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WAYS AND MEANS

HOUSE FILE 2477  
BY STRUYK and KAUFMANN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act authorizing small employer association health benefit  
2 plans, a small business health care tax credit, wellness  
3 incentives, a small employer catastrophic risk health care  
4 reinsurance program, providing an appropriation, and providing  
5 for effective, retroactive, and applicability dates.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

ASSOCIATION GROUP HEALTH PLANS

Section 1. Section 513B.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Association" means an organization with membership of not less than fifty small employers which has been formed for purposes other than obtaining insurance.

Sec. 2. NEW SECTION. 513B.4B PREMIUM RATES --  
EXCEPTIONS.

1. Notwithstanding section 513B.4, a small employer carrier that offers health insurance coverage in the small group market may offer a health benefit plan to members of an association with premium rates determined by the total number of lives insured by the plan, not the number of lives of each small employer in the association.

2. a. A plan offered pursuant to subsection 1 shall include a continuous program of general health education for disease prevention and identification without additional cost to the enrollees. Such a program may include publications, media presentations, and classroom instruction.

b. Programs of wellness education including stress management, smoking cessation, nutritional education, physical fitness programs, and other such programs as approved by the division of insurance, by rules adopted pursuant to chapter 17A, shall be open to all enrollees in a plan offered pursuant to subsection 1, on a voluntary basis, and may be subject to copayment requirements. These programs shall be conducted by qualified personnel.

3. An employer that purchases an association plan offered pursuant to subsection 1 shall also give each enrollee in the plan who is employed by the employer the opportunity to participate in a health savings account, as defined in section 223(d) of the Internal Revenue Code.

DIVISION II

SMALL EMPLOYER HEALTH CARE TAX CREDIT

1     Sec. 3. NEW SECTION. 422.11M SMALL BUSINESS HEALTH CARE  
2 TAX CREDIT.

3     1. a. The taxes imposed under this division, less the  
4 amounts of nonrefundable credits allowed under this division,  
5 shall be reduced by a small business health care tax credit,  
6 to the extent available, for the cost to a small business of  
7 providing health care benefits or contributions to employees  
8 of the business. The amount of the credit for each employee  
9 equals the first one thousand dollars of the cost of providing  
10 health care benefits to the employee or the first one thousand  
11 dollars of the contribution made on behalf of the employee to  
12 a health savings account of that employee.

13     b. The total amount of all credits for all employees under  
14 paragraph "a" shall not exceed twenty-five thousand dollars.

15     c. For purposes of this section:

16         (1) "Health savings account" means a health savings  
17 account as defined in section 223(d) of the Internal Revenue  
18 Code.

19         (2) "Small business" means a for-profit enterprise that  
20 employed during the tax year less than fifty full-time  
21 equivalent employees.

22     d. Any credit in excess of the tax liability shall be  
23 refunded. In lieu of claiming a refund, a taxpayer may elect  
24 to have the overpayment shown on the taxpayer's final,  
25 completed return credited to the tax liability for the  
26 following taxable year.

27     2. An individual may claim a small business health care  
28 tax credit allowed a partnership, limited liability company, S  
29 corporation, estate, or trust electing to have the income  
30 taxed directly to the individual. The amount claimed by the  
31 individual shall be based upon the pro rata share of the  
32 individual's earnings of the partnership, limited liability  
33 company, S corporation, estate, or trust.

34     3. A taxpayer claiming a credit under this section shall  
35 not be precluded, in computing taxable income, from deducting

1 the amount of costs for providing health care benefits allowed  
2 under any section of the Internal Revenue Code.

3 4. To receive the small business health care tax credit, a  
4 small business must submit an application to the department.  
5 If the taxpayer meets the criteria for eligibility, the  
6 department shall issue to the taxpayer a certification of  
7 entitlement for the small business health care tax credit.  
8 However, the combined amount of tax credits that may be  
9 approved for a fiscal year under this section, section 422.33,  
10 subsection 20, section 422.60, subsection 11, section 432.12H,  
11 and section 533.24, subsection 8, shall not exceed the amount  
12 specified in subsection 5. Tax credit certificates shall be  
13 issued on an earliest filed application basis. The  
14 certification shall contain the taxpayer's name, address, tax  
15 identification number, the amount of the credit, and tax year  
16 for which the certificate applies. The taxpayer must file the  
17 tax credit certificate with the taxpayer's tax return in order  
18 to claim the tax credit. The department shall adopt rules to  
19 administer this section and shall provide by rule for the  
20 method to be used to determine for which fiscal year the tax  
21 credits are approved.

