

**1999 DRAFTING REQUEST**

**Bill**

Received: 11/3/98

Received By: kahlepj

Wanted: Soon

Identical to LRB: ASA1 to SB332

For: Rodney Moen (608) 266-8546

By/Representing: Melissa

This file may be shown to any legislator: NO

Drafter: champra

May Contact:

Alt. Drafters: kahlepj

Subject: Insurance - health

Extra Copies:

**Topic:**

Establishing a health care coverage plan for employers in the private sector

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 11/25/98 kahlepj 11/25/98	gilfokm 11/25/98					State
/1			lpaasch 11/30/98		lrb_docadmin 11/30/98		State
/2	champra 12/10/98	wjackson 12/10/98	martykr 12/10/98		lrb_docadmin 12/10/98	lrb_docadmin 12/10/98	

FE Sent For:

(1/14/99)  
/2

<END>

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/10/98

To: Senator Moen

Relating to LRB drafting number: LRB-0705

**Topic**

Establishing a health care coverage plan for employers in the private sector

**Subject(s)**

Insurance - health

1. **JACKET** the draft for introduction  R.C. Moen

in the **Senate**  or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney  
Telephone: (608) 266-9930

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/?	champra 11/25/98	gilfokm 11/25/98		_____			State
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/1		1/2-12-10 kmg	lpaasch 11/30/98	_____	lrb_docadmin 11/30/98		

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*km 12/10*      *H/H km 12/10*

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FE Sent For:

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11/21/98

MOEN per Melissa

ASAI (5504/1)

to

SB 332

NO AA1 (a1843/3)

1D-Note

1999 - 2000 LEGISLATURE

LRB-0704/1

RAC&PJK/wlj&kg:lp

LRB-0705/1

RAC & PJK:K

**1999 BILL**

5001

1 **AN ACT to repeal** 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title),  
2 20.515 (2) (a), 20.515 (2) (g) and subchapter X of chapter 40 [precedes 40.98];  
3 **to amend** 40.02 (26) (intro.), 40.02 (26) (intro.), 40.02 (28) and 40.02 (28); and  
4 **to create** 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title), 20.515 (2)  
5 (a), 20.515 (2) (g) and subchapter X of chapter 40 [precedes 40.98] of the  
6 statutes; **relating to:** requiring the department of employe trust funds to  
7 establish a health care coverage plan for employers in the private sector,  
8 ~~coverage of nontherapeutic abortions,~~ creating a private employer health care  
9 coverage board and making an appropriation.

***Analysis by the Legislative Reference Bureau***

This bill requires the department of employe trust funds (DETF), after consulting with the departments of commerce and health and family services and the office of the commissioner of insurance, to design, establish and administer a health care coverage plan for employers in the private sector. The bill also creates a private employer health care coverage board (PEHCCB) that is responsible for approving the health care coverage plan before DETF may implement the plan. The membership of the PEHCCB consists of the secretary of employe trust funds, the secretary of

**BILL**

health and family services, a member who represents health maintenance organizations, a member who represents hospitals, a member who represents insurance agents, a member who represents insurers, two employes who are eligible to receive health care coverage under the plan and whose employer employs not more than 50 employes, two members who represent employers that employ not more than 50 employes and who are eligible to offer health care coverage under the plan, a member who is a physician and two members who represent the public interest.

The key features of the private employer health care coverage plan are as follows:

1. Any employer in the private sector that employs two or more employes is eligible to participate in the plan.

2. Any employer that participates in the plan must offer the health care coverage to all of its permanent employes who have a normal work week of 30 or more hours and may offer the coverage to any of its other employes.

3. Any employer that participates in the plan must provide health care coverage under the plan to at least 50% (or a higher percentage specified by the PEHCCB) of its permanent employes who have a normal work week of 30 or more hours.

4. Any employer that participates must pay, on behalf of each employe who has coverage, at least 50% but not more than 100% of the lowest premium that would be available to the employer for the coverage.

5. Any employer that participates in the plan and that voluntarily terminates the coverage must wait at least three years before the employer may participate again.

6. Any insurer that offers the plan must provide coverage under the plan to any employer that applies for coverage, without regard to the health condition or claims experience of any individual who would have coverage, as long as the employer pays the premium and agrees to comply with plan requirements.

7. The health care coverage plan is subject to all provisions of the state insurance code to the same extent as any other group health benefit plan that is offered in the private sector.

8. The plan may not be combined with any health care coverage plan offered by DETF to state employes.

~~9. The plan may not provide coverage of a nontherapeutic abortion except by an optional rider offered on an individual basis. Only funds attributable to premiums for the optional rider may be used for payment of any claim that relates to a nontherapeutic abortion.~~

9. The plan may only be sold by licensed insurance agents in this state.

10. DETF is prohibited from selling any health care coverage under the plan or enrolling any employe under the plan, but DETF may publicize the availability of the health care coverage plan for employers.

11. DETF is authorized to contract with any person to provide services relating to the administration of the health care coverage plan.

12. The commission rate for the sale of the plan is set by the PEHCCB.



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13 ~~14~~ DETF is required to charge employers who participate in the plan a fee to cover the costs of designing, establishing and administering the plan.

14 ~~15~~ The plan is sunset on January 1, 2009.

