

109TH CONGRESS
2^D SESSION

S. 2558

To amend the Internal Revenue Code of 1986 to provide a tax credit to employers for employee catastrophic health care costs and to health insurance companies for insurer catastrophic health care costs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2006

Ms. STABENOW introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit to employers for employee catastrophic health care costs and to health insurance companies for insurer catastrophic health care costs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep America Com-
5 petitive Tax Credit Act of 2006”.

1 **SEC. 2. TAX CREDITS FOR CATASTROPHIC HEALTH CARE**
2 **COSTS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 (relating to business related credits) is amended by
6 adding at the end the following new section:

7 **“SEC. 45N. CATASTROPHIC HEALTH CARE COSTS.**

8 “(a) GENERAL RULE.—For purposes of section 38—

9 “(1) in the case of an eligible employer, the cat-
10 astrophic health care employer credit determined
11 under this section for any taxable year is an amount
12 equal to 50 percent of the employee catastrophic
13 health care costs paid or incurred by the taxpayer
14 during the taxable year, and

15 “(2) in the case of an eligible health insurance
16 issuer, the catastrophic health care pooling credit de-
17 termined under this section for any taxable year is
18 an amount equal to 50 percent of the insurer cata-
19 strophic health care costs paid or incurred by the
20 taxpayer during the taxable year.

21 “(b) CATASTROPHIC HEALTH CARE COSTS.—For
22 purposes of this section—

23 “(1) EMPLOYEE CATASTROPHIC HEALTH CARE
24 COSTS.—The term ‘employee catastrophic health
25 care costs’ means, with respect to any taxable year,
26 costs for medical care (as defined in section

1 9832(d)(3)) provided through a group health plan to
2 qualified employees and retired qualified employees,
3 and dependents thereof, but only with respect to
4 such costs which exceed \$50,000, on an individual
5 basis.

6 “(2) INSURER CATASTROPHIC HEALTH CARE
7 COSTS.—The term ‘insurer catastrophic health care
8 costs’ means, with respect to any taxable year,
9 claims for medical care (as defined in section
10 9832(d)(3)) provided under health insurance policies
11 for customers in the large group market, small
12 group market, and the individual market, but only
13 with respect to such claims which exceed \$50,000,
14 on an individual basis.

15 “(3) INFLATION ADJUSTMENT.—

16 “(A) IN GENERAL.—In the case of a tax-
17 able year beginning after 2007, the \$50,000
18 amount in paragraphs (1) and (2) shall be in-
19 creased by an amount equal to—

20 “(i) such dollar amount, multiplied by

21 “(ii) the cost-of-living adjustment de-
22 termined under section 1(f)(3) for the cal-
23 endar year in which the taxable year be-
24 gins, determined by substituting ‘calendar

1 year 2006’ for ‘calendar year 1992’ in sub-
2 paragraph (B) thereof.

3 “(B) ROUNDING.—If any amount as ad-
4 justed under subparagraph (A) is not a multiple
5 of \$1,000, such amount shall be rounded to the
6 next lowest multiple of \$1,000.

7 “(c) ELIGIBLE EMPLOYER.—For purposes of this
8 section, the term ‘eligible employer’ means, with respect
9 to any taxable year, any employer which—

10 “(1) offered coverage for employee catastrophic
11 health care costs during the entire preceding taxable
12 year, and

13 “(2) make efforts to improve employees’ health
14 and wellness and to reduce costs through offering
15 wellness plans, disease management, and other em-
16 ployee benefit programs.

17 “(d) ELIGIBLE HEALTH INSURANCE ISSUER.—For
18 purposes of this section, the term ‘eligible health insurance
19 issuer’ means, with respect to any taxable year, any health
20 insurance issuer which—

21 “(1) provides wellness plans to customers, and

22 “(2) provides a mechanism acceptable to the
23 Secretary for determining that such issuer has
24 passed through the credit allowed under this section

1 with respect to any insurance line to all policy-
2 holders of such insurance line.

3 “(e) QUALIFIED EMPLOYEE.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘qualified em-
6 ployee’ means, with respect to any period, an em-
7 ployee of an employer if such employee is not en-
8 rolled for—

9 “(A) any benefits under title XVIII, XIX,
10 or XXI of the Social Security Act, or

11 “(B) any other publicly-sponsored health
12 insurance program,

13 which provides coverage for employee catastrophic
14 health care costs.

15 “(2) TREATMENT OF CERTAIN EMPLOYEES.—
16 For purposes of paragraph (1), the term ‘em-
17 ployee’—

18 “(A) shall not include an employee within
19 the meaning of section 401(c)(1), and

20 “(B) shall include a leased employee within
21 the meaning of section 414(n).

22 “(f) WELLNESS PLAN.—For purposes of this section,
23 the term ‘wellness plan’ means any employee benefit pro-
24 gram which helps to reduce or to manage chronic condi-

1 tions, including heart disease, cancer, stroke, diabetes,
2 chronic obstructive pulmonary disease, and asthma.