22 5. For purposes of subsection 4, the combined amount of  
23 small business health care tax credits that may be approved in  
24 a fiscal year is as follows:

25 a. For the fiscal year beginning July 1, 2006, the  
26 combined amount equals fifty million dollars.

27 b. For the fiscal year beginning July 1, 2007, the  
28 combined amount equals one hundred million dollars.

29 c. For the fiscal year beginning July 1, 2008, the  
30 combined amount equals one hundred fifty million dollars.

31 d. For the fiscal year beginning July 1, 2009, the  
32 combined amount equals two hundred million dollars.

33 e. For each fiscal year beginning on or after July 1,  
34 2010, the combined amount equals two hundred fifty million  
35 dollars.

1 Sec. 4. Section 422.33, Code Supplement 2005, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 20. The taxes imposed under this division  
4 shall be reduced by a small business health care tax credit,  
5 to the extent available, provided for in section 422.11M. The  
6 tax credit shall be subject to the same conditions,  
7 requirements, and dollar limitations as provided for in  
8 section 422.11M.

9 Sec. 5. Section 422.60, Code Supplement 2005, is amended  
10 by adding the following new subsection:

11 NEW SUBSECTION. 11. The taxes imposed under this division  
12 shall be reduced by a small business health care tax credit,  
13 to the extent available, provided for in section 422.11M. The  
14 tax credit shall be subject to the same conditions,  
15 requirements, and dollar limitations as provided for in  
16 section 422.11M.

17 Sec. 6. NEW SECTION. 432.12H SMALL BUSINESS HEALTH CARE  
18 TAX CREDIT.

19 The taxes imposed under this chapter shall be reduced by a  
20 small business health care tax credit, to the extent  
21 available, provided for in section 422.11M. The tax credit  
22 shall be subject to the same conditions, requirements, and  
23 dollar limitations as provided for in section 422.11M.

24 Sec. 7. Section 533.24, Code Supplement 2005, is amended  
25 by adding the following new subsection:

26 NEW SUBSECTION. 8. The moneys and credits tax imposed  
27 under this section shall be reduced by a small business health  
28 care tax credit, to the extent available, provided for in  
29 section 422.11M. The tax credit shall be subject to the same  
30 conditions, requirements, and dollar limitations as provided  
31 for in section 422.11M.

32 DIVISION III

33 HEALTH INSURANCE -- WELLNESS INCENTIVES

34 Sec. 8. NEW SECTION. 513B.9B WELLNESS INCENTIVES.

35 1. A carrier or organized delivery system that offers

1 health insurance in the small group market may reduce the  
2 required out-of-pocket expenditures for an enrollee in a  
3 health benefit plan based upon the member's increased wellness  
4 activities such as smoking cessation or compliance with a  
5 personal health improvement plan completed by the enrollee, as  
6 approved by the commission, by rules adopted pursuant to  
7 chapter 17A.

8 2. An employer shall not do any of the following:

9 a. Require an employee or a prospective employee to  
10 refrain from using tobacco products outside the course of  
11 employment as a term or condition of employment or continued  
12 employment.

13 b. Discriminate against an employee or prospective  
14 employee with respect to the employee's or prospective  
15 employee's compensation or benefits based on the employee's or  
16 prospective employee's use of tobacco products outside the  
17 course of employment, except as allowed under the federal  
18 Health Insurance Portability and Accountability Act of 1996,  
19 Pub. L. No. 104-191.

20 DIVISION IV

21 SMALL EMPLOYER CATASTROPHIC RISK HEALTH CARE

22 REINSURANCE PROGRAM AND APPROPRIATION

23 Sec. 9. NEW SECTION. 513B.13A SMALL EMPLOYER  
24 CATASTROPHIC RISK HEALTH CARE REINSURANCE PROGRAM.

25 1. DEFINITIONS. As used in this section, unless the  
26 context otherwise requires:

27 a. "Fund" means the small employer catastrophic risk  
28 health care reinsurance fund.

29 b. "Qualified carrier" means a carrier, as defined in  
30 section 513B.2 that meets the requirements contained in  
31 subsection 4.

32 c. "Reinsurance program" means the small employer  
33 catastrophic risk health care reinsurance program.

34 d. "Small employer group health insurance plan" means a  
35 group health insurance plan that provides health insurance

1 coverage for employees of a small employer.

