

1 **INCOME TAX CREDITS FOR CERTAIN**
2 **HEALTH INSURANCE PREMIUMS PAID BY A**
3 **SMALL EMPLOYER**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Wayne A. Harper**

7 Senate Sponsor: _____

9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Corporate Franchise and Income Taxes chapter and the Individual
12 Income Tax Act to provide nonrefundable tax credits.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms;
- 16 ▶ provides nonrefundable tax credits for certain health insurance premiums a small
17 employer pays during the taxable year for certain employees; and
- 18 ▶ grants rulemaking authority to the State Tax Commission.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill has retrospective operation for taxable years beginning on or after January 1,
23 2007.

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **59-7-614.2**, Utah Code Annotated 1953

27 **59-10-1015.1**, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-614.2** is enacted to read:

59-7-614.2. Nonrefundable health care insurance tax credit.

(1) As used in this section:

(a) (i) "Eligible employee" means an individual who:

(A) is covered by health care insurance that is offered by a small employer;

(B) has a normal work week of 30 or more hours; and

(C) works for the small employer for at least 26 weeks during the taxable year for which a tax credit is claimed under this section.

(ii) "Eligible employee" includes the following individuals if the requirements of Subsection (1)(a)(i) are met:

(A) an independent contractor of a small employer;

(B) a director or an officer of a small employer;

(C) a person having an ownership interest in a small employer if the person:

(I) has management authority for the small employer; or

(II) performs duties as an employee for the small employer;

(D) a sole proprietor if the small employer is a sole proprietor; or

(E) a person similar to a person described in Subsections (1)(a)(ii)(A) through (D) if the commission makes rules in accordance with Subsection (4)(b).

(iii) "Eligible employee" does not include:

(A) a spouse of an individual described in Subsection (1)(a)(i) or (ii); or

(B) a dependent of an individual described in Subsection (1)(a)(i) or (ii).

(b) "Eligible health care insurance premium" means an amount a small employer:

(i) pays for health care insurance for an eligible employee for a taxable year; and

(ii) does not deduct in determining unadjusted income for the taxable year for which the small employer claims a tax credit under this section.

(c) "Health care insurance" is as defined in Section 31A-1-301.

(d) "Small employer" means an employer that:

(i) employed an average of at least two eligible employees but not more than 50 eligible employees on each business day during the taxable year immediately preceding the

59 taxable year for which the small employer claims a tax credit under this section; and
60 (ii) employs at least two eligible employees on the first day of the taxable year for
61 which the small employer claims a tax credit under this section.

62 (2) For taxable years beginning on or after January 1, 2007, if on each day of the
63 taxable year for which a small employer claims a tax credit under this section at least 80% of
64 the small employer's employees are covered by health care insurance offered by the small
65 employer, the small employer may claim a nonrefundable tax credit equal to the lesser of:

66 (a) the eligible health care insurance premium that the small employer pays during the
67 taxable year for each eligible employee; or

68 (b) \$1,000.

69 (3) A tax credit under this section may not be carried forward or carried back.

70 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
71 commission may:

72 (a) by rule prescribe the method for allocating an amount a small employer pays for
73 health care insurance to each eligible employee of the small employer for purposes of
74 determining the eligible health care insurance premium;

75 (b) by rule define what constitutes a person similar to a person described in
76 Subsections (1)(a)(ii)(A) through (D); or

77 (c) make rules for determining whether at least 80% of a small employer's employees
78 are covered by health care insurance offered by the small employer.

79 Section 2. Section **59-10-1015.1** is enacted to read:

80 **59-10-1015.1. Nonrefundable health care insurance tax credit.**

81 (1) As used in this section:

82 (a) (i) "Eligible employee" means an individual who:

83 (A) is covered by health care insurance that is offered by a small employer;

84 (B) has a normal work week of 30 or more hours; and

85 (C) works for the small employer for at least 26 weeks during the taxable year for
86 which a tax credit is claimed under this section.

87 (ii) "Eligible employee" includes the following individuals if the requirements of
88 Subsection (1)(a)(i) are met:

89 (A) an independent contractor of a small employer;

90 (B) a director or an officer of a small employer;

91 (C) a person having an ownership interest in a small employer if the person:

92 (I) has management authority for the small employer; or

93 (II) performs duties as an employee for the small employer;

94 (D) a sole proprietor if the small employer is a sole proprietor; or

95 (E) a person similar to a person described in Subsections (1)(a)(ii)(A) through (D) if

96 the commission makes rules in accordance with Subsection (4)(b).

97 (iii) "Eligible employee" does not include:

98 (A) a spouse of an individual described in Subsection (1)(a)(i) or (ii); or

99 (B) a dependent of an individual described in Subsection (1)(a)(i) or (ii).

100 (b) "Eligible health care insurance premium" means an amount a small employer:

101 (i) pays for health care insurance for an eligible employee for a taxable year; and

102 (ii) does not deduct in determining federal taxable income for the taxable year for

103 which the small employer claims tax credit under this section.

104 (c) "Health care insurance" is as defined in Section 31A-1-301.

105 (d) "Small employer" means an employer that:

106 (i) is a claimant, estate, or trust;

107 (ii) employed an average of at least two eligible employees but not more than 50

108 eligible employees on each business day during the taxable year immediately preceding the

109 taxable year for which the small employer claims a tax credit under this section; and

110 (iii) employs at least two eligible employees on the first day of the taxable year for

111 which the small employer claims a tax credit under this section.

112 (2) For taxable years beginning on or after January 1, 2007, if on each day of the

113 taxable year for which a small employer claims a tax credit under this section at least 80% of

114 the small employer's employees are covered by health care insurance offered by the small

115 employer, the small employer may claim a nonrefundable tax credit equal to the lesser of:

116 (a) the eligible health care insurance premium that the small employer pays during the

117 taxable year for each eligible employee; or

118 (b) \$1,000.

119 (3) A tax credit under this section may not be carried forward or carried back.

120 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

121 commission may:

122 (a) by rule prescribe the method for allocating an amount a small employer pays for
123 health care insurance to each eligible employee of the small employer for purposes of
124 determining the eligible health care insurance premium;

125 (b) by rule define what constitutes a person similar to a person described in
126 Subsections (1)(a)(ii)(A) through (D); or

127 (c) make rules for determining whether at least 80% of a small employer's employees
128 are covered by health care insurance offered by the small employer.

129 **Section 3. Retrospective operation.**

130 This bill has retrospective operation for taxable years beginning on or after January 1,
131 2007.

Legislative Review Note
as of 2-12-07 10:41 AM

Office of Legislative Research and General Counsel

Fiscal Note

**H.B. 406 - Income Tax Credits for Certain Health Insurance Premiums Paid
by a Small Employer**
2007 General Session
State of Utah

State Impact

Enactment of this bill could reduce the Education Fund by \$40,000,000 in FY 2008 and by \$41,000,000 in FY 2009.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	(\$40,000,000)	(\$41,000,000)
Total	\$0	\$0	\$0	\$0	(\$40,000,000)	(\$41,000,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Small employers could receive tax credits of \$1,000 for each employee covered by insurance.