Under the bill, the PEHCCB is required to report annually to the governor and the legislature on the operation of the plan. In addition, no later than January 1, 2005, the PEHCCB must submit a report to the governor and the legislature that offers recommendations as to whether DETF should continue to administer the plan, whether a different state agency should administer the plan or whether the plan should be administered by a private nonprofit organization. If the PEHCCB recommends that a different state agency administer the health care coverage plan or that the health care coverage plan be administered by a private nonprofit organization, the PEHCCB must submit proposed legislation relating to the recommendation at the time the PEHCCB submits its report.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.94 (1) (p) of the statutes is created to read:

2           13.94 (1) (p) No later than January 1, 2006, prepare a program evaluation audit  
3 of the private employer health care coverage plan established under subch. X of ch.  
4 40. The legislative audit bureau shall file a copy of the audit report under this  
5 paragraph with the distributees specified in par. (b).

6           **SECTION 2.** 13.94 (1) (p) of the statutes, as created by 1999 Wisconsin Act ....  
7 (this act), is repealed.

8           **SECTION 3.** 15.07 (1) (b) 21. of the statutes is created to read:

9           15.07 (1) (b) 21. Private employer health care coverage board.

10          **SECTION 4.** 15.07 (1) (b) 21. of the statutes, as created by 1999 Wisconsin Act  
11 .... (this act), is repealed.

12          **SECTION 5.** 15.165 (5) of the statutes is created to read:

13          15.165 (5) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. (a) There is created  
14 in the department of employe trust funds a private employer health care coverage

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1 board consisting of the secretary of employe trust funds or his or her designee, the  
2 secretary of health and family services or his or her designee and the following  
3 members appointed for 3-year terms:

4 1. One member who represents health maintenance organizations.

5 2. One member who represents hospitals.

6 3. One member who represents insurance agents, as defined in s. 628.02 (4).

7 4. Two members who are employes eligible to receive health care coverage  
8 under subch. X of ch. 40 and whose employer employs not more than 50 employes.

9 5. One member who represents insurers.

10 6. Two members who are, or who represent, employers that employ not more  
11 than 50 employes and who are eligible to offer health care coverage under subch. X  
12 of ch. 40.

13 7. One member who is a physician, as defined in s. 448.01 (5).

14 8. Two members who represent the public interest.

15 (b) The secretary of employe trust funds or his or her designee and the secretary  
16 of health and family services or his or her designee shall be nonvoting members.

17 **SECTION 6.** 15.165 (5) of the statutes, as created by 1999 Wisconsin Act .... (this  
18 act), is repealed.

19 **SECTION 7.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
20 the following amounts for the purposes indicated:

**BILL**

1 1999-00      2000-01

2 **20.515    Employee trust funds, department of**

3 (2) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN

4 (a) Private employer health care

5 coverage plan; start-up costs      GPR      A      -0-      -0-

6 **SECTION 8.** 20.515 (2) (title) of the statutes is created to read:

7 20.515 (2) (title) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN.

8 **SECTION 9.** 20.515 (2) (title) of the statutes, as created by 1999 Wisconsin Act

9 .... (this act), is repealed.

10 **SECTION 10.** 20.515 (2) (a) of the statutes is created to read:

11 20.515 (2) (a) *Private employer health care coverage plan; start-up costs.* The  
12 amounts in the schedule for the start-up costs for designing, establishing and  
13 administering the private employer health care coverage plan under subch. X of ch.  
14 40.

15 **SECTION 11.** 20.515 (2) (a) of the statutes, as created by 1999 Wisconsin Act ....  
16 (this act), is repealed.

17 **SECTION 12.** 20.515 (2) (g) of the statutes is created to read:

18 20.515 (2) (g) *Private employer health care coverage plan.* All moneys received  
19 under subch. X of ch. 40 from employers who elect to participate in the private  
20 employer health care coverage plan under subch. X of ch. 40, for the costs of  
21 designing, establishing and administering the plan.

22 **SECTION 13.** 20.515 (2) (g) of the statutes, as created by 1999 Wisconsin Act ....  
23 (this act), is repealed.

24 **SECTION 14.** 40.02 (26) (intro.) of the statutes is amended to read:

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1           40.02 (26) (intro.) “Employee” means any person who receives earnings as  
2           payment for personal services rendered for the benefit of any employer including  
3           officers of the employer, except as provided in subch. X. An employe is deemed to  
4           have separated from the service of an employer at the end of the day on which the  
5           employe last performed services for the employer, or, if later, the day on which the  
6           employe–employer relationship is terminated because of the expiration or  
7           termination of leave without pay, sick leave, vacation or other leave of absence. A  
8           person shall not be considered an employe if a person:

9           **SECTION 15.** 40.02 (26) (intro.) of the statutes, as affected by 1999 Wisconsin  
10          Act .... (this act), is amended to read:

11          40.02 (26) (intro.) “Employee” means any person who receives earnings as  
12          payment for personal services rendered for the benefit of any employer including  
13          officers of the employer, ~~except as provided in subch. X~~. An employe is deemed to  
14          have separated from the service of an employer at the end of the day on which the  
15          employe last performed services for the employer, or, if later, the day on which the  
16          employe–employer relationship is terminated because of the expiration or  
17          termination of leave without pay, sick leave, vacation or other leave of absence. A  
18          person shall not be considered an employe if a person:

19          **SECTION 16.** 40.02 (28) of the statutes is amended to read:

20          40.02 (28) “Employer” means the state, including each state agency, any  
21          county, city, village, town, school district, other governmental unit or  
22          instrumentality of 2 or more units of government now existing or hereafter created  
23          within the state ~~and~~, any federated public library system established under s. 43.19  
24          whose territory lies within a single county with a population of 500,000 or more and  
25          a local exposition district created under subch. II of ch. 229, except as provided under

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1 ss. 40.51 (7) and 40.61 (3), ~~or a local exposition district created under subch. II of ch.~~  
2 ~~229 and subch. X.~~ Each employer shall be a separate legal jurisdiction for OASDHI  
3 purposes.

