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437	ENDMENT NO. Calendar No
Pur	pose: To deem an association health pool as an employer under the Employee Retirement Income Security Act of 1974 for purposes of offering a group health plan or group health insurance coverage.
IN '	THE SENATE OF THE UNITED STATES-116th Cong., 1st Sess.
	S. 1895
	To lower health care costs.
R	eferred to the Committee on and ordered to be printed
	Ordered to lie on the table and to be printed
	AMENDMENT intended to be proposed by Mr. Paul
Viz	
1	At the appropriate place insert the following:
2	SEC ASSOCIATION HEALTH POOLS DEEMED AN "EM-
3	PLOYER" FOR PURPOSES OF OFFERING
4	GROUP HEALTH PLANS OR GROUP HEALTH
5	INSURANCE COVERAGE.
6	(a) Definition of Employer.—Section 3(5) of the
7	Employee Retirement Income Security Act of 1974 (29
8	U.S.C. 1002(5)) is amended by adding at the end the fol-
9.	lowing: "Such term shall be deemed to include, for pur-
10	poses of offering a group health plan (as defined in section

11 733(a)(1)) or group health insurance coverage (as defined

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1	in section 733(b)(4)), any entity that meets the require-
2	ments under section 735(b).".
3	(b) Group Health Plans and Group Health In-
4	SURANCE COVERAGE.—Part 7 of subtitle B of title I of
5	the Employee Retirement Income Security Act of 1974
6	(29 U.S.C. 1181 et seq.) is amended by adding at the end
7	the following:
8.	"SEC. 735. ASSOCIATION HEALTH POOLS DEEMED AN 'EM-
9	PLOYER' FOR PURPOSES OF OFFERING
10	GROUP HEALTH PLANS OR GROUP HEALTH
11	INSURANCE COVERAGE.
12	"(a) In General.—An entity (referred to in this sec-
13	tion as an 'association health pool') that meets the re-
14	quirements under subsection (b) shall be deemed an em-
15	ployer under section 3(5) for purposes of offering a group
16	health plan or group health insurance coverage.
17	"(b) REQUIREMENTS FOR ASSOCIATION HEALTH
18	Pools.—The requirements under this subsection are each
19	of the following:
20	"(1) Organization.—The association health
2.1	pool shall—
22	"(A) be formed and maintained in good
23	faith for a purpose that includes the formation
24	of a risk pool in order to offer group health in-

1	surance coverage or a group health plan to its
2	members; and
3	"(B) not condition membership in the as-
4	sociation health pool on any health status-re-
5 °	lated factor relating to an individual (including
6	an employee of an employer or a dependent of
7	an employee).
8	"(2) OFFERING GROUP HEALTH PLANS AND
9	GROUP HEALTH INSURANCE COVERAGE.—
10	"(A) DIFFERENT GROUPS.—The associa-
11	tion health pool, which may be in conjunction
12	with a health insurance issuer that offers group
13	health insurance coverage through the associa-
14	tion health pool, shall make available a group
15	health plan or group health insurance coverage
16	to all members of the association health pool
17	and (if applicable) any dependents of such
18	members (and, in the case of members that are
19	employers, employees of the employers and (if
20	applicable) their dependents) at rates that are
21	established by the association health pool, or a
22	health insurance issuer contracting with such
23	association health pool, on a policy or product
24	specific basis and that, subject to sections 701

Ţ	and 702, may vary for individuals covered
2	through the association health pool.
3	"(B) Nondiscrimination in coverage
4	OFFERED.—
5	"(i) In general.—Subject to clause
6	(ii), the association health pool may not
7	offer coverage under a group health plan
8.	or group health insurance coverage to a
9	member of the association health pool un-
10	less the same coverage is offered to all
11	such members of the association health
12	pool.
13	"(ii) Construction.—Nothing in
14	this subsection shall be construed as re-
15	quiring a health insurance issuer or group
16	health plan to provide coverage outside the
17	service area of the issuer or plan, or pre-
18	venting a health insurance issuer or group
19	health plan from underwriting or from ex-
20	cluding or limiting the coverage on any in-
21	dividual, subject to the requirements under
22	sections 701 and 702.
23	"(C) Assumption of risk.—The associa-
24	tion health pool may provide—

