

FEB 24 2006
WAYS AND MEANS

HOUSE FILE 2529
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 696)

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 employer health care tax credit, wellness
3 incentives, a small employer catastrophic risk program,
4 providing an appropriation, and providing for effective,
5 retroactive, and applicability dates.

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

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HF 2529

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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 established by a trade, industry, or professional association of employers with membership of not less than fifty small employers, that has been formed for purposes other than obtaining insurance, has a constitution or bylaws, and has been organized and maintained in good faith for at least ten continuous years prior to July 1, 2006.

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 insurance division, 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 a copayment requirement. 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 make

1 contributions to a health savings account, as defined in
2 section 223(d) of the Internal Revenue Code.

3 4. A health benefit plan offered pursuant to this section
4 shall not be construed to establish a multiple employer
5 welfare arrangement as defined in section 3 of the federal
6 Employee Retirement Income Security Act of 1974, 29 U.S.C. §
7 1002, paragraph 40.

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DIVISION II

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SMALL EMPLOYER HEALTH CARE TAX CREDIT

10 Sec. 3. NEW SECTION. 422.11M SMALL BUSINESS HEALTH CARE
11 TAX CREDIT.

12 1. a. The taxes imposed under this division, less the
13 amounts of nonrefundable credits allowed under this division,
14 shall be reduced by a small business health care tax credit,
15 to the extent available, for the cost to a small business of
16 providing health care benefits or contributions to employees
17 of the business. The amount of the credit for each employee
18 equals the first one thousand dollars of the cost of providing
19 health care benefits to the employee or the first one thousand
20 dollars of the contribution made on behalf of the employee to
21 a health savings account of that employee.

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

24 c. For purposes of this section:

25 (1) "Health savings account" means a health savings
26 account as defined in section 223(d) of the Internal Revenue
27 Code.

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

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

1 2. An individual may claim a small business health care
2 tax credit allowed a partnership, limited liability company, S
3 corporation, estate, or trust electing to have the income
4 taxed directly to the individual. The amount claimed by the
5 individual shall be based upon the pro rata share of the
6 individual's earnings of the partnership, limited liability
7 company, S corporation, estate, or trust.

8 3. A taxpayer claiming a credit under this section shall
9 not be precluded, in computing taxable income, from deducting
10 the amount of costs for providing health care benefits allowed
11 under any section of the Internal Revenue Code.

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

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

34 a. For the fiscal year beginning July 1, 2006, the
35 combined amount equals ten million dollars.

1 b. For the fiscal year beginning July 1, 2007, the
2 combined amount equals twenty million dollars.

3 c. For the fiscal year beginning July 1, 2008, the
4 combined amount equals thirty million dollars.

5 d. For the fiscal year beginning July 1, 2009, the
6 combined amount equals forty million dollars.

7 e. For each fiscal year beginning on or after July 1,
8 2010, the combined amount equals fifty million dollars.

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

11 NEW SUBSECTION. 20. 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. 5. Section 422.60, Code Supplement 2005, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 11. The taxes imposed under this division
20 shall be reduced by a small business health care tax credit,
21 to the extent available, provided for in section 422.11M. The
22 tax credit shall be subject to the same conditions,
23 requirements, and dollar limitations as provided for in
24 section 422.11M.

25 Sec. 6. NEW SECTION. 432.12H SMALL BUSINESS HEALTH CARE
26 TAX CREDIT.

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

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

34 NEW SUBSECTION. 8. The moneys and credits tax imposed
35 under this section shall be reduced by a small business health

1 care tax credit, to the extent available, provided for in
2 section 422.11M. The tax credit shall be subject to the same
3 conditions, requirements, and dollar limitations as provided
4 for in section 422.11M.

5 DIVISION III

6 HEALTH INSURANCE -- WELLNESS INCENTIVES

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

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

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

17 a. Require an employee or a prospective employee to
18 refrain from using tobacco products outside the course of
19 employment as a term or condition of employment or continued
20 employment.

21 b. Discriminate against an employee with respect to the
22 employee's compensation or benefits based on the employee's
23 use of tobacco products outside the course of employment,
24 except as allowed under the federal Health Insurance
25 Portability and Accountability Act of 1996, Pub. L. No. 104-
26 191.

27 DIVISION IV

28 SMALL EMPLOYER CATASTROPHIC RISK PROGRAM AND

29 APPROPRIATION

30 Sec. 9. NEW SECTION. 513B.13A SMALL EMPLOYER HEALTH CARE
31 REINSURANCE PROGRAM.

32 1. DEFINITIONS.

33 As used in this section, unless the context otherwise
34 requires:

35 a. "Fund" means the small employer health care reinsurance

1 fund.

2 b. "Qualified carrier" means a carrier, as defined in
3 section 513B.2.

4 c. "Small employer group health insurance plan" means a
5 group health insurance plan that provides health insurance
6 coverage for employees of a small employer.

7 2. REINSURANCE FUND.

8 a. A small employer health care reinsurance fund is
9 created as a separate fund in the state treasury under the
10 control of the commissioner of insurance.

11 b. The treasurer of state shall act as custodian of the
12 fund and shall disburse amounts contained in the fund as
13 directed by the commissioner.

14 c. The commissioner shall keep accounts in relation to the
15 appropriation of moneys to the fund and all amounts of
16 approved vouchers for reimbursements to qualified carriers
17 chargeable to the fund.

18 3. REINSURANCE PROGRAM.

19 a. A reinsurance program is created in the insurance
20 division of the department of commerce to administer the fund
21 and to make expenditures from the fund pursuant to this
22 section.

