

State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3798/P1

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P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1-note ✓

Friday please

Although I did add an AR @ 3-11 of insert 26-10.

LPS: The autorefs. may not be OK in this version. Please do not check, as the effective date provisions will be updated in a later version.

See XXXX NOTES. re off dates.

Regenerate ✓

1 AN ACT *to repeal* 20.435 (4) (u), 20.435 (4) (v), 25.17 (1) (gf), 25.55 (intro.), 149.10
2 (2m), 149.10 (10), 149.12 (3) (c), 149.14 (3) (nm), 149.14 (3) (r), 149.14 (4c),
3 149.14 (5), 149.14 (5m), 149.14 (6) (a), 149.14 (8), 149.142 (1) (b), 149.142 (2),
4 149.144, 149.145, 149.146 (2), 149.15, 149.16 (title), 149.16 (1m), 149.16 (3) (e),
5 149.16 (4), 149.16 (5), 149.165 (4), 149.17 (2), 149.17 (4), 149.175, 149.20 and
6 149.25; *to renumber* 149.14 (6) (b); *to renumber and amend* 25.55 (3), 25.55
7 (4), 149.14 (3) (intro.), 149.14 (4m), 149.142 (1) (a), 149.16 (3) (a), 149.16 (3) (b)
8 and 149.16 (3) (c); *to consolidate, renumber and amend* 149.146 (1) (a) and
9 (b); *to amend* 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 76.67 (2),
10 77.92 (4), chapter 149 (title), 149.10 (intro.), 149.10 (2), 149.10 (2j) (a) 3., 149.10
11 (2t) (c), 149.10 (3), 149.10 (3e), 149.10 (7), 149.10 (8), 149.10 (9), 149.115, 149.12
12 (1) (intro.), 149.12 (1) (a), 149.12 (1m), 149.12 (3) (a), 149.13 (1), 149.13 (3) (a),
13 149.13 (3) (b), 149.13 (4), 149.14 (1) (a), 149.14 (2) (a), 149.14 (3) (d), 149.14 (3)
14 (e), 149.14 (3) (m), 149.14 (3) (o), 149.14 (7) (b), 149.14 (7) (c), 149.165 (1),
15 149.165 (2) (a) (intro.), 149.165 (2) (a) 1., 149.165 (2) (a) 2., 149.165 (2) (a) 3.,

1 149.165 (2) (a) 4., 149.165 (2) (a) 5., 149.165 (2) (bc), 149.165 (3) (a), 149.165 (3)
 2 (b) (intro.), 149.165 (3m), 149.17 (1), 149.18, 601.41 (1), 601.415 (12), 601.64 (1),
 3 601.64 (3) (a), 601.64 (3) (c), 601.64 (4), 613.03 (4) and 632.785 (title); **to repeal**
 4 **and recreate** 149.11, 149.14 (3) (b), 149.14 (3) (c), 149.14 (4) and 149.143; and
 5 **to create** 20.145 (5), 71.07 (5g), 71.10 (4) (cp), 71.28 (5g), 71.30 (3) (dm), 71.47
 6 (5g), 71.49 (1) (dm), 76.655, subchapter I (title) of chapter 149 [precedes 149.10],
 7 149.10 (1), 149.12 (2) (g), 149.12 (4), 149.14 (3) (f), 149.141, 149.155, subchapter
 8 III of chapter 149 [precedes 149.40] and 631.20 (2) (f) of the statutes; **relating**
 9 **to:** the Health Insurance Risk-Sharing Plan; creating the Health Insurance
 10 Risk-Sharing Plan Authority; a health benefit plan for person eligible for tax
 11 credits for payment of premiums; and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

12 **SECTION 1.** 20.145 (5) of the statutes is created to read:

13 20.145 (5) HEALTH INSURANCE RISK-SHARING PLAN. (g) *Insurer assessments.* All
 14 moneys received in insurer assessments under s. 149.13, to be paid to the Health
 15 Insurance Risk-Sharing Plan Authority under ch. 149 for deposit in the Health
 16 Insurance Risk-Sharing Plan fund under s. 149.11 (2).

17 **SECTION 2.** 20.435 (4) (u) of the statutes is repealed.