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1	"(i) group health insurance coverage
2	through a contract with a health insurance
3	issuer; or
4	"(ii) a group health plan through self-
5	insurance.
6	"(3) GEOGRAPHIC AREAS.—Nothing in this
7	subsection shall be construed as preventing the es-
8	tablishment and operation of more than 1 associa-
9	tion health pool in a geographic area or as limiting
10	the number of association health pools that may op-
11	erate in any area.
12	"(4) Provision of administrative services
13	TO PURCHASERS.—The association health pool may
14	provide administrative services for members. Such
15	services may include accounting, billing, and enroll-
16	ment information.
17	"(5) Members.—
18	"(A) IN GENERAL.—With respect to an in-
19	dividual who is a member of an association
20	health pool—
21	"(i) the individual may enroll for cov-
22	erage under a group health plan or group
23	health insurance coverage (including if ap-
24	plicable coverage for a dependent of such
25	individual); or

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1	"(ii) the employer of the individual
2	may enroll the individual for coverage
3	under a group health plan or group health
4	insurance coverage (including if applicable
5	coverage for a dependent of such indi-
6	vidual).
7	"(B) Rules for enrollment.—Nothing
8	in this paragraph shall preclude an association
9	health pool from establishing rules of enroll-
10	ment and reenrollment of members. Such rules
11	shall be applied consistently to all members
12	within the association health pool and shall not
13	be based in any manner on health status-related
14	factors in accordance with sections 701 and
15	702.
16	"(c) DETERMINATION OF EMPLOYER AND JOINT EM-
17	PLOYER STATUS.—Participating in or facilitating a group
18	health plan or group health insurance coverage sponsored
19	by a group or association of employers meeting the re-
20	quirements under subsection (b) shall not be construed as
21	establishing under any Federal or State law—
22	"(1) an employer relationship for any purpose
23	other than offering the group health plan or group
24	health insurance coverage; and

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1	"(2) a joint employer relationship for any pur-
2	pose.
3	"(d) DEFINITIONS.—In this section:
4	"(1) DEPENDENT.—The term 'dependent', as
5	applied to a group health plan or group health insur-
6	ance coverage offered in a State, shall have the
7	meaning applied to such term with respect to such
8	plan or coverage under the State law applying to
9.	such plan or coverage. Such term may include the
10	spouse and children of the individual involved.
11	"(2) Member.—The term 'member' means a
12	person, including an employer, who is a member of
13	the association health pool.".
14	(c) Conforming Amendments.—Section 3 of the
15	Employee Retirement Income Security Act of 1974 (29
16	U.S.C. 1002) is amended—
17	(1) in paragraph (6), by inserting before the pe-
18	riod ", except (with respect to an entity meeting the
19	requirements under section 735(b)) such term in-
20	cludes any member of such plan or pool";
21	(2) in paragraph (21)—
22	(A) in subparagraph (A), by striking "sub-
23	paragraph (B)" and inserting "subparagraphs
24	(B) and (C)"; and
25	(B) by adding at the end the following:

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1	"(C) With respect to a person that is a member of
2	an entity (referred to in section 735 and this subpara-
3	graph as an 'association health pool') that meets the re-
4	quirements of subsection (b) of such section and offers a
5	group health plan (as defined in section 733(a)(1)) or
6	group health insurance coverage (as defined in section
7	733(b)(4)), membership in the pool shall not by itself
8	cause the person to be a fiduciary with respect to the
9	group health plan or group health insurance coverage.";
10	and
11	(3) in paragraph (40)(A)—
12	(A) in clause (ii), by striking ", or" and in-
13	serting ",";
14	(B) in clause (iii), by striking the period
15	and inserting ", or"; and
16	(C) by adding at the end the following:
17	"(iv) as a group health plan (as defined in sec-
18	tion 733(a)(1)), or group health insurance coverage
10	
19	(as defined in section 733(b)(4)), offered by an enti-