

APR 3 2006

WAYS & MEANS CALENDAR

HOUSE FILE 2790

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2529)

(SUCCESSOR TO HF 696)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for association group health care plans,  
 2 wellness incentives for small employers, health benefit  
 3 coverage for independent contractors, and a small business  
 4 wellness program tax credit, providing an appropriation, and  
 5 providing for effective, retroactive, and applicability dates.  
 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 2790

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DIVISION I

ASSOCIATION GROUP HEALTH CARE PLANS

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2  
3 Section 1. Section 509.1, subsection 6, Code 2005, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 6. A policy issued to a bona fide association, subject to  
7 the following requirements:

8 a. The policy provides group health insurance coverage to  
9 employees of members of a bona fide association and to the  
10 spouses and dependents of such employees. For the purposes of  
11 this subsection, "health insurance coverage" means the same as  
12 defined in section 513B.2.

13 b. The policy is issued to a bona fide association. For  
14 the purposes of this subsection, a bona fide association is an  
15 association which meets all of the following requirements:

16 (1) The association is a trade, industry, or professional  
17 association which is organized in good faith as a nonprofit  
18 corporation under chapter 504 for purposes other than  
19 obtaining insurance and has been in existence and actively  
20 maintained for at least five continuous years at the time the  
21 policy is issued.

22 (2) The association accepts any person for membership in  
23 the association who qualifies for membership.

24 (3) The association does not condition membership in the  
25 association on the health status of employees of its members  
26 or the health status of the spouses and dependents of such  
27 employees.

28 (4) Group health insurance coverage offered by the  
29 association is available to all eligible employees of its  
30 members, and to the spouses and dependents of such employees  
31 regardless of the health status of such employees, or their  
32 spouses and dependents. For the purposes of this subsection,  
33 "eligible employee" means an employee who works on a full-time  
34 basis and has a normal work week of thirty or more hours.

35 (5) Group health insurance coverage offered by the

1 association is available only to persons who are eligible  
2 employees of an employer that is a member of the association,  
3 or to the spouses and dependents of such employees.

4 (6) Notwithstanding chapter 513B, members of the  
5 association may include small employers as defined in section  
6 513B.2, so long as the total number of eligible employees of  
7 all of the association's members is more than fifty.

8 c. The insurance premiums are paid by members to the  
9 association but a member of the association may collect part  
10 of the premium from its insured employees, and the method of  
11 apportionment of the premium payment between the member and  
12 the member's employees shall be determined by each member.

13 d. Not less than eighty-five percent of the eligible  
14 employees of each member of the association shall be insured  
15 under the association policy, excluding employees who are  
16 enrolled in or eligible for Medicare or who receive health  
17 insurance coverage under another contract or policy.  
18 Employees who receive or are eligible for the medical  
19 assistance program under chapter 249A are not excluded from  
20 this requirement.

21 e. The policy shall not exclude from coverage an employee  
22 or an employee's spouse or dependents on the basis of the  
23 eligibility of the employee or the employee's spouse or  
24 dependents for medical assistance under chapter 249A. This  
25 paragraph shall also apply to corporations operating within  
26 the state that provide health insurance coverage for their  
27 employees directly, and the commissioner shall have the  
28 authority to enforce the provisions of this paragraph.

29 f. Premium rates for the policy shall be determined by the  
30 total number of lives insured by the plan, not the number of  
31 lives insured of each member of the association.

32 g. A member of an association shall not offer any valuable  
33 consideration or inducement to any of its employees for  
34 nonparticipation in the association policy offered.

35 h. A member of an association that participates in group

1 health insurance coverage for its employees under a policy  
2 issued to a bona fide association pursuant to this subsection  
3 shall not be permitted to withdraw from such coverage for two  
4 years without payment of a penalty. The penalty for early  
5 withdrawal from the coverage shall be established by the  
6 association.

7 i. The policy complies with the health care access,  
8 portability, and renewability requirements of the federal  
9 Health Insurance Portability and Accountability Act of 1996,  
10 Pub. L. No. 104-191.

11 j. The policy shall include coverage for wellness programs  
12 including preventative health care and wellness services in  
13 each plan offered and shall offer one high deductible health  
14 plan qualified under section 223(c) of the Internal Revenue  
15 Code, to allow eligibility for contribution to a health  
16 savings account on behalf of an employee of a member of the  
17 association. For purposes of this subsection, "health savings  
18 account" means a health savings account as defined in section  
19 223(d) of the Internal Revenue Code.

20 Sec. 2. Section 509.1, Code 2005, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 9. A policy of group health insurance  
23 coverage, as defined in section 513B.2, issued by a small  
24 employer carrier, as defined in section 513B.2, to a bona fide  
25 association, subject to the following requirements:

26 a. The policy provides group health insurance coverage to  
27 eligible employees of members of a bona fide association that  
28 are small employers as defined in section 513B.2, and to the  
29 spouses and dependents of such employees.