4 **SECTION 17.** 40.02 (28) of the statutes, as affected by 1999 Wisconsin Act ...  
5 (this act), is amended to read:

6 40.02 (28) "Employer" means the state, including each state agency, any  
7 county, city, village, town, school district, other governmental unit or  
8 instrumentality of 2 or more units of government now existing or hereafter created  
9 within the state, any federated public library system established under s. 43.19  
10 whose territory lies within a single county with a population of 500,000 or more and  
11 a local exposition district created under subch. II of ch. 229, except as provided under  
12 ss. 40.51 (7) and 40.61 (3) ~~and subch. X.~~ Each employer shall be a separate legal  
13 jurisdiction for OASDHI purposes.

14 **SECTION 18.** Subchapter X of chapter 40 [precedes 40.98] of the statutes is  
15 created to read:

**CHAPTER 40****SUBCHAPTER X****PRIVATE EMPLOYER HEALTH****CARE COVERAGE**

19 **40.98 Health care coverage.** (1) In this subchapter:

21 (ag) "Abortion" means the use of an instrument, medicine, drug or other  
22 substance or device with intent to terminate the pregnancy of a woman known to be  
23 pregnant or for whom there is reason to believe that she may be pregnant and with  
24 intent other than to increase the probability of a live birth, to preserve the life or  
25 health of the infant after live birth or to remove a dead fetus.

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1 (ar) “Board” means the private employer health care coverage board.

2 (b) “Dependent” means a spouse, an unmarried child under the age of 19 years,  
3 an unmarried child who is a full-time student under the age of 21 years and who is  
4 financially dependent upon the parent, or an unmarried child of any age who is  
5 medically certified as disabled and who is dependent upon the parent.

6 (c) “Employe” means any person who receives earnings as payment for personal  
7 services rendered for the benefit of any employer including officers of the employer.  
8 An employe is considered to have separated from the service of an employer at the  
9 end of the day on which the employe last performed services for the employer, or, if  
10 later, the day on which the employe-employer relationship is terminated because of  
11 the expiration or termination of leave without pay, sick leave, vacation or other leave  
12 of absence. A person shall not be considered an employe if any of the following  
13 applies:

14 1. The person is employed under a contract involving the furnishing of more  
15 than personal services.

16 2. The person is customarily engaged in an independently established trade,  
17 business or profession providing the same type of services to more than one employer  
18 and the person’s services to an employer are not compensated for on a payroll of that  
19 employer.

20 3. The person is a patient or inmate of a hospital, home or institution and  
21 performs services in the hospital, home or institution.

22 (d) “Employer” means any person doing business or operating an organization  
23 in this state and employing at least 2 employes. “Employer” does not include an  
24 employer as defined in s. 40.02 (28).

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1 (e) "Health care coverage plan" means the health care coverage plan  
2 established under sub. (2) (a).

3 (f) "Insurer" has the meaning given in s. 600.03 (27).

4 ~~(fm) "Nontherapeutic abortion" means an abortion that is not directly and  
5 medically necessary to prevent the death of the woman.~~

6 (2) (a) The department shall design, establish and administer an actuarially  
7 sound health care coverage plan for employers that provides coverage beginning not  
8 later than January 1, 2002. In designing the health care coverage plan, the  
9 department shall consult with the departments of commerce and health and family  
10 services and the office of the commissioner of insurance. In establishing the health  
11 care coverage plan, the department shall solicit and accept bids and enter into  
12 contracts with insurers who are to provide health care coverage under the health  
13 care coverage plan. The health care coverage plan is subject to the provisions of chs.  
14 600 to 646 that apply to group health benefit plans, as defined in s. 632.745 (9), to  
15 the same extent as any other group health benefit plan, as defined in s. 632.745 (9).  
16 Before the health care coverage plan may be implemented, the board must approve  
17 the plan.

18 (am) The health care coverage plan established under par. (a) may not be  
19 combined with any health care coverage plan under subch. IV.

20 (b) The health care coverage plan shall require that all insurance rates under  
21 the plan be published annually in a single publication that is made available to  
22 employers and employees. The rates shall be listed by county and by any other factor  
23 that the department considers appropriate.

24 ~~(bm) The health care coverage plan may not provide coverage of a  
25 nontherapeutic abortion except by an optional rider or supplemental coverage~~

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1 provision that is offered and provided on an individual basis and for which an  
2 additional, separate premium or charge is paid by the individual to be covered under  
3 the rider or supplemental coverage provision. Only funds attributable to premiums  
4 or charges paid for coverage under the rider or supplemental coverage provision may  
5 be used for the payment of any claim, and related administrative expenses, that  
6 relates to a nontherapeutic abortion. Such funds may not be used for the payment  
7 of any claim or administrative expenses that relate to any other type of coverage  
8 provided by the insurer under the health care coverage plan. Nothing in this  
9 paragraph requires an insurer to offer or provide coverage of a nontherapeutic  
10 abortion under the health care coverage plan.