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

31 c. The commissioner shall submit an annual report not
32 later than January 1 to the governor, the general assembly,
33 and the legislative services agency evaluating the fund and
34 reinsurance program, including but not limited to
35 consideration of the factors contained in subsection 5,

1 paragraph "b", summarizing the status of the fund and
2 reinsurance program, and proposing modifications to or
3 suspension of the operation of the fund and reinsurance
4 program as deemed necessary by the commissioner.

5 4. QUALIFIED CARRIERS.

6 a. In order to qualify for participation in the
7 reinsurance program for the first time, a carrier shall
8 certify to the commissioner that the carrier will immediately
9 reduce its base premium rates or otherwise demonstrate to the
10 commissioner that the carrier will immediately effectively
11 reduce premiums, according to accepted actuarial guidelines
12 adopted by the commissioner by rule under chapter 17A, for all
13 small employer group health insurance plans offered by the
14 carrier for the plan benefit year in an amount that reflects
15 the estimated reimbursement the carrier will receive from
16 participating in the reinsurance program during that plan
17 benefit year, as determined by the commissioner according to
18 accepted actuarial guidelines adopted by rule under chapter
19 17A.

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

30 c. A qualified carrier may claim reimbursement from the
31 fund for the cost of eligible claims annually, by filing, with
32 the commissioner, a claim in a form prescribed by the
33 commissioner by rule.

34 5. MONITORING AND EVALUATION.

35 a. The commissioner shall develop and implement criteria

1 to monitor and evaluate the fund and reinsurance program on an
2 ongoing basis and may make recommendations to the general
3 assembly, including proposed modifications to or suspension of
4 the operation of the fund and reinsurance program.

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

15 Sec. 10. APPROPRIATION. There is appropriated annually
16 from the healthy Iowans tobacco trust created in section 12.65
17 to the insurance division of the department of commerce the
18 sum of twenty-two million dollars for the purpose of
19 establishing the small employer health care reinsurance
20 program and fund pursuant to section 513B.13A.

21 Notwithstanding section 12C.7, subsection 2, interest or
22 earnings on moneys deposited in the fund shall be credited to
23 the fund. Notwithstanding section 8.33, moneys credited to
24 the fund shall not revert to the general fund of the state at
25 the close of a fiscal year.

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DIVISION V

27 EFFECTIVE, APPLICABILITY, AND RETROACTIVITY DATES.

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

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

33

EXPLANATION

34 This bill authorizes small employer association health
35 benefit plans, a small employer health care tax credit,

1 wellness incentives, and a small employer catastrophic risk
2 reinsurance program.

3 DIVISION I -- ASSOCIATION GROUP HEALTH PLANS. The bill
4 allows a small employer carrier that offers health insurance
5 coverage in the small group market to offer a health benefit
6 plan to members of an association with premium rates
7 determined by the total number of lives insured by the plan,
8 not the number of lives of each small employer in the
9 association.

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

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

22 For purposes of the bill, "association" means an
23 organization established by a trade, industry, or professional
24 association with membership of not less than 50 small
25 employers which has been formed for purposes other than
26 obtaining insurance, has a constitution or bylaws, and has
27 been organized and maintained in good faith for at least 10
28 continuous years prior to July 1, 2006.

29 DIVISION II -- SMALL BUSINESS HEALTH CARE TAX CREDIT. The
30 bill provides for a small business health care tax credit.
31 The credit can be used to reduce the individual and corporate
32 income taxes, franchise tax, premiums tax, and moneys and
33 credits tax liabilities. A small business is a for-profit
34 enterprise with fewer than 50 permanent full-time equivalent
35 employees during the tax year. To be eligible for the credit,

1 the small business must provide health care benefits to its
2 employees or contribute to health savings accounts established
3 for them pursuant to federal law. The amount of the credit
4 equals the first \$1,000 of the cost of the benefits or the
5 first \$1,000 of the contribution to the account. The total
6 credits for the business cannot exceed \$25,000. Any excess
7 credit is refundable or the excess may be carried forward to
8 the next tax year.

9 The bill provides for a limit on the combined amount of
10 credits that may be approved in a fiscal year. For the first
11 fiscal year, FY 2006-2007, \$10 million may be approved. The
12 amount increases by \$10 million for each subsequent fiscal
13 year until the maximum of \$50 million may be approved for FY
14 2010-2011 and each subsequent fiscal year.

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

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

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

33 DIVISION IV -- SMALL EMPLOYER CATASTROPHIC RISK HEALTH CARE
34 REINSURANCE PROGRAM AND APPROPRIATION. The bill creates a
35 reinsurance program for health care claims made under small

1 employer group health insurance plans.

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

6 The small employer health care reinsurance fund is created
7 as a separate fund in the state treasury under the control of
8 the commissioner of insurance. An appropriation of \$22
9 million is made annually from the healthy Iowans tobacco trust
10 of the state to the insurance division of the department of
11 commerce for the purpose of establishing the reinsurance
12 program and fund.

13 The reinsurance program is created in the insurance
14 division of the department of commerce which administers the
15 reinsurance fund and makes expenditures from the fund.

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

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

34 In order to qualify for participation in the reinsurance
35 program for the first time, a carrier is required to certify

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

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

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

1 The commissioner is required to submit an annual report by
2 January 1 to the governor, general assembly, and legislative
3 services agency evaluating the reinsurance fund and program,
4 including but not limited to consideration of the factors
5 involved in developing and implementing the reinsurance
6 program and fund, summarizing the status of the program and
7 fund, and proposing modifications to or suspension of the
8 operation of the fund and program as deemed necessary by the
9 commissioner.

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

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