30 b. The policy is issued to a bona fide association. For  
31 the purposes of this subsection, a bona fide association is an  
32 association which meets all of the following requirements:

33 (1) The association is a trade, industry, or professional  
34 association which is organized in good faith as a nonprofit  
35 corporation under chapter 504 for purposes other than

1 obtaining insurance and has been in existence and actively  
2 maintained for at least five continuous years at the time the  
3 policy is issued.

4 (2) The association does not condition membership in the  
5 association on the health status of employees of its members  
6 or the health status of the spouses and dependents of such  
7 employees.

8 (3) Group health insurance coverage offered by the  
9 association is available to all eligible employees of its  
10 members that are small employers as defined in section 513B.2  
11 who choose to participate in the health insurance coverage  
12 offered, and to the spouses and dependents of such employees  
13 regardless of the health status of such employees, or their  
14 spouses and dependents.

15 (4) Group health insurance coverage offered by the  
16 association is available only to persons who are eligible  
17 employees of a small employer as defined in section 513B.2  
18 that is a member of the association, or to the spouses or  
19 dependents of such employees.

20 Sec. 3. Section 513B.2, subsection 6, paragraph a,  
21 subparagraph (3), Code 2005, is amended by striking the  
22 subparagraph and inserting in lieu thereof the following:

23 (3) The coverages are provided by a policy of group health  
24 insurance coverage through a bona fide association as provided  
25 in section 509.1, subsection 9, which meets the requirements  
26 for a class of business under section 513B.4. A small  
27 employer carrier may condition coverages under such a policy  
28 of group health insurance coverage on any of the following  
29 requirements:

30 (a) Minimum levels of participation by employees of each  
31 member of a bona fide association that offers the coverage to  
32 its employees.

33 (b) Minimum levels of contribution by each member of a  
34 bona fide association that offers the coverage to its  
35 employees.

1 (c) A specified policy term, subject to annual premium  
2 rate adjustments as permitted by section 513B.4.

3 Sec. 4. Section 513B.2, subsection 6, paragraph a, Code  
4 2005, is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (4) The coverages are provided by a  
6 policy of group health insurance coverage through two or more  
7 bona fide associations as provided in section 509.1,  
8 subsection 9, which a small employer carrier has aggregated as  
9 a distinct grouping that meets the requirements for a class of  
10 business under section 513B.4. After a distinct grouping of  
11 bona fide associations is established as a class of business,  
12 the small group carrier shall not remove a bona fide  
13 association from the class based on the claims experience of  
14 that association. A small employer carrier may condition  
15 coverages under such a policy of group health insurance  
16 coverage on any of the following requirements:

17 (a) Minimum levels of participation by employees of each  
18 member of a bona fide association in the class that offers the  
19 coverage to its employees.

20 (b) Minimum levels of contribution by each member of a  
21 bona fide association in the class that offers the coverage to  
22 its employees.

23 (c) A specified policy term, subject to annual premium  
24 rate adjustments as permitted by section 513B.4.

25 Sec. 5. Section 513B.2, subsection 6, paragraph b, Code  
26 2005, is amended to read as follows:

27 b. A small employer carrier may establish ~~no-more-than-two~~  
28 additional groupings under each of the subparagraphs in  
29 paragraph "a" on the basis of underwriting criteria which are  
30 expected to produce substantial variation in the health care  
31 costs.

32 DIVISION II

33 WELLNESS INITIATIVES

34 Sec. 6. Section 513B.4, Code 2005, is amended by adding  
35 the following new subsections:

1 NEW SUBSECTION. 6. Notwithstanding subsection 4, a small  
2 employer carrier may offer to transfer a small employer into a  
3 different class of business with a lower index rate based upon  
4 claims experience, implementation of managed care or wellness  
5 programs, or health status improvement of the small employer  
6 since issue.

7 NEW SUBSECTION. 7. A small employer that withdraws from  
8 group health insurance coverage offered pursuant to this  
9 chapter and participates in group health insurance coverage  
10 offered by an association pursuant to section 509.1,  
11 subsection 6, shall not be permitted to participate in such  
12 coverage again for a period of four years.

13 Sec. 7. NEW SECTION. 513B.4B SMALL EMPLOYER INCENTIVES  
14 -- SUSPENSION OR MODIFICATION OF PREMIUM RATE RESTRICTIONS.

15 1. In order to encourage voluntary participation in  
16 wellness or disease management programs, a small employer  
17 carrier may offer premium credits or discounts to a small  
18 employer for the benefit of eligible employees of that small  
19 employer who participate in such a program. An employee shall  
20 not be penalized in any way for not participating in such a  
21 program.