11 (c) The health care coverage plan shall have an enrollment period that is  
12 established by the board.

13 (d) The department shall charge employers who participate in the health care  
14 coverage plan a fee to cover the department's cost in designing, establishing and  
15 administering the health care coverage plan. All moneys received under this  
16 paragraph shall be credited to the appropriation account under s. 20.515 (2) (g).

17 (e) The department may not sell any health care coverage plan to an employer  
18 or enroll any employe in the health care coverage plan, but the department may  
19 publicize the availability of the health care coverage plan for employers.

20 (f) The department may enter into a contract with any person to provide  
21 services relating to the administration of the health care coverage plan.

22 (3) Any employer who participates in the health care coverage plan shall do all  
23 of the following:



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1           (a) Offer health care coverage under the plan to all of its permanent employes  
2 who have a normal work week of 30 or more hours and may offer health care coverage  
3 under the plan to any of its other employes.

4           (b) Provide health care coverage under the plan to at least 50% of its permanent  
5 employes who have a normal work week of 30 or more hours and who do not otherwise  
6 receive health care coverage as a dependent under any other plan that is not offered  
7 by the employer or a percentage of such employes specified by the board, whichever  
8 percentage is greater.

9           (c) Pay for each employe at least 50% but not more than 100% of the lowest  
10 premium rate that would be available to the employer for that employe's coverage  
11 under the health care coverage plan.

12           (d) Make premium payments for the health care coverage of its employes in the  
13 manner specified by the board.

14           (4) Any employer that provides health care coverage for its employes under the  
15 plan and that voluntarily terminates coverage under the plan is not eligible to  
16 participate in the plan for at least 3 years from the date that coverage is terminated.

17           (5) Any insurer that offers the health care coverage plan shall provide coverage  
18 under the plan to any employer that applies for coverage, and to all of the employer's  
19 employes who elect coverage under the health care coverage plan, without regard to  
20 the health condition or claims experience of any individual who would be covered  
21 under the health care coverage plan if all of the following apply:

22           (a) The employer agrees to pay the premium required for coverage under the  
23 health care coverage plan.

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1           (b) The employer agrees to comply with all provisions of the health care  
2 coverage plan that apply generally to a policyholder or an insured without regard to  
3 health condition or claims experience.

4           **(6)** (a) The health care coverage plan may only be sold by insurance agents  
5 licensed under ch. 628.

6           (b) An insurance agent may not sell any health care coverage under the health  
7 care coverage plan on behalf of an insurer unless he or she is employed by the insurer  
8 or has a contract with the insurer to sell the health care coverage on behalf of the  
9 insurer.

10          (c) The board shall set, and may adjust as often as semiannually, the  
11 commission rate for the sale of a policy under the health care coverage plan. The rate  
12 shall be based on the average commission rate that insurance agents are paid in the  
13 state for the sale of comparable health insurance policies at the time that the rate  
14 is set or adjusted.

15          (d) An insurer shall specify on the first page of any policy sold under the health  
16 care coverage plan the amount of the commission paid to the insurance agent.

17          **(7)** (a) Annually, on or before December 31, the board shall submit a report to  
18 the appropriate standing committees under s. 13.172 (3) and to the governor on the  
19 operation of the health care coverage plan. The report shall specify the number of  
20 employers participating in the health care coverage plan, calculate the costs of the  
21 health care coverage plan to employers and their employees and include  
22 recommendations for improving the health care coverage plan.

23          (b) No later than January 1, 2005, the board shall submit a report to the  
24 appropriate standing committees under s. 13.172 (3) and to the governor that offers  
25 recommendations as to whether the department should continue to administer the

**BILL**

1 health care coverage plan, whether a different state agency should administer the  
2 health care coverage plan or whether the health care coverage plan should be  
3 administered by a private nonprofit organization. If the board recommends that a  
4 different state agency administer the health care coverage plan or that the health  
5 care coverage plan be administered by a private nonprofit organization, the board  
6 shall submit proposed legislation to the appropriate standing committees under s.  
7 13.172 (3) at the time that the board submits its report.

8 **SECTION 19.** Subchapter X of chapter 40 [precedes 40.98] of the statutes, as  
9 created by 1999 Wisconsin Act ... (this act), is repealed.

10 **SECTION 20. Nonstatutory provisions.**

11 (1) **PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD.** Notwithstanding the  
12 length of terms specified for the members of the private employer health care  
13 coverage board under section 15.165 (5) of the statutes, as created by this act, the  
14 initial members shall be appointed for the following terms:

15 (a) The members specified under section 15.165 (5) (a) 1., 3. and 7. of the  
16 statutes, as created by this act, for terms expiring on May 1, 2002.

17 (b) The members specified under section 15.165 (5) (a) 2., 5. and 8. of the  
18 statutes, as created by this act, for terms expiring on May 1, 2003.

19 (c) The members specified under section 15.165 (5) (a) 4. and 6. of the statutes,  
20 as created by this act, for terms expiring on May 1, 2004.

21 (2) **POSITION AUTHORIZATIONS FOR THE DEPARTMENT OF EMPLOYEE TRUST FUNDS.** The  
22 authorized FTE positions for the department of employee trust funds are increased  
23 by 3.5 GPR positions on the effective date of this subsection, to be funded from the  
24 appropriation under section 20.515 (2) (a) of the statutes, as created by this act, for  
25 the purpose of designing, establishing and administering the private employer

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1 health care coverage plan under subchapter X of chapter 40 of the statutes, as  
2 created by this act.