2 2. REINSURANCE FUND.

3 a. A small employer catastrophic risk health care  
4 reinsurance fund is created as a separate fund in the state  
5 treasury under the control of the commissioner of insurance.

6 b. The treasurer of state shall act as custodian of the  
7 fund and shall disburse amounts contained in the fund as  
8 directed by the commissioner.

9 c. The commissioner shall keep accounts in relation to the  
10 appropriation of moneys to the fund and all amounts of  
11 approved vouchers for reimbursements to qualified carriers  
12 chargeable to the fund.

13 3. SMALL EMPLOYER CATASTROPHIC RISK HEALTH CARE  
14 REINSURANCE PROGRAM.

15 a. A small employer catastrophic risk health care  
16 reinsurance program is created in the insurance division of  
17 the department of commerce to administer the fund and to make  
18 expenditures from the fund pursuant to this section.

19 b. Moneys in the fund shall be used to reimburse a  
20 qualified carrier that offers a small employer group health  
21 insurance plan in which at least eighty-five percent of the  
22 eligible employees of the small employer participate, for  
23 certain claims paid by the qualified carrier. The amount of  
24 reimbursement shall be fifty percent of the cost of each claim  
25 that amounts to at least fifty thousand dollars that is paid  
26 by a qualified carrier under such a plan in a year.

27 c. The commissioner shall submit an annual report not  
28 later than January 1 to the governor, the general assembly,  
29 and the legislative services agency evaluating the fund and  
30 reinsurance program, including but not limited to  
31 consideration of the factors contained in subsection 5,  
32 paragraph "b", summarizing the status of the fund and  
33 reinsurance program, and proposing modifications to or  
34 suspension of the operation of the fund and reinsurance  
35 program as deemed necessary by the commissioner.

1 4. QUALIFIED CARRIERS.

2 a. In order to qualify for participation in the  
3 reinsurance program for the first time, a carrier shall  
4 certify to the commissioner that the carrier will immediately  
5 reduce its base premium rates or otherwise demonstrate to the  
6 commissioner that the carrier will immediately effectively  
7 reduce premiums, according to accepted actuarial guidelines  
8 adopted by the commissioner by rule under chapter 17A, for all  
9 small employer group health insurance plans offered by the  
10 carrier for the plan benefit year in an amount that reflects  
11 the estimated reimbursement the carrier will receive from  
12 participating in the reinsurance program during that plan  
13 benefit year, as determined by the commissioner according to  
14 accepted actuarial guidelines adopted by rule under chapter  
15 17A.

16 b. In order to qualify for continued participation in the  
17 reinsurance program, a carrier shall certify to the  
18 commissioner that for the plan benefit year for which  
19 reimbursement from the fund is claimed, the carrier reduced  
20 its base premium rates or otherwise demonstrate to the  
21 commissioner that the carrier effectively reduced premiums,  
22 according to accepted actuarial guidelines adopted by the  
23 commissioner by rule under chapter 17A, for all small employer  
24 group health insurance plans offered by the carrier for that  
25 plan benefit year.

26 c. A qualified carrier may claim reimbursement from the  
27 fund for the cost of eligible claims annually, by filing, with  
28 the commissioner, a claim in a form prescribed by the  
29 commissioner by rule.

30 5. MONITORING AND EVALUATION.

31 a. The commissioner shall develop and implement criteria  
32 to monitor and evaluate the fund and reinsurance program on an  
33 ongoing basis and may make recommendations to the general  
34 assembly, including proposed modifications to or suspension of  
35 the operation of the fund and reinsurance program.

1 b. In monitoring and evaluating the reinsurance program,  
2 the commissioner shall consider such factors as the population  
3 whose claims are being reimbursed by the reinsurance program,  
4 the number and percentage of qualified carriers electing to  
5 utilize the reinsurance program, health care reform measures  
6 implemented in the state, premium costs of small employer  
7 group health insurance plans offered by qualified carriers  
8 that participate in the reinsurance program compared to  
9 carriers that do not, and other factors deemed relevant by the  
10 commissioner.

11 Sec. 10. APPROPRIATION. There is appropriated annually  
12 from the healthy Iowans tobacco trust created in section 12.65  
13 to the insurance division of the department of commerce the  
14 sum of twenty-two million dollars for the purpose of  
15 establishing the small employer catastrophic risk health care  
16 reinsurance program and fund. Notwithstanding section 12C.7,  
17 subsection 2, interest or earnings on moneys deposited in the  
18 fund shall be credited to the fund. Notwithstanding section  
19 8.33, moneys credited to the fund shall not revert to the  
20 general fund of the state at the close of a fiscal year.