22 2. The commissioner shall adopt, by rule or order,  
23 provisions allowing suspension or modification of premium rate  
24 restrictions to enable a small employer carrier to provide  
25 premium credits or discounts to a small employer based on  
26 measurable reductions in costs of that small employer,  
27 including but not limited to tobacco use cessation,  
28 participation in established wellness or disease management  
29 programs, and reduced administrative or distribution costs.

30 DIVISION III

31 INDEPENDENT CONTRACTORS -- HEALTH BENEFIT COVERAGE

32 Sec. 8. Section 507A.4, Code 2005, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 10. a. A self-funded health benefit plan  
35 sponsored by an employer in this state under the federal

1 Employee Retirement Income Security Act of 1974, as codified  
2 in 29 U.S.C. § 1169, which provides health benefits to  
3 independent contractors of the employer and to spouses and  
4 dependents of the independent contractors, if the plan is  
5 granted a waiver from the provisions of this chapter by the  
6 commissioner and meets all of the following conditions:

7 (1) There is a written contract between the sponsor of the  
8 health benefit plan and the independent contractor which  
9 establishes the relationship between the parties to the  
10 contract and provides for the personal services to be provided  
11 by the independent contractor to the sponsor of the health  
12 benefit plan pursuant to the contract.

13 (2) The personal services to be provided by the  
14 independent contractor pursuant to the contract are directly  
15 related to the principal business of the sponsor of the health  
16 benefit plan.

17 (3) The contract provides that the independent contractor  
18 will provide services to the sponsor of the health benefit  
19 plan on an exclusive basis.

20 (4) The inclusion of the independent contractor in the  
21 sponsor's health benefit plan is incidental to the contractual  
22 relationship between the sponsor of the health benefit plan  
23 and the independent contractor.

24 (5) The health benefit plan is administered by an  
25 authorized insurer or an authorized third-party administrator.

26 b. The sponsor of the health benefit plan shall file an  
27 application for waiver from the provisions of this chapter  
28 with the commissioner as prescribed by the commissioner and  
29 shall file periodic statements and information as required by  
30 the commissioner. The commissioner shall adopt rules pursuant  
31 to chapter 17A implementing this subsection. All statements  
32 and information filed with or disclosed to the commissioner  
33 pursuant to this subsection are confidential records pursuant  
34 to chapter 22.

35 c. If at any time the commissioner determines that a



1 health benefit plan for which a waiver has been granted does  
2 not meet all of the conditions of paragraph "a", and the rules  
3 adopted by the commissioner under paragraph "b", the  
4 commissioner may terminate the waiver granted to the health  
5 benefit plan.

6 d. A self-funded employer-sponsored health benefit plan  
7 which has a valid waiver from the provisions of this chapter  
8 shall not be considered any of the following:

9 (1) An insurance company or association of any kind or  
10 character under section 432.1.

11 (2) A member insurer of the Iowa life and health insurance  
12 guaranty association as defined in section 508C.5, subsection  
13 8.

14 (3) A carrier under chapter 513B.

15 (4) A member of the Iowa individual health benefit  
16 reinsurance association under section 513C.10.

17 (5) An entity subject to chapter 514C.

18 (6) A multiple employer welfare arrangement as defined in  
19 subsection 9.

20 e. A self-funded employer-sponsored health benefit plan  
21 which has received a waiver from the provisions of this  
22 chapter shall be considered to be a self-funded employer-  
23 sponsored health benefit plan under the federal Employee  
24 Retirement Income Security Act of 1974, as codified in 29  
25 U.S.C. § 1169, and not subject to this title so long as the  
26 waiver is in effect.

27 f. The provision of health benefits to an independent  
28 contractor by a self-funded employer-sponsored health benefit  
29 plan which meets all of the conditions of paragraph "a" shall  
30 not in and of itself create an employer-employee relationship  
31 between the independent contractor and the sponsor of the  
32 health benefit plan.

33 DIVISION IV

34 SMALL BUSINESS WELLNESS PROGRAM TAX CREDIT

35 Sec. 9. NEW SECTION. 422.11M SMALL BUSINESS WELLNESS

1 PROGRAM TAX CREDIT.

2 1. a. The taxes imposed under this division, less the  
3 amounts of nonrefundable credits allowed under this division,  
4 shall be reduced by a small business wellness program tax  
5 credit, to the extent available, for the cost to a small  
6 business of implementing a wellness program for employees of  
7 the business. Wellness program costs for which a credit is  
8 available include items such as exercise equipment necessary  
9 to conduct the wellness program, medical equipment necessary  
10 to evaluate and monitor the physical condition of participants  
11 in the wellness program, and costs associated with the  
12 provision of preventative health care and wellness services  
13 such as vaccinations, nutrition counseling, and smoking  
14 cessation programs. The credit is not available for costs not  
15 directly related to the purposes of the wellness program such  
16 as office equipment or computers or for reimbursements for  
17 health club memberships. The amount of the credit shall not  
18 exceed fifty dollars per year for each employee of a small  
19 business that participates in a wellness program sponsored by  
20 the small business.