3 “(g) HEALTH PLAN DEFINITIONS.—For purposes of
4 this section—

5 “(1) GROUP HEALTH PLAN.—The term ‘group
6 health plan’ has the meaning given such term by
7 section 607(1) of the Employee Retirement Income
8 Security Act of 1974, but does not include any plan
9 which may be offered in the small group market or
10 the individual market.

11 “(2) OTHER DEFINITIONS.—The terms ‘health
12 insurance issuer’, ‘individual market’, ‘large group
13 market’, and ‘small group market’ have the mean-
14 ings given such terms by section 2791 of the Public
15 Health Service Act.

16 “(h) PORTION OF CREDIT MADE REFUNDABLE.—

17 “(1) IN GENERAL.—The aggregate credits al-
18 lowed to a taxpayer under subpart C shall be in-
19 creased by the lesser of—

20 “(A) the credit which would be allowed
21 under subsection (a)(1) without regard to this
22 subsection and the limitation under section
23 38(c), or

24 “(B) the amount by which the aggregate
25 amount of credits allowed by this subpart (de-

1 terminated without regard to this subsection)
2 would increase if the limitation imposed by sec-
3 tion 38(c) for any taxable year were increased
4 by the amount of employer payroll taxes im-
5 posed on the taxpayer during the calendar year
6 in which the taxable year begins.

7 The amount of the credit allowed under this sub-
8 section shall not be treated as a credit allowed under
9 this subpart and shall reduce the amount of the
10 credit otherwise allowable under subsection (a) with-
11 out regard to section 38(c).

12 “(2) EMPLOYER PAYROLL TAXES.—For pur-
13 poses of this subsection—

14 “(A) IN GENERAL.—The term ‘employer
15 payroll taxes’ means the taxes imposed by—

16 “(i) section 3111(b), and

17 “(ii) sections 3211(a) and 3221(a)

18 (determined at a rate equal to the rate
19 under section 3111(b)).

20 “(B) SPECIAL RULE.—A rule similar to
21 the rule of section 24(d)(2)(C) shall apply for
22 purposes of subparagraph (A).

23 “(i) CERTAIN RULES MADE APPLICABLE.—For pur-
24 poses of this section, rules similar to the rules of section
25 52 shall apply.”.

1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
2 tion 38(b) of the Internal Revenue Code of 1986 (relating
3 to current year business credit) is amended by striking
4 “and” at the end of paragraph (29), by striking the period
5 at the end of paragraph (30) and inserting “, plus”, and
6 by adding at the end the following new paragraph:

7 “(31) the credit determined under section
8 45N(a)(2).”.

9 (c) CREDIT ALLOWED AGAINST THE ALTERNATIVE
10 MINIMUM TAX.—Section 38(c)(4)(B) of the Internal Rev-
11 enue Code of 1986 (defining specified credits) is amended
12 by striking the period at the end of clause (ii)(II) and in-
13 serting “, and”, and by adding at the end the following
14 new clause:

15 “(iii) the credit determined under sec-
16 tion 45N(a)(2).”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) The table of sections for subpart D of part
19 IV of subchapter A of chapter 1 of the Internal Rev-
20 enue Code of 1986 is amended by adding at the end
21 the following new item:

“Sec. 45N. Catastrophic health care costs.”.

22 (2) Paragraph (2) of section 1324(b) of title
23 31, United States Code, is amended by inserting be-
24 fore the period “, or from section 45N(a)(1) of such
25 Code”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2006.

4 (f) CONTINUING EVALUATIONS AND REPORTS TO
5 CONGRESS.—

6 (1) INITIAL EVALUATION.—Not later than 1
7 year after the first taxable year in which a credit
8 under section 45N of the Internal Revenue Code of
9 1986 (as added by this section) is allowed, the Sec-
10 retary of Labor shall review and make recommenda-
11 tions to Congress on—

12 (A) problems that employers and insurers
13 are having in accessing such credit,

14 (B) how to expand the availability of such
15 credit to such employers and insurers, and

16 (C) how to make such credit more respon-
17 sive to the needs of such employers and insur-
18 ers.

19 Such review shall include how to make the credit
20 more accessible to employers with a high ratio of re-
21 tirees to active employees, with a high number of re-
22 tirees not eligible for Medicare, with a history of
23 providing retiree health care coverage, and with a
24 history of employing wellness and similar health ben-
25 efits to reduce chronic conditions.

1 (2) CONTINUING EVALUATION.—Not later than
2 4 years and 8 years after the date of the report re-
3 quired under paragraph (1), the Secretaries of
4 Labor and Health and Human Services shall evalu-
5 ate and report to Congress on the effect of the credit
6 under section 45N of such Code and include in such
7 report consideration of the following:

8 (A) Has the availability of such credit in-
9 creased health insurance coverage?

10 (B) Has such availability made health in-
11 surance more affordable?

12 (C) Has such availability helped employers
13 retain benefits?

14 (D) Has such availability had any effect on
15 reducing chronic conditions?

16 (E) What effect has such credit had on
17 State insurance markets and State high risk
18 pools.

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