18 **SECTION 3.** 20.435 (4) (v) of the statutes is repealed.

19 **SECTION 4.** 25.17 (1) (gf) of the statutes is repealed.

20 **SECTION 5.** 25.55 (intro.) of the statutes is repealed.

subch III of

1 **SECTION 6.** 25.55 (3) of the statutes is renumbered 149.11 (2) (a) 1. and amended
2 to read:

3 149.11 (2) (a) 1. Insurer assessments under ~~ch. 149 s. 149.13~~, paid to the
4 authority under s. 20.145 (5) (g).

5 **SECTION 7.** 25.55 (4) of the statutes is renumbered 149.11 (2) (a) 2. and amended
6 to read:

7 149.11 (2) (a) 2. Premiums paid by eligible persons ~~under ch. 149~~.

8 **SECTION 8.** 71.07 (5g) of the statutes is created to read:

9 **71.07 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT.** (a)
10 *Definitions.* In this subsection, “claimant” means a partner, limited liability
11 company member, or tax-option corporation shareholder who files a claim under this
12 subsection and who is a partner, member, or shareholder of an entity that is an
13 insurer, as defined in s. 149.10 (5).

14 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
15 taxable years beginning after December 31, 2005, a claimant may claim as a credit
16 against the taxes imposed under s. 71.02 an amount that is equal to a percentage of
17 the amount of the assessment under s. 149.13 that the claimant paid in the taxable
18 year, as determined under par. (c).

19 (c) *Limitations.* 1. The department of revenue, in consultation with the office
20 of the commissioner of insurance, shall determine the percentage under par. (b) for
21 each claimant for each taxable year so that the cost of the credit under this subsection
22 and ss. 71.28 (5g), 71.47 (5g), and 76.655 is as close as practicable to \$5,000,000 in
23 each fiscal year.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on their payment of amounts described under par. (b). A
2 partnership, limited liability company, or tax-option corporation shall compute the
3 amount of credit that each of its partners, members, or shareholders may claim and
4 shall provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
8 s. 71.28 (4), applies to the credit under this subsection.

9 **SECTION 9.** 71.10 (4) (cp) of the statutes is created to read:

10 71.10 (4) (cp) Health Insurance Risk-Sharing Plan assessments credit under
11 s. 71.07 (5g).

12 **SECTION 10.** 71.21 (4) of the statutes is amended to read:

13 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
14 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b), and (5g)~~ and passed
15 through to partners shall be added to the partnership's income.

16 **SECTION 11.** 71.26 (2) (a) of the statutes is amended to read:

17 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
18 the gross income as computed under the Internal Revenue Code as modified under
19 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
20 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
21 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
22 under this paragraph at the time that the taxpayer first claimed the credit plus the
23 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
24 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b), (5g)~~ and not passed through by a partnership,
25 limited liability company, or tax-option corporation that has added that amount to

1 the partnership's, limited liability company's, or tax-option corporation's income
2 under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other
3 disposition of assets the gain from which would be wholly exempt income, as defined
4 in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus
5 deductions, as computed under the Internal Revenue Code as modified under sub.
6 (3), plus or minus, as appropriate, an amount equal to the difference between the
7 federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
8 otherwise disposed of in a taxable transaction during the taxable year, except as
9 provided in par. (b) and s. 71.45 (2) and (5).

10 **SECTION 12.** 71.28 (5g) of the statutes is created to read:

11 71.28 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT. (a)

12 *Definitions.* In this subsection, "claimant" means an insurer, as defined in s. 149.10
13 (5), who files a claim under this subsection.

14 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
15 taxable years beginning after December 31, 2005, a claimant may claim as a credit
16 against the taxes imposed under s. 71.23 an amount that is equal to a percentage of
17 the amount of assessment under s. 149.13 that the claimant paid in the taxable year,
18 as determined under par. (c) 1.