21 b. The total amount of all credits for all employees of a  
22 small business under paragraph "a" shall not exceed two  
23 thousand five hundred dollars per year.

24 c. For purposes of this section, "small business" means a  
25 for-profit enterprise that employed during the tax year not  
26 more than fifty full-time equivalent employees.

27 d. Any credit in excess of the tax liability shall be  
28 refunded. In lieu of claiming a refund, a taxpayer may elect  
29 to have the overpayment shown on the taxpayer's final,  
30 completed return credited to the tax liability for the  
31 following taxable year.

32 2. An individual may claim a small business wellness  
33 program tax credit allowed a partnership, limited liability  
34 company, S corporation, estate, or trust electing to have the  
35 income taxed directly to the individual. The amount claimed

1 by the individual shall be based upon the pro rata share of  
2 the individual's earnings of the partnership, limited  
3 liability company, S corporation, estate, or trust.

4 3. A taxpayer claiming a credit under this section shall  
5 not be precluded, in computing taxable income, from deducting  
6 the amount of costs for providing wellness program benefits  
7 allowed under any section of the Internal Revenue Code.

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

26 If the total amount of tax credits claimed for a calendar  
27 year exceeds the amount available for distribution pursuant to  
28 subsection 5, the department shall provide for the pro rata  
29 distribution of the available tax credits. Each small  
30 business with an eligible claim for the tax credit shall be  
31 eligible to receive only the proportionate amount of the  
32 available credits as the total eligible claim of the small  
33 business bears to the total eligible claims submitted by all  
34 other small businesses.

35 5. For purposes of subsection 4, the combined amount of

1 small business wellness program tax credits that may be  
2 approved in a fiscal year is ten million dollars.

3 Sec. 10. Section 422.33, Code Supplement 2005, is amended  
4 by adding the following new subsection:

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

11 Sec. 11. Section 422.60, Code Supplement 2005, is amended  
12 by adding the following new subsection:

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

19 Sec. 12. NEW SECTION. 432.12H SMALL BUSINESS WELLNESS  
20 PROGRAM TAX CREDIT.

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

26 Sec. 13. Section 533.24, Code Supplement 2005, is amended  
27 by adding the following new subsection:

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

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DIVISION V

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EFFECTIVE, APPLICABILITY, AND RETROACTIVITY DATES



1 The bill requires that not less than 85 percent of eligible  
2 employees of association members participate in the insurance  
3 coverage and requires premium rates for the insurance to be  
4 determined by the total number of lives insured by the plan,  
5 not the number of lives insured of each association member.

6 The bill provides that an association member that  
7 participates in an association policy cannot withdraw from  
8 such coverage for two years without payment of a penalty. The  
9 bill provides that an association policy must comply with the  
10 access, portability, and renewability requirements of the  
11 federal Health Insurance Portability and Accountability Act.  
12 The bill also requires that an association policy include  
13 coverage for wellness programs including preventative health  
14 care and wellness services and offer one high deductible  
15 health plan qualified under section 223(c) of the Internal  
16 Revenue Code to allow covered employees to be eligible for  
17 contributions to a health savings account as defined in  
18 section 223(d) of the Internal Revenue Code.

19 The bill creates Code section 509.1, subsection 9, which  
20 authorizes issuance of a group health insurance policy issued  
21 by a small employer carrier, as defined in Code section  
22 513B.2, to a bona fide association to provide health insurance  
23 coverage to employees of association members and to the  
24 spouses and dependents of such employees.

25 The bill defines what constitutes a bona fide association  
26 to whom such a policy may be issued and requires that the  
27 insurance offered be available only to employees and their  
28 spouses and dependents, of association members which are small  
29 employers as defined in Code section 513B.2.

30 The bill requires that a bona fide association for the  
31 purposes of this type of policy must be a trade, industry, or  
32 professional association which is organized in good faith as a  
33 nonprofit corporation under Code chapter 504 for purposes  
34 other than obtaining insurance and has been in existence and  
35 actively maintained for at least five continuous years at the

1 time the policy is issued; not condition membership in the  
2 association on the health status of employees or their spouses  
3 or dependents, of members; make coverage offered by the  
4 association available to all eligible employees and their  
5 spouses and dependents, of its members that are small  
6 employers who choose to participate in the coverage; and make  
7 the coverage offered available only to persons who are  
8 eligible employees and their spouses and dependents, of a  
9 small employer that is a member of the association.

10 For the purposes of Code section 509.1, subsection 9, a  
11 "small employer" means a person actively engaged in business  
12 who, on at least 50 percent of the employer's working days  
13 during the preceding year, employed not less than two and not  
14 more than 50 full-time equivalent, eligible employees.

