding taxable year. The  
28 health insurance tax credit provided by this section may be  
29 carried over and applied to succeeding taxable years for no  
30 more than 15 taxable years following the first taxable year

1 for which the taxpayer was entitled to claim the credit.

2 (2) A health insurance tax credit approved by the  
3 department for a qualified health insurance expense in a  
4 taxable year first shall be applied against the taxpayer's  
5 qualified tax liability for the current taxable year as of  
6 the date of which the credit was approved before the health  
7 insurance tax credit is applied against any tax liability  
8 under paragraph (1).

9 (3) A taxpayer is not entitled to carry back or obtain a  
10 refund of an unused health insurance tax credit.

11 (c) Determination of qualified health insurance expenses.--  
12 The department shall require the documentation it deems  
13 necessary to determine which health insurance expense is to be  
14 deemed a qualified health insurance expense for purposes of  
15 computing the credit provided by this section.

16 (d) Pennsylvania S corporation shareholder pass-through.--

17 (1) If a Pennsylvania S corporation does not have an  
18 eligible tax liability against which the health insurance tax  
19 credit may be applied, a shareholder of the Pennsylvania S  
20 corporation is entitled to a health insurance tax credit  
21 equal to the health insurance tax credit determined for the  
22 Pennsylvania S corporation for the taxable year multiplied by  
23 the percentage of the Pennsylvania S corporation's  
24 distributive income to which the shareholder is entitled.

25 (2) The credit provided under paragraph (1) is in  
26 addition to any health insurance tax credit to which a  
27 shareholder of a Pennsylvania S corporation is otherwise  
28 entitled under the act of March 4, 1971 (P.L.6, No.2), known  
29 as the Tax Reform Code of 1971. However, a Pennsylvania S  
30 corporation and a shareholder of a Pennsylvania S corporation

1 may not claim a credit under this section for the same  
2 qualified health insurance expense.

3 (e) Report to General Assembly.--

4 (1) The secretary shall submit an annual report to the  
5 General Assembly indicating the effectiveness of the credits  
6 provided by this section no later than March 15 following the  
7 year in which the credits were approved. The report shall  
8 include the names of all taxpayers utilizing the credits as  
9 of the date of the report and the amount of credits approved  
10 and utilized by each taxpayer.

11 (2) The report may also include any recommendations for  
12 changes in the calculation or administration of the credits.  
13 Notwithstanding any law providing for the confidentiality of  
14 tax records, the information contained in the report shall be  
15 public information.

16 (f) Definitions.--As used in this section, the following  
17 words and phrases shall have the meanings given to them in this  
18 subsection:

19 "Department." The Department of Revenue of the Commonwealth.

20 "Qualified health insurance expense." Fifty percent of the  
21 expense incurred by a small employer in purchasing adult basic  
22 coverage insurance for qualified adults.

23 "Qualified tax liability." The liability for taxes imposed  
24 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,  
25 No.2), known as the Tax Reform Code of 1971.

26 "Secretary." The Secretary of Revenue of the Commonwealth.

27 "Tax credit." The health insurance tax credit authorized  
28 under this section.

29 "Taxpayer." An employer that is liable for taxes under  
30 Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2),

1 known as the Tax Reform Code of 1971. The term shall include the  
2 shareholder of a Pennsylvania S corporation that receives a  
3 health insurance tax credit.

4 Section 3. This act shall take effect in 60 days.