21 DIVISION V

22 EFFECTIVE, RETROACTIVE, AND APPLICABILITY DATES

23 Sec. 11. EFFECTIVE DATE. This Act, being deemed of  
24 immediate importance, takes effect upon enactment.

25 Sec. 12. RETROACTIVE AND APPLICABILITY DATE. Sections 3  
26 through 7 of this Act apply retroactively to January 1, 2006,  
27 for tax years beginning on or after that date.

28 EXPLANATION

29 This bill authorizes small employer association health  
30 benefit plans, a small employer health care tax credit,  
31 wellness incentives, and a small employer catastrophic risk  
32 reinsurance program.

33 DIVISION I -- ASSOCIATION GROUP HEALTH PLANS. The bill  
34 allows a small employer carrier that offers health insurance  
35 coverage in the small group market to offer a health benefit

1 plan to members of an association with premium rates  
2 determined by the total number of lives insured by the plan,  
3 not the number of lives of each small employer in the  
4 association.

5 Such a plan is required to include general health education  
6 for disease prevention and identification at no additional  
7 cost to enrollees. The plan is also required to include other  
8 wellness programs such as stress management, smoking  
9 cessation, nutritional education, physical fitness programs,  
10 and other programs as approved by the commissioner of  
11 insurance by rules adopted pursuant to Code chapter 17A, which  
12 are voluntary and may be subject to copayment requirements.

13 The bill requires an employer that purchases such an  
14 association plan to offer each enrollee in the plan the  
15 opportunity to participate in a health savings account as  
16 defined in section 223(d) of the Internal Revenue Code.

17 For purposes of the bill, "association" means an  
18 organization with membership of not less than 50 small  
19 employers which has been formed for purposes other than  
20 obtaining insurance.

21 DIVISION II -- SMALL BUSINESS HEALTH CARE TAX CREDIT. The  
22 bill provides for a small business health care tax credit.  
23 The credit can be used to reduce the individual and corporate  
24 income taxes, franchise tax, premiums tax, and moneys and  
25 credits tax liabilities. A small business is a for-profit  
26 enterprise with fewer than 50 permanent full-time equivalent  
27 employees during the tax year. To be eligible for the credit,  
28 the small business must provide health care benefits to its  
29 employees or contribute to health savings accounts established  
30 for them pursuant to federal law. The amount of the credit  
31 equals the first \$1,000 of the cost of the benefits or the  
32 first \$1,000 of the contribution to the account. The total  
33 credits for the business cannot exceed \$25,000. Any excess  
34 credit is refundable or the excess may be carried forward to  
35 the next tax year.

1 The bill provides for a limit on the combined amount of  
2 credits that may be approved in a fiscal year. For the first  
3 fiscal year, FY 2006-2007, \$50 million may be approved. The  
4 amount increases by \$50 million for each subsequent fiscal  
5 year until the maximum of \$250 million may be approved for FY  
6 2010-2011 and each subsequent fiscal year.

7 The bill applies retroactively to January 1, 2006, for tax  
8 years beginning on or after that date.

9 DIVISION III -- HEALTH INSURANCE -- WELLNESS INCENTIVES.

10 The bill provides that a carrier or organized delivery system  
11 that offers health insurance in the small group market may  
12 reduce the required out-of-pocket expenditures for an enrollee  
13 in a health benefit plan based upon the member's participation  
14 in wellness activities such as smoking cessation or compliance  
15 with a personal health improvement plan, as approved by the  
16 commissioner of insurance, by rules adopted pursuant to Code  
17 chapter 17A.

18 The bill also provides that an employer shall not require  
19 an employee or a prospective employee to refrain from using  
20 tobacco products outside the course of employment as a term or  
21 condition of employment or continued employment, or  
22 discriminate against an employee or prospective employee with  
23 respect to compensation or benefits based on the use of  
24 tobacco products outside the course of employment, except as  
25 allowed under the federal Health Insurance Portability and  
26 Accountability Act of 1996.

27 DIVISION IV -- SMALL EMPLOYER CATASTROPHIC RISK HEALTH CARE  
28 REINSURANCE PROGRAM AND APPROPRIATION. The bill creates a  
29 small employer catastrophic risk health care reinsurance  
30 program for health care claims made under small employer group  
31 health insurance plans.