15 The bill provides that coverages provided by a group health  
16 insurance policy through a bona fide association pursuant to  
17 Code section 509.1, subsection 9, can constitute a class of  
18 business and a small employer carrier may condition coverages  
19 under such a policy on minimum levels of participation by  
20 employees of each association member, minimum levels of  
21 contribution by each association member that offers the  
22 coverage to its employees, and a specified policy term,  
23 subject to annual premium rate adjustments as permitted by  
24 Code section 513B.4.

25 The bill also provides that coverages provided by a group  
26 health insurance policy through two or more bona fide  
27 associations as provided in Code section 509.1, subsection 9,  
28 which a small employer carrier has aggregated as a distinct  
29 grouping can constitute a class of business and a small  
30 employer carrier may condition coverages under such a policy  
31 as set forth above. A small employer carrier cannot remove a  
32 bona fide association from such a class based on the claims  
33 experience of that association.

34 The bill also allows a small employer carrier to establish  
35 more than two additional groupings as classes of business

1 under Code section 513B.2, subsection 6, paragraph "a", on the  
2 basis of underwriting criteria which are expected to produce  
3 substantial variation in the health care costs.

4 DIVISION II -- WELLNESS INITIATIVES. The bill allows a  
5 small employer carrier to transfer a small employer into a  
6 different class of business with a lower index rate based upon  
7 claims experience, implementation of managed care or wellness  
8 programs, or health status improvement of the small employer  
9 since issuance of the policy.

10 The bill provides that a small employer that withdraws from  
11 small group health insurance coverage to participate in  
12 coverage offered by a policy issued to a bona fide association  
13 pursuant to Code section 509.1, subsection 6, cannot  
14 participate in small group health insurance coverage again for  
15 a period of four years.

16 The bill also allows a small employer carrier to offer  
17 premium credits or discounts to a small employer for the  
18 benefit of eligible employees of that employer who voluntarily  
19 participate in wellness or disease management programs. The  
20 bill requires the commissioner of insurance to adopt rules or  
21 orders allowing suspension or modification of premium rate  
22 restrictions to enable a small employer carrier to provide  
23 such premium credits or discounts to a small employer based on  
24 measurable reductions in costs of that small employer,  
25 including but not limited to tobacco use cessation,  
26 participation in established wellness or disease management  
27 programs, and reduced administrative or distribution costs.  
28 The bill prohibits an employee from being penalized in any way  
29 for not participating in a wellness or disease management  
30 program.

31 DIVISION III -- INDEPENDENT CONTRACTORS -- HEALTH BENEFIT  
32 COVERAGE. Code section 507A.4 is amended by adding a new  
33 subsection providing that self-funded health benefit plans  
34 sponsored by an employer in this state which provide health  
35 benefits to independent contractors of such an employer, and



1 their dependents, are granted a waiver from the requirements  
2 of Code chapter 507A pertaining to unauthorized insurers, if  
3 the plans meet specified conditions.

4 DIVISION IV -- SMALL BUSINESS WELLNESS PROGRAM TAX CREDIT.

5 The bill provides for a small business wellness program tax  
6 credit. The credit can be used to reduce the individual and  
7 corporate income taxes, franchise tax, premiums tax, and  
8 moneys and credits tax liabilities. For purposes of the  
9 credit, a "small business" is a for-profit enterprise that  
10 employed during the tax year no more than 50 full-time  
11 equivalent employees.

12 To be eligible for the credit, a small business must incur  
13 costs for implementing a wellness program for its employees.  
14 Wellness program costs for which the credit is available  
15 include items such as exercise equipment necessary to conduct  
16 the wellness program, medical equipment necessary to monitor  
17 and evaluate the physical condition of program participants,  
18 and costs associated with the provision of preventative health  
19 care and wellness services such as vaccinations, nutrition  
20 counseling, and smoking cessation programs. The credit is not  
21 available for costs not directly related to the purposes of  
22 the wellness program such as office equipment or computers or  
23 for reimbursements for health club memberships.

24 The amount of the credit cannot exceed \$50 per year for  
25 each employee participant of a small business or a maximum  
26 credit of \$2,500 per year for each small business.

27 The bill provides for a limit of \$10 million on the  
28 combined amount of credits that may be approved in a fiscal  
29 year. The bill also provides that if the total amount of tax  
30 credits claimed for a calendar year exceeds \$10 million, the  
31 department of revenue and finance shall provide for the pro  
32 rata distribution of the available tax credits based on the  
33 proportionate amount of each eligible claim of a small  
34 business compared to the total eligible claims submitted by  
35 all other small businesses.

1 DIVISION V -- EFFECTIVE, APPLICABILITY, AND RETROACTIVITY  
2 DATES. The bill takes effect upon enactment. Division IV of  
3 the bill, providing for a small business wellness program tax  
4 credit, applies retroactively to January 1, 2006, for tax  
5 years beginning on or after that date.