3 **SECTION 21. Effective dates.** This act takes effect on the day after publication,  
4 except as follows:

5 (1) The repeal of section 20.515 (2) (a) of the statutes takes effect on January  
6 1, 2002.

7 (2) The amendment of section 40.02 (26) (intro.) (by SECTION 15) and (28) (by  
8 SECTION 17) of the statutes takes effect on January 1, 2009.

9 (3) The repeal of sections 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5) and 20.515  
10 (2) (title) and (g) and subchapter X of chapter 40 of the statutes takes effect on  
11 January 1, 2009.

12

**(END)**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

705  
LRB-01/1dn  
RAC&PJK:wlj&kmg:lp

November 24, 1998

1. For this draft, we have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-00 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact one of us and we will either redraft the proposal or draft an amendment, whichever is appropriate.

2. Under s. 16.47 (2), stats., any bill that increases the cost of state government by more than \$10,000 may not be passed by either house of the legislature until the budget bill passes both houses, unless the governor or the joint committee on finance recommends the bill's passage.

Because the budget bill repeals and recreates the appropriation schedule in ch. 20, stats., the appropriation schedule entry in this bill will be repealed if not incorporated into the budget bill.

Richard A. Champagne  
Legislative Attorney  
266-9930

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0705/1dn  
RAC&PJK:wlj&kmg:lp

November 25, 1998

1. For this draft, we have included an appropriation but have specified "\$-0-" for expenditure in fiscal years 1999-00 and 2000-01. When you know the dollar amounts that you need to include in the proposal, contact one of us and we will either redraft the proposal or draft an amendment, whichever is appropriate.

2. Under s. 16.47 (2), stats., any bill that increases the cost of state government by more than \$10,000 may not be passed by either house of the legislature until the budget bill passes both houses, unless the governor or the joint committee on finance recommends the bill's passage.

Because the budget bill repeals and recreates the appropriation schedule in ch. 20, stats., the appropriation schedule entry in this bill will be repealed if not incorporated into the budget bill.

Richard A. Champagne  
Legislative Attorney  
266-9930

Pamela J. Kahler  
Senior Legislative Attorney  
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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0705/1-2

RAC&PJK:wlj&kg:lp

Redraft under <sup>stats</sup>has  
been run

1999 BILL

REGEN

1 AN ACT to repeal 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title),  
2 20.515 (2) (a), 20.515 (2) (g) and subchapter X of chapter 40 [precedes 40.98];  
3 to amend 40.02 (26) (intro.), 40.02 (26) (intro.), 40.02 (28) and 40.02 (28); and  
4 to create 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title), 20.515 (2)  
5 (a), 20.515 (2) (g) and subchapter X of chapter 40 [precedes 40.98] of the  
6 statutes; relating to: requiring the department of employe trust funds to  
7 establish a health care coverage plan for employers in the private sector,  
8 creating a private employer health care coverage board and making an  
9 appropriation.

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***Analysis by the Legislative Reference Bureau***

This bill requires the department of employe trust funds (DETF), after consulting with the departments of commerce and health and family services and the office of the commissioner of insurance, to design, establish and administer a health care coverage plan for employers in the private sector. The bill also creates a private employer health care coverage board (PEHCCB) that is responsible for approving the health care coverage plan before DETF may implement the plan. The membership of the PEHCCB consists of the secretary of employe trust funds, the secretary of

**BILL**

health and family services, a member who represents health maintenance organizations, a member who represents hospitals, a member who represents insurance agents, a member who represents insurers, two employees who are eligible to receive health care coverage under the plan and whose employer employs not more than 50 employees, two members who represent employers that employ not more than 50 employees and who are eligible to offer health care coverage under the plan, a member who is a physician and two members who represent the public interest.

The key features of the private employer health care coverage plan are as follows:

1. Any employer in the private sector that employs two or more employees is eligible to participate in the plan.

2. Any employer that participates in the plan must offer the health care coverage to all of its permanent employees who have a normal work week of 30 or more hours and may offer the coverage to any of its other employees.

3. Any employer that participates in the plan must provide health care coverage under the plan to at least 50% (or a higher percentage specified by the PEHCCB) of its permanent employees who have a normal work week of 30 or more hours.

4. Any employer that participates must pay, on behalf of each employee who has coverage, at least 50% but not more than 100% of the lowest premium that would be available to the employer for the coverage.

5. Any employer that participates in the plan and that voluntarily terminates the coverage must wait at least three years before the employer may participate again.

6. Any insurer that offers the plan must provide coverage under the plan to any employer that applies for coverage, without regard to the health condition or claims experience of any individual who would have coverage, as long as the employer pays the premium and agrees to comply with plan requirements.

7. The health care coverage plan is subject to all provisions of the state insurance code to the same extent as any other group health benefit plan that is offered in the private sector.

8. The plan may not be combined with any health care coverage plan offered by DETF to state employees.

9. The plan may only be sold by licensed insurance agents in this state.

10. DETF is prohibited from selling any health care coverage under the plan or enrolling any employee under the plan, but DETF may publicize the availability of the health care coverage plan for employers.

11. DETF is authorized to contract with any person to provide services relating to the administration of the health care coverage plan.

12. The commission rate for the sale of the plan is set by the PEHCCB.

13. DETF is required to charge employers who participate in the plan a fee to cover the costs of designing, establishing and administering the plan.