32 The bill provides reimbursement of certain claims paid by  
33 qualified insurance carriers under group health insurance  
34 plans that provide health insurance to a small employer, which  
35 employs two to 50 full-time equivalent employees.

1 The small employer catastrophic risk health care  
2 reinsurance fund is created as a separate fund in the state  
3 treasury under the control of the commissioner of insurance.  
4 An appropriation of \$22 million is made annually from the  
5 healthy Iowans tobacco trust of the state to the insurance  
6 division of the department of commerce for the purpose of  
7 establishing the reinsurance program and fund.

8 The small employer catastrophic risk health care  
9 reinsurance program is created in the insurance division of  
10 the department of commerce to administer the reinsurance fund  
11 and to make expenditures from the fund.

12 The reinsurance program is required to reimburse a  
13 qualified carrier that offers a small employer group health  
14 insurance plan, in which at least 85 percent of the eligible  
15 employees of the small employer participate, for certain  
16 claims paid. The reimbursement amount is 50 percent of the  
17 cost of each claim, of \$50,000 or more, which is paid by a  
18 qualified carrier under such a plan each year.

19 For the purposes of the bill, a "qualified carrier" means a  
20 carrier under Code section 513B.2, which is an entity subject  
21 to the insurance laws and regulations of this state, or  
22 subject to the jurisdiction of the commissioner, that  
23 contracts or offers to contract to provide, deliver, arrange  
24 for, pay for, or reimburse any of the costs of health care  
25 services, including an insurance company offering sickness and  
26 accident plans, a health maintenance organization, a nonprofit  
27 health service corporation, or any other entity providing a  
28 plan of health insurance, health benefits, or health services,  
29 that meets the requirements of the bill.

30 In order to qualify for participation in the reinsurance  
31 program for the first time, a carrier is required to certify  
32 to the commissioner that the carrier will immediately reduce  
33 its base premium rates or otherwise demonstrate to the  
34 commissioner that the carrier will immediately effectively  
35 reduce premiums, according to accepted actuarial guidelines

1 adopted by the commissioner by rule under Code chapter 17A,  
2 for all small employer group health insurance plans offered by  
3 the carrier for the plan benefit year in an amount that  
4 reflects the estimated reimbursement the carrier will receive  
5 from participating in the reinsurance program during that plan  
6 benefit year, as determined by the commissioner according to  
7 accepted actuarial guidelines adopted by rule under Code  
8 chapter 17A.

9 In order to qualify for continued participation in the  
10 reinsurance program, a carrier shall certify to the  
11 commissioner that for the plan benefit year for which  
12 reimbursement from the fund is claimed, the carrier reduced  
13 its base premium rates or otherwise demonstrate to the  
14 commissioner that the carrier effectively reduced premiums,  
15 according to accepted actuarial guidelines adopted by the  
16 commissioner by rule under Code chapter 17A, for all small  
17 employer group health insurance plans offered by the carrier  
18 for that plan benefit year.

19 The commissioner is required to develop and implement  
20 criteria to monitor and evaluate the reinsurance program and  
21 may make recommendations to the general assembly, including  
22 proposed modifications to or suspension of the operation of  
23 the reinsurance fund and program. The criteria shall include  
24 consideration of factors such as the population whose claims  
25 are being reimbursed by the program, the number and percentage  
26 of qualified carriers electing to utilize the program, health  
27 care reform measures implemented in the state, premium costs  
28 of small employer group health insurance plans offered by  
29 qualified carriers that participate in the program compared to  
30 carriers that do not, and other factors deemed relevant by the  
31 commissioner.

32 The commissioner is required to submit an annual report by  
33 January 1 to the governor, general assembly, and legislative  
34 services agency evaluating the reinsurance fund and program,  
35 including but not limited to consideration of the factors

1 involved in developing and implementing the reinsurance  
2 program and fund, summarizing the status of the program and  
3 fund, and proposing modifications to or suspension of the  
4 operation of the fund and program as deemed necessary by the  
5 commissioner.

6 DIVISION V -- EFFECTIVE, APPLICABILITY, AND RETROACTIVE  
7 DATES. The bill is effective upon enactment. The provisions  
8 of the bill providing for a small employer health care tax  
9 credit in sections 3 through 7 of the bill apply retroactively  
10 to January 1, 2006, for tax years beginning on or after that  
11 date.

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