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**HOUSE FILE 2790**

**H-8535**

1 Amend the amendment, H-8523, to House File 2790, as  
2 follows:

3 1. Page 3, by striking lines 33 through 37 and  
4 inserting the following: "section."

5 2. Page 4, line 2, by inserting after the word  
6 "information." the following: "This subsection is  
7 repealed effective July 1, 2011."

8 3. Page 4, by striking lines 3 and 4.

**By** PAULSEN of Linn  
STRUYK of Pottawattamie  
KURTENBACH of Story

**H-8535** FILED APRIL 12, 2006

LOST

HOUSE FILE 2790

H-8523

1 Amend House File 2790 as follows:

2 1. By striking page 1, line 3, through page 3,  
3 line 19, and inserting the following:

4 "Section 1. ASSOCIATION GROUP HEALTH CARE PLAN  
5 PILOT PROJECT.

6 1. The commissioner of insurance shall administer  
7 a pilot project for the purpose of making health  
8 insurance coverage available through an innovative and  
9 less costly association group health care plan offered  
10 by a bona fide association to employees of members of  
11 the association.

12 2. For the purposes of this section, an  
13 "association group health care plan" is a group health  
14 care plan which provides health insurance coverage as  
15 defined in section 513B.2, or a group health care plan  
16 offered pursuant to a high deductible health plan  
17 qualified under section 223(c) of the Internal Revenue  
18 Code, which allows eligibility for contribution to a  
19 health savings account on behalf of an employee of a  
20 member of the association, and which also includes  
21 wellness initiatives. For the purposes of this  
22 subsection, "health savings account" means a health  
23 savings account as defined in section 223(d) of the  
24 Internal Revenue Code.

25 3. An association group health care plan offered  
26 pursuant to this section shall meet all of the  
27 following requirements:

28 a. The association group health care plan offers  
29 group health insurance coverage to employees of  
30 members of a bona fide association and to the spouses  
31 and dependents of such employees.

32 b. The policy of group health insurance coverage  
33 is issued to a bona fide association. For the  
34 purposes of this section, a bona fide association is  
35 an association which meets all of the following  
36 requirements:

37 (1) The association is a trade, industry, or  
38 professional association which is organized in good  
39 faith as a nonprofit corporation under chapter 504 for  
40 purposes other than obtaining insurance and has been  
41 in existence and actively maintained for at least five  
42 continuous years at the time the policy is issued.

43 (2) The association accepts any person for  
44 membership in the association who qualifies for  
45 membership.

46 (3) The association does not condition membership  
47 in the association on the health status of employees  
48 of its members or the health status of the spouses and  
49 dependents of such employees.

50 (4) Group health insurance coverage offered by the

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1 association is available to all eligible employees of  
2 its members, and to the spouses and dependents of such  
3 employees regardless of the health status of such  
4 employees, or their spouses and dependents. For the  
5 purposes of this section, "eligible employee" means an  
6 employee who works on a full-time basis and has a  
7 normal work week of thirty or more hours.

8 (5) Group health insurance coverage offered by the  
9 association is available only to persons who are  
10 eligible employees of an employer that is a member of  
11 the association, or to the spouses and dependents of  
12 such employees.

13 (6) Notwithstanding chapter 513B, members of the  
14 association may include small employers as defined in  
15 section 513B.2, so long as the total number of  
16 eligible employees of all of the association's members  
17 is more than fifty.

18 c. The insurance premiums are paid by members to  
19 the association but a member of the association may  
20 collect part of the premium from its insured  
21 employees, and the method of apportionment of the  
22 premium payment between the member and the member's  
23 employees shall be determined by each member.

24 d. Not less than seventy-five percent of the  
25 eligible employees of each member of the association  
26 shall be insured under an association group health  
27 care plan, excluding employees who are enrolled in or  
28 eligible for Medicare or who receive health insurance  
29 coverage under another contract or policy. Employees  
30 who receive or are eligible for the medical assistance  
31 program under chapter 249A are not excluded from this  
32 requirement.

33 e. An association group health care plan shall not  
34 exclude from coverage an employee or an employee's  
35 spouse or dependents on the basis of the eligibility  
36 of the employee or the employee's spouse or dependents  
37 for medical assistance under chapter 249A.

38 f. Premium rates for an association group health  
39 care plan shall be determined by the total number of  
40 lives insured by the plan, not the number of lives  
41 insured of each member of the association. However,  
42 the commissioner of insurance may determine premium  
43 rates by a different methodology as the commissioner  
44 deems necessary to effectuate the purposes of the  
45 pilot project pursuant to rules adopted under chapter  
46 17A.

47 g. A member of an association shall not offer any  
48 valuable consideration or inducement to any of its  
49 employees for nonparticipation in the association  
50 group health care plan offered.