14. The plan is sunset on January 1, ~~2009~~ 2007

Under the bill, the PEHCCB is required to report annually to the governor and the legislature on the operation of the plan. In addition, no later than January 1,



**BILL**

2005, the PEHCCB must submit a report to the governor and the legislature that offers recommendations as to whether DETF should continue to administer the plan, whether a different state agency should administer the plan or whether the plan should be administered by a private nonprofit organization. If the PEHCCB recommends that a different state agency administer the health care coverage plan or that the health care coverage plan be administered by a private nonprofit organization, the PEHCCB must submit proposed legislation relating to the recommendation at the time the PEHCCB submits its report.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.94 (1) (p) of the statutes is created to read:

2           13.94 (1) (p) No later than January 1, ~~2006~~<sup>2005</sup>, prepare a program evaluation audit  
3 of the private employer health care coverage plan established under subch. X of ch.  
4 40. The legislative audit bureau shall file a copy of the audit report under this  
5 paragraph with the distributees specified in par. (b).

6           **SECTION 2.** 13.94 (1) (p) of the statutes, as created by 1999 Wisconsin Act ....  
7 (this act), is repealed.

8           **SECTION 3.** 15.07 (1) (b) 21. of the statutes is created to read:

9           15.07 (1) (b) 21. Private employer health care coverage board.

10          **SECTION 4.** 15.07 (1) (b) 21. of the statutes, as created by 1999 Wisconsin Act  
11 .... (this act), is repealed.

12          **SECTION 5.** 15.165 (5) of the statutes is created to read:

13          15.165 (5) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. (a) There is created  
14 in the department of employe trust funds a private employer health care coverage  
15 board consisting of the secretary of employe trust funds or his or her designee, the  
16 secretary of health and family services or his or her designee and the following  
17 members appointed for 3-year terms:

**BILL**

- 1           1. One member who represents health maintenance organizations.
- 2           2. One member who represents hospitals.
- 3           3. One member who represents insurance agents, as defined in s. 628.02 (4).
- 4           4. Two members who are employees eligible to receive health care coverage
- 5 under subch. X of ch. 40 and whose employer employs not more than 50 employees.
- 6           5. One member who represents insurers.
- 7           6. Two members who are, or who represent, employers that employ not more
- 8 than 50 employees and who are eligible to offer health care coverage under subch. X
- 9 of ch. 40.
- 10          7. One member who is a physician, as defined in s. 448.01 (5).
- 11          8. Two members who represent the public interest.

12           (b) The secretary of employe trust funds or his or her designee and the secretary  
13 of health and family services or his or her designee shall be nonvoting members.

14           **SECTION 6.** 15.165 (5) of the statutes, as created by 1999 Wisconsin Act .... (this  
15 act), is repealed.

16           **SECTION 7.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
17 the following amounts for the purposes indicated:

	<b>1999-00</b>	<b>2000-01</b>
--	----------------	----------------

19           **20.515 Employee trust funds, department of**

20           (2) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN

	(a) Private employer health care				
	coverage plan; start-up costs	GPR	A	-0-	-0-

23           **SECTION 8.** 20.515 (2) (title) of the statutes is created to read:

24           20.515 (2) (title) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN.

**BILL**

1           **SECTION 9.** 20.515 (2) (title) of the statutes, as created by 1999 Wisconsin Act  
2 .... (this act), is repealed.

3           **SECTION 10.** 20.515 (2) (a) of the statutes is created to read:

4           20.515 (2) (a) *Private employer health care coverage plan; start-up costs.* The  
5 amounts in the schedule for the start-up costs for designing, establishing and  
6 administering the private employer health care coverage plan under subch. X of ch.  
7 40.

8           **SECTION 11.** 20.515 (2) (a) of the statutes, as created by 1999 Wisconsin Act ....  
9 (this act), is repealed.

10          **SECTION 12.** 20.515 (2) (g) of the statutes is created to read:

11          20.515 (2) (g) *Private employer health care coverage plan.* All moneys received  
12 under subch. X of ch. 40 from employers who elect to participate in the private  
13 employer health care coverage plan under subch. X of ch. 40, for the costs of  
14 designing, establishing and administering the plan.

15          **SECTION 13.** 20.515 (2) (g) of the statutes, as created by 1999 Wisconsin Act ....  
16 (this act), is repealed.

17          **SECTION 14.** 40.02 (26) (intro.) of the statutes is amended to read:

18          40.02 (26) (intro.) "Employee" means any person who receives earnings as  
19 payment for personal services rendered for the benefit of any employer including  
20 officers of the employer, except as provided in subch. X. An employe is deemed to  
21 have separated from the service of an employer at the end of the day on which the  
22 employe last performed services for the employer, or, if later, the day on which the  
23 employe-employer relationship is terminated because of the expiration or  
24 termination of leave without pay, sick leave, vacation or other leave of absence. A  
25 person shall not be considered an employe if a person:

**BILL**

1           **SECTION 15.** 40.02 (26) (intro.) of the statutes, as affected by 1999 Wisconsin  
2 Act .... (this act), is amended to read:

3           40.02 (26) (intro.) "Employee" means any person who receives earnings as  
4 payment for personal services rendered for the benefit of any employer including  
5 officers of the employer, ~~except as provided in subch. X.~~ An employe is deemed to  
6 have separated from the service of an employer at the end of the day on which the  
7 employe last performed services for the employer, or, if later, the day on which the  
8 employe-employer relationship is terminated because of the expiration or  
9 termination of leave without pay, sick leave, vacation or other leave of absence. A  
10 person shall not be considered an employe if a person:

11           **SECTION 16.** 40.02 (28) of the statutes is amended to read:

12           40.02 (28) "Employer" means the state, including each state agency, any  
13 county, city, village, town, school district, other governmental unit or  
14 instrumentality of 2 or more units of government now existing or hereafter created  
15 within the state ~~and~~, any federated public library system established under s. 43.19  
16 whose territory lies within a single county with a population of 500,000 or more and  
17 a local exposition district created under subch. II of ch. 229, except as provided under  
18 ss. 40.51 (7) and 40.61 (3), ~~or a local exposition district created under subch. II of ch.~~  
19 ~~229 and subch. X.~~ Each employer shall be a separate legal jurisdiction for OASDHI  
20 purposes.

21           **SECTION 17.** 40.02 (28) of the statutes, as affected by 1999 Wisconsin Act ....  
22 (this act), is amended to read:

23           40.02 (28) "Employer" means the state, including each state agency, any  
24 county, city, village, town, school district, other governmental unit or  
25 instrumentality of 2 or more units of government now existing or hereafter created

**BILL**

1 within the state, any federated public library system established under s. 43.19  
2 whose territory lies within a single county with a population of 500,000 or more and  
3 a local exposition district created under subch. II of ch. 229, except as provided under  
4 ss. 40.51 (7) and 40.61 (3) ~~and subch. X~~. Each employer shall be a separate legal  
5 jurisdiction for OASDHI purposes.

6 **SECTION 18.** Subchapter X of chapter 40 [precedes 40.98] of the statutes is  
7 created to read:

**CHAPTER 40****SUBCHAPTER X****PRIVATE EMPLOYER HEALTH****CARE COVERAGE**

12 **40.98 Health care coverage.** (1) In this subchapter:

13 (ar) "Board" means the private employer health care coverage board.

14 (b) "Dependent" means a spouse, an unmarried child under the age of 19 years,  
15 an unmarried child who is a full-time student under the age of 21 years and who is  
16 financially dependent upon the parent, or an unmarried child of any age who is  
17 medically certified as disabled and who is dependent upon the parent.

18 (c) "Employee" means any person who receives earnings as payment for personal  
19 services rendered for the benefit of any employer including officers of the employer.  
20 An employee is considered to have separated from the service of an employer at the  
21 end of the day on which the employe last performed services for the employer, or, if  
22 later, the day on which the employe-employer relationship is terminated because of  
23 the expiration or termination of leave without pay, sick leave, vacation or other leave  
24 of absence. A person shall not be considered an employe if any of the following  
25 applies:

**BILL**

1           1. The person is employed under a contract involving the furnishing of more  
2 than personal services.

3           2. The person is customarily engaged in an independently established trade,  
4 business or profession providing the same type of services to more than one employer  
5 and the person's services to an employer are not compensated for on a payroll of that  
6 employer.

7           3. The person is a patient or inmate of a hospital, home or institution and  
8 performs services in the hospital, home or institution.

9           (d) "Employer" means any person doing business or operating an organization  
10 in this state and employing at least 2 employes. "Employer" does not include an  
11 employer as defined in s. 40.02 (28).

12           (e) "Health care coverage plan" means the health care coverage plan  
13 established under sub. (2) (a).

14           (f) "Insurer" has the meaning given in s. 600.03 (27).

15           (2) (a) The department shall design, establish and administer an actuarially  
16 sound health care coverage plan for employers that provides coverage beginning not  
17 later than January 1, 2002. In designing the health care coverage plan, the  
18 department shall consult with the departments of commerce and health and family  
19 services and the office of the commissioner of insurance. In establishing the health  
20 care coverage plan, the department shall solicit and accept bids and enter into  
21 contracts with insurers who are to provide health care coverage under the health  
22 care coverage plan. The health care coverage plan is subject to the provisions of chs.  
23 600 to 646 that apply to group health benefit plans, as defined in s. 632.745 (9), to  
24 the same extent as any other group health benefit plan, as defined in s. 632.745 (9).

**BILL**

1 Before the health care coverage plan may be implemented, the board must approve  
2 the plan.

3 (am) The health care coverage plan established under par. (a) may not be  
4 combined with any health care coverage plan under subch. IV.

5 (b) The health care coverage plan shall require that all insurance rates under  
6 the plan be published annually in a single publication that is made available to  
7 employers and employees. The rates shall be listed by county and by any other factor  
8 that the department considers appropriate.

9 (c) The health care coverage plan shall have an enrollment period that is  
10 established by the board.

11 (d) The department shall charge employers who participate in the health care  
12 coverage plan a fee to cover the department's cost in designing, establishing and  
13 administering the health care coverage plan. All moneys received under this  
14 paragraph shall be credited to the appropriation account under s. 20.515 (2) (g).

15 (e) The department may not sell any health care coverage plan to an employer  
16 or enroll any employe in the health care coverage plan, but the department may  
17 publicize the availability of the health care coverage plan for employers.

18 (f) The department may enter into a contract with any person to provide  
19 services relating to the administration of the health care coverage plan.

20 (3) Any employer who participates in the health care coverage plan shall do all  
21 of the following:

22 (a) Offer health care coverage under the plan to all of its permanent employes  
23 who have a normal work week of 30 or more hours and may offer health care coverage  
24 under the plan to any of its other employes.

**BILL**

1 (b) Provide health care coverage under the plan to at least 50% of its permanent  
2 employees who have a normal work week of 30 or more hours and who do not otherwise  
3 receive health care coverage as a dependent under any other plan that is not offered  
4 by the employer or a percentage of such employees specified by the board, whichever  
5 percentage is greater.

6 (c) Pay for each employe at least 50% but not more than 100% of the lowest  
7 premium rate that would be available to the employer for that employe's coverage  
8 under the health care coverage plan.

9 (d) Make premium payments for the health care coverage of its employees in the  
10 manner specified by the board.

11 (4) Any employer that provides health care coverage for its employees under the  
12 plan and that voluntarily terminates coverage under the plan is not eligible to  
13 participate in the plan for at least 3 years from the date that coverage is terminated.

14 (5) Any insurer that offers the health care coverage plan shall provide coverage  
15 under the plan to any employer that applies for coverage, and to all of the employer's  
16 employees who elect coverage under the health care coverage plan, without regard to  
17 the health condition or claims experience of any individual who would be covered  
18 under the health care coverage plan if all of the following apply:

19 (a) The employer agrees to pay the premium required for coverage under the  
20 health care coverage plan.

21 (b) The employer agrees to comply with all provisions of the health care  
22 coverage plan that apply generally to a policyholder or an insured without regard to  
23 health condition or claims experience.

24 (6) (a) The health care coverage plan may only be sold by insurance agents  
25 licensed under ch. 628.



**BILL**

1           (b) An insurance agent may not sell any health care coverage under the health  
2           care coverage plan on behalf of an insurer unless he or she is employed by the insurer  
3           or has a contract with the insurer to sell the health care coverage on behalf of the  
4           insurer.

5           (c) The board shall set, and may adjust as often as semiannually, the  
6           commission rate for the sale of a policy under the health care coverage plan. The rate  
7           shall be based on the average commission rate that insurance agents are paid in the  
8           state for the sale of comparable health insurance policies at the time that the rate  
9           is set or adjusted.

10          (d) An insurer shall specify on the first page of any policy sold under the health  
11          care coverage plan the amount of the commission paid to the insurance agent.

12          (7) (a) Annually, on or before December 31, the board shall submit a report to  
13          the appropriate standing committees under s. 13.172 (3) and to the governor on the  
14          operation of the health care coverage plan. The report shall specify the number of  
15          employers participating in the health care coverage plan, calculate the costs of the  
16          health care coverage plan to employers and their employees and include  
17          recommendations for improving the health care coverage plan.

18          (b) No later than January 1, 2005, the board shall submit a report to the  
19          appropriate standing committees under s. 13.172 (3) and to the governor that offers  
20          recommendations as to whether the department should continue to administer the  
21          health care coverage plan, whether a different state agency should administer the  
22          health care coverage plan or whether the health care coverage plan should be  
23          administered by a private nonprofit organization. If the board recommends that a  
24          different state agency administer the health care coverage plan or that the health  
25          care coverage plan be administered by a private nonprofit organization, the board

**BILL**

1 shall submit proposed legislation to the appropriate standing committees under s.  
2 13.172 (3) at the time that the board submits its report.

3 **SECTION 19.** Subchapter X of chapter 40 [precedes 40.98] of the statutes, as  
4 created by 1999 Wisconsin Act .... (this act), is repealed.

5 **SECTION 20. Nonstatutory provisions.**

6 (1) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. Notwithstanding the  
7 length of terms specified for the members of the private employer health care  
8 coverage board under section 15.165 (5) of the statutes, as created by this act, the  
9 initial members shall be appointed for the following terms:

10 (a) The members specified under section 15.165 (5) (a) 1., 3. and 7. of the  
11 statutes, as created by this act, for terms expiring on May 1, 2002.

12 (b) The members specified under section 15.165 (5) (a) 2., 5. and 8. of the  
13 statutes, as created by this act, for terms expiring on May 1, 2003.

14 (c) The members specified under section 15.165 (5) (a) 4. and 6. of the statutes,  
15 as created by this act, for terms expiring on May 1, 2004.

16 (2) POSITION AUTHORIZATIONS FOR THE DEPARTMENT OF EMPLOYEE TRUST FUNDS. The  
17 authorized FTE positions for the department of employee trust funds are increased  
18 by 3.5 GPR positions on the effective date of this subsection, to be funded from the  
19 appropriation under section 20.515 (2) (a) of the statutes, as created by this act, for  
20 the purpose of designing, establishing and administering the private employer  
21 health care coverage plan under subchapter X of chapter 40 of the statutes, as  
22 created by this act.

23 **SECTION 21. Effective dates.** This act takes effect on the day after publication,  
24 except as follows:

**BILL**

1           (1) The repeal of section 20.515 (2) (a) of the statutes takes effect on January  
2           1, 2002.

3           (2) The amendment of section 40.02 (26) (intro.) (by SECTION 15) and (28) (by  
4           SECTION 17) of the statutes takes effect on January 1, ~~2009~~ 2007 ✓

5           (3) The repeal of sections 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5) and 20.515  
6           (2) (title) and (g) and subchapter X of chapter 40 of the statutes takes effect on

7           January 1, ~~2009~~ 2007 ✓

8

(END)