19 (c) *Limitations.* 1. The department of revenue, in consultation with the office
20 of the commissioner of insurance, shall determine the percentage under par. (b) for
21 each claimant for each taxable year so that the cost of the credit under this subsection
22 and ss. 71.07 (5g), 71.47 (5g), and 76.655 is as close as practicable to \$5,000,000 in
23 each fiscal year.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on their payment of amounts described under par. (b). A
2 partnership, limited liability company, or tax-option corporation shall compute the
3 amount of credit that each of its partners, members, or shareholders may claim and
4 shall provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
8 sub. (4), applies to the credit under this subsection.

9 **SECTION 13.** 71.30 (3) (dm) of the statutes is created to read:

10 71.30 (3) (dm) Health Insurance Risk-Sharing Plan assessments credit under
11 s. 71.28 (5g).

12 **SECTION 14.** 71.34 (1) (g) of the statutes is amended to read:

13 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
14 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
15 (3n), (3t), ~~and (5b), and (5g)~~ and passed through to shareholders.

16 **SECTION 15.** 71.45 (2) (a) 10. of the statutes is amended to read:

17 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
18 computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b), and (5g)~~ and not passed
19 through by a partnership, limited liability company, or tax-option corporation that
20 has added that amount to the partnership's, limited liability company's, or
21 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
22 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

23 **SECTION 16.** 71.47 (5g) of the statutes is created to read:

1 **71.47 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT.** (a)
2 *Definitions.* In this subsection, “claimant” means an insurer, as defined in s. 149.10
3 (5), who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
5 taxable years beginning after December 31, 2005, a claimant may claim as a credit
6 against the taxes imposed under s. 71.43 an amount that is equal to a percentage of
7 the amount of assessment under s. 149.13 that the claimant paid in the taxable year,
8 as determined under par. (c) 1.

9 (c) *Limitations.* 1. The department of revenue, in consultation with the office
10 of the commissioner of insurance, shall determine the percentage under par. (b) for
11 each claimant for each taxable year so that the cost of the credit under this subsection
12 and ss. 71.07 (5g), 71.28 (5g), and 76.655 is as close as practicable to \$5,000,000 in
13 each fiscal year.

14 2. Partnerships, limited liability companies, and tax-option corporations may
15 not claim the credit under this subsection, but the eligibility for, and the amount of,
16 the credit are based on their payment of amounts described under par. (b). A
17 partnership, limited liability company, or tax-option corporation shall compute the
18 amount of credit that each of its partners, members, or shareholders may claim and
19 shall provide that information to each of them. Partners, members of limited liability
20 companies, and shareholders of tax-option corporations may claim the credit in
21 proportion to their ownership interests.

22 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
23 s. 71.28 (4), applies to the credit under this subsection.

24 **SECTION 17.** 71.49 (1) (dm) of the statutes is created to read:

1 71.49 (1) (dm) Health Insurance Risk-Sharing Plan assessments credit under
2 s. 71.47 (5g).

3 **SECTION 18.** 76.655 of the statutes is created to read:

4 **76.655 Health Insurance Risk-Sharing Plan assessments credit. (1)**

5 DEFINITIONS. In this section, “claimant” means an insurer, as defined in s. 149.10 (5),
6 who files a claim under this section.

7 **(2) FILING CLAIMS.** Subject to the limitations provided under this section, for
8 taxable years beginning after December 31, 2005, a claimant may claim as a credit
9 against the fees imposed under ss. 76.60, 76.63, 76.65, 76.66 or 76.67 an amount that
10 is equal to a percentage of the amount of assessment under s. 149.13 that the
11 claimant paid in the taxable year, as determined under sub. (3).

12 **(3) LIMITATIONS.** The department of revenue, in consultation with the office of
13 the commissioner of insurance, shall determine the percentage under sub. (2) for
14 each claimant for each taxable year so that the cost of the credit under this section
15 and ss. 71.07 (5g), 71.28 (5g), and 71.47 (5g) is as close as practicable to \$5,000,000
16 in each fiscal year.

17 **(4) CARRY-FORWARD.** If the credit under sub. (2) is not entirely offset against the
18 fees imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 that are otherwise due, the
19 unused balance may be carried forward and credited against those fees in the
20 following 15 years to the extent that it is not offset by those fees otherwise due in all
21 the years between the year in which the assessment was paid and the year in which
22 the carry-forward credit is claimed.

23 **SECTION 19.** 76.67 (2) of the statutes is amended to read:

24 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
25 another state, this state may not require similar insurers domiciled in that other

1 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
2 a domestic insurer is required to pay to that other state for the same year less the
3 credit credits under s. ss. 76.635 and 76.655, except that the amount imposed shall
4 not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if
5 the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under
6 s. 76.62, less offsets allowed under s. 646.51 (7) or under s. ss. 76.635 and 76.655
7 against that total, and except that the amount imposed shall not be less than the
8 amount due under s. 601.93.

9 **SECTION 20.** 77.92 (4) of the statutes is amended to read:

10 77.92 (4) “Net business income,” with respect to a partnership, means taxable
11 income as calculated under section 703 of the Internal Revenue Code; plus the items
12 of income and gain under section 702 of the Internal Revenue Code, including taxable
13 state and municipal bond interest and excluding nontaxable interest income or
14 dividend income from federal government obligations; minus the items of loss and
15 deduction under section 702 of the Internal Revenue Code, except items that are not
16 deductible under s. 71.21; plus guaranteed payments to partners under section 707
17 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
18 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b)~~, and (5g); and
19 plus or minus, as appropriate, transitional adjustments, depreciation differences,
20 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
21 income, gain, loss, and deductions from farming. “Net business income,” with respect
22 to a natural person, estate, or trust, means profit from a trade or business for federal
23 income tax purposes and includes net income derived as an employee as defined in
24 section 3121 (d) (3) of the Internal Revenue Code.

25 **SECTION 21.** Chapter 149 (title) of the statutes is amended to read:

1 **CHAPTER 149**

2 **MANDATORY HEALTH INSURANCE**

3 **RISK-SHARING PLAN PLANS**

4 **SECTION 22.** Subchapter I (title) of chapter 149 [precedes 149.10] of the statutes
5 is created to read:

6 **CHAPTER 149**

7 **SUBCHAPTER I**

8 **GENERAL PROVISIONS**

9 **SECTION 23.** 149.10 (intro.) of the statutes is amended to read:

10 **149.10 Definitions.** (intro.) In this chapter, unless the context requires
11 otherwise:

12 **SECTION 24.** 149.10 (1) of the statutes is created to read:

13 149.10 (1) "Authority" means the Health Insurance Risk-Sharing Plan
14 Authority.

15 **SECTION 25.** 149.10 (2) of the statutes is amended to read:

16 149.10 (2) "Board" means the board of ~~governors established under s. 149.15~~
17 directors of the authority.

18 **SECTION 26.** 149.10 (2j) (a) 3. of the statutes is amended to read:

19 149.10 (2j) (a) 3. Part A ~~or~~, part B, or part D of title XVIII of the federal Social
20 Security Act.

21 **SECTION 27.** 149.10 (2m) of the statutes is repealed.

22 **SECTION 28.** 149.10 (2t) (c) of the statutes is amended to read:

23 149.10 (2t) (c) The individual does not have creditable coverage and is not
24 eligible for coverage under a group health plan, part A ~~or~~, part B, or part D of title

1 XVIII of the federal Social Security Act or a state plan under title XIX of the federal
2 Social Security Act or any successor program.

3 **SECTION 29.** 149.10 (3) of the statutes is amended to read:

4 149.10 (3) “Eligible person” means a resident of this state who qualifies under
5 s. 149.12 whether or not the person is legally responsible for the payment of medical
6 expenses incurred on the person’s behalf.

7 **SECTION 30.** 149.10 (3e) of the statutes is amended to read:

8 149.10 (3e) “Fund” means the ~~health insurance risk-sharing plan~~ Health
9 Insurance Risk-Sharing Plan fund under s. 149.11 (2).

10 **SECTION 31.** 149.10 (7) of the statutes is amended to read:

11 149.10 (7) “Medicare” means coverage under ~~both part A and, part B, and part~~
12 D of Title XVIII of the federal social security act, 42 USC 1395 et seq., as amended.

13 **SECTION 32.** 149.10 (8) of the statutes is amended to read:

14 149.10 (8) “Plan” means the health care insurance plan established and
15 administered under subchapter II of this chapter.

16 **SECTION 33.** 149.10 (9) of the statutes is amended to read:

17 149.10 (9) “Resident” means a person who has been legally domiciled in this
18 state for a period of at least ~~30 days~~ 3 months or, with respect to an eligible individual,
19 an individual who resides in this state. For purposes of this chapter, legal domicile
20 is established by living in this state and obtaining a Wisconsin motor vehicle
21 operator’s license, registering to vote in Wisconsin or filing a Wisconsin income tax
22 return. A child is legally domiciled in this state if the child lives in this state and if
23 at least one of the child’s parents or the child’s guardian is legally domiciled in this
24 state. A person with a developmental disability or another disability which prevents
25 the person from obtaining a Wisconsin motor vehicle operator’s license, registering

1 to vote in Wisconsin, or filing a Wisconsin income tax return, is legally domiciled in
2 this state by living in this state.

3 **SECTION 34.** 149.10 (10) of the statutes is repealed.

4 **SECTION 35.** 149.11 of the statutes is repealed and recreated to read:

5 **149.11 Administration of plan.** (1) **AUTHORITY.** The authority shall be
6 responsible for the operation of the plan and may enter into contracts for the plan's
7 administration.

8 (2) **FUND.** (a) The authority shall pay the operating and administrative
9 expenses of the plan from the fund, which shall be outside the state treasury and
10 which shall consist of all of the following:

11 3. The earnings resulting from investments under par. (b).

12 4. Any other moneys received by the authority from time to time.

13 (b) The authority controls the assets of the fund and shall select regulated
14 financial institutions in this state that receive deposits in which to establish and
15 maintain accounts for assets needed on a current basis. If practicable, the accounts
16 shall earn interest.

17 (c) Moneys in the fund may be expended only for the purposes specified in par.
18 (a).

19 **SECTION 36.** 149.115 of the statutes is amended to read:

20 **149.115 Rules relating to creditable coverage.** The commissioner, ~~in~~
21 ~~consultation with the department,~~ shall promulgate rules that specify how
22 creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that
23 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
24 rules shall comply with section 2701 (c) of P.L. 104-191.

25 **SECTION 37.** 149.12 (1) (intro.) of the statutes is amended to read:

Insert 12-3

1 149.12 (1) (intro.) Except as provided in subs. (1m) ~~and~~, (2), ~~and~~ (3), the board
2 ~~or plan administrator~~ authority shall certify as eligible a person who is covered by
3 ~~medicare~~ Medicare because he or she is disabled under 42 USC 423, a person who
4 submits evidence that he or she has tested positive for the presence of HIV, antigen
5 or nonantigenic products of HIV, or an antibody to HIV, a person who is an eligible
6 individual, and any person who receives and submits any of the following based
7 wholly or partially on medical underwriting considerations within 9 months prior to
8 making application for coverage by the plan:

9 **SECTION 38.** 149.12 (1) (a) of the statutes is amended to read:

10 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

11 **SECTION 39.** 149.12 (1m) of the statutes is amended to read:

12 149.12 (1m) The ~~board or plan administrator~~ authority may not certify a
13 person as eligible under circumstances requiring notice under sub. (1) (a) to (d) if the
14 required notices were issued by an insurance intermediary who is not acting as an
15 administrator, as defined in s. 633.01.

16 **SECTION 40.** 149.12 (2) (g) of the statutes is created to read:

17 149.12 (2) (g) A person is not eligible for coverage under the plan if the person
18 is eligible for any of the following:

19 1. Services under s. 46.27 (11), 46.275, 46.277, or 46.278.

20 2. Medical assistance provided as part of a family care benefit, as defined in s.
21 46.2805 (4).

22 3. Services provided under a waiver requested under 2001 Wisconsin Act 16,
23 section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

24 4. Services provided under the program of all-inclusive care for persons aged
25 55 or older authorized under 42 USC 1396u-4.

1 5. Services provided under the demonstration program under a federal waiver
2 authorized under 42 USC 1315.

3 6. Health care coverage under the Badger Care health care program under s.
4 49.665.

5 **SECTION 41.** 149.12 (3) (a) of the statutes is amended to read:

6 149.12 (3) (a) Except as provided in pars. (b) ~~to (e)