1 h. An association group health care plan offered  
2 pursuant to this section shall be considered  
3 creditable coverage for purposes of chapter 513B and  
4 qualifying previous coverage for purposes of chapter  
5 513C.

6 i. An association group health care plan offered  
7 pursuant to this section shall include wellness  
8 initiatives. The commissioner shall adopt, by rule or  
9 order, provisions allowing suspension or modification  
10 of premium rate restrictions to enable an association  
11 group health care plan to receive premium credits or  
12 discounts based on measurable reductions in costs of  
13 the association group health care plan, including but  
14 not limited to tobacco use cessation, participation in  
15 established wellness or disease management programs,  
16 and reduced administrative or distribution costs.

17 j. An association group health care plan shall not  
18 be offered pursuant to this section unless approved by  
19 the commissioner of insurance.

20 k. Health insurance coverage offered by an  
21 association group health care plan pursuant to this  
22 section may be canceled, nonrenewed, or otherwise  
23 terminated at the end of the policy term upon notice  
24 of sixty days to the association.

25 l. An association group health care plan offered  
26 pursuant to this section shall include at a minimum a  
27 basic health benefit plan as defined in section 513B.2  
28 and a high deductible health plan qualified under  
29 section 223(d) of the Internal Revenue Code.

30 4. The commissioner shall select at least three  
31 and not more than five bona fide associations to  
32 participate in the pilot project pursuant to this  
33 section. The number of enrollees in association group  
34 health care plans offered pursuant to this section  
35 shall not exceed ten percent of the number of all  
36 enrollees in health insurance coverage issued pursuant  
37 to chapter 513B.

38 5. The commissioner shall adopt rules pursuant to  
39 chapter 17A necessary to administer this section by  
40 November 1, 2006. However, the commissioner may  
41 receive an extension of time for adoption of the rules  
42 to not later than January 1, 2007, upon approval of  
43 the administrative rules review committee.

44 6. The commissioner shall submit an annual report  
45 to the general assembly and to the governor no later  
46 than January 1 of each year the pilot project is  
47 administered, concerning the status of the pilot  
48 project, including but not limited to the number of  
49 employers participating in an association group health  
50 care plan offered pursuant to this section, the number

1 of enrollees, the types of plans offered, premium  
2 costs, and other pertinent information.

3 7. This section is repealed effective July 1,  
4 2011.

5 Sec. 2. ASSOCIATION GROUP HEALTH CARE PLAN  
6 ACTUARIAL STUDIES -- APPROPRIATION.

7 1. Upon enactment of this Act, the commissioner of  
8 insurance shall initiate and conduct actuarial studies  
9 to evaluate all of the following:

10 a. The effect of authorizing association group  
11 health care plans which are not subject to chapter  
12 513B and which include both large employers with more  
13 than fifty eligible employees and small employers, as  
14 defined in section 513B.2, with two to fifty  
15 employees. The study shall include an analysis of the  
16 potential impact of removing employees of small  
17 employers who participate in such an association group  
18 health care plan from the group of enrollees who  
19 receive health insurance coverage under chapter 513B,  
20 the potential impact of such plans on the uninsured in  
21 Iowa, and the corresponding relationship of such plans  
22 to any existing or proposed plans to provide  
23 assistance with premiums.

24 b. The effect of increasing the allowable variance  
25 from the index rate in premium rates charged to small  
26 employers with similar case characteristics permitted  
27 by section 513B.4, subsection 1, paragraph "b", from  
28 twenty-five percent to thirty percent of the index  
29 rate.

30 c. The effect of making group health insurance  
31 coverage for employees of small employers, as defined  
32 in section 513B.2 which have two to five employees,  
33 subject to the requirements of the Iowa comprehensive  
34 health insurance association established by chapter  
35 514E.

36 2. The commissioner shall submit a report of the  
37 results of the studies to the general assembly and to  
38 the governor no later than September 1, 2006.

39 3. There is appropriated from the general fund of  
40 the state to the insurance division of the department  
41 of commerce the amount of sixty-five thousand dollars,  
42 or so much thereof as is necessary, for the purpose of  
43 conducting the actuarial studies."

44 2. Page 5, by inserting after line 31, the  
45 following:

46 "Sec. \_\_\_\_ . Section 513B.4, subsection 1, paragraph  
47 c, subparagraph (2), Code 2005, is amended to read as  
48 follows:

49 (2) An adjustment, not to exceed an increase of  
50 more than fifteen percent annually and adjusted pro

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1 rata for rating periods of less than one year, due to  
2 the claim experience, health status, or duration of  
3 coverage of the employees or dependents of the small  
4 employer as determined from the small employer  
5 carrier's rate manual for the class of business."

6 3. Page 5, line 35, by striking the word  
7 "subsections" and inserting the following:  
8 "subsection".

9 4. Page 6, by striking lines 7 through 12.

10 5. Page 7, by inserting after line 23, the  
11 following:

12 "( ) Independent contractors and their spouses and  
13 dependents included in an employer-sponsored health  
14 benefit plan do not in total equal more than forty-  
15 nine percent of the total persons covered by the  
16 health benefit plan."

17 6. By striking page 8, line 33, through page 11,  
18 line 33.

19 7. Page 11, line 35, by striking the words "  
20 APPLICABILITY, AND RETROACTIVITY DATES" and inserting  
21 the following: "DATE".

22 8. Page 12, by striking lines 3 through 5.

23 9. Title page, by striking lines 1 through 5 and  
24 inserting the following: "An Act providing for  
25 association group health care plans, including an  
26 association group health care plan pilot project and  
27 association group health care plan actuarial studies,  
28 wellness initiatives, health benefit coverage for  
29 independent contractors, providing an appropriation,  
30 and providing for an effective date."

31 10. By renumbering as necessary.

By STRUYK of Pottawattamie  
HOFFMAN of Crawford

H-8523 FILED APRIL 10, 2006

**HOUSE FILE 2790**

**H-8527**

1 Amend the amendment, H-8523, to House File 2790 as  
2 follows:

3 1. Page 3, line 33, by inserting after the word  
4 "section." the following: "The commissioner shall  
5 offer the Iowa association of business and industry,  
6 the Iowa association of realtors, the Iowa motor truck  
7 association, the associated builders and contractors  
8 of Iowa, and the Iowa retail federation the  
9 opportunity to participate in the pilot project before  
10 selecting any other bona fide association to  
11 participate in the project."

By STRUYK of Pottawattamie

H-8527 FILED APRIL 10, 2006

HOUSE FILE 2790

H-8555

1 Amend the amendment, H-8523, to House File 2790 as  
2 follows:

3 1. Page 3, line 35, by striking the word "ten"  
4 and inserting the following: "fifteen".

5 2. Page 4, line 4, by striking the figure "2011"  
6 and inserting the following: "2016".

By WISE of Lee

PETERSEN of Polk

OLDSON of Polk

QUIRK of Chickasaw

PETTENGILL of Benton

BELL of Jasper

BERRY of Black Hawk

BUKTA of Clinton

COHOON of Des Moines

DAVITT of Warren

FOEGE of Linn

FORD of Polk

FREVERT of Palo Alto

GASKILL of Wapello

HEDDENS of Story

HOGG of Linn

HUNTER of Polk

JACOBY of Johnson

JOCHUM of Dubuque

KRESSIG of Black Hawk

KUHN of Floyd

LYKAM of Scott

MASCHER of Johnson

MCCARTHY of Polk

MERTZ of Kossuth

MILLER of Webster

R. OLSON of Polk

REASONER of Union

REICHERT of Muscatine

SCHUELLER of Jackson

SHOMSHOR of Pottawattamie

SHOULTZ of Black Hawk

SMITH of Marshall

SWAIM of Davis

D. TAYLOR of Linn

T. TAYLOR of Linn

THOMAS of Clayton

WENDT of Woodbury

WHITAKER of Van Buren

WHITEAD of Woodbury

H-8555 FILED APRIL 18, 2006



**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2790 - Small Employer Health Care Pooling (LSB 6530 HZ)  
Analyst: Jeff Robinson (Phone: [515] 281-4614) ([jeff.robinson@legis.state.ia.us](mailto:jeff.robinson@legis.state.ia.us))  
Fiscal Note Version - New

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**Description**

House File 2790 provides for association health care plans, wellness incentives for small employers, and health benefit coverage for independent contractors. The Bill also creates a small business wellness program tax credit.

The tax credit is available to for-profit employers with 50 employees or fewer. A single employer may not claim credits in excess of \$2,500 per year. The credit is retroactive to January 1, 2006.

**Assumptions**

1. There are more than 64,000 private employers in Iowa with fewer than 50 employees, and those employers employ more than 400,000 persons.
2. At the maximum per-employer level of \$2,500, the \$10.0 million credit will finance 4,000 (6.3%) of employers employing fewer than 50 persons.
3. At a maximum of \$50 per employee, the \$10.0 million tax credit will finance 200,000 (50.0%) of the employees of qualified employers.

**Fiscal Impact**

The small employer wellness credit created in HF 2790 will reduce net General Fund revenue by a maximum of \$10.0 million per year, starting FY 2007.

The wellness tax credit created in HF 2790, along with the other provisions promoting and facilitating health care availability through small employers, may reduce government-funded health care costs. If so, State, federal, and local expenditures for health-related expenditures may decrease.

**Sources**

Department of Workforce Development employment statistics  
Iowa Insurance Division

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/s/ Holly M. Lyons

April 6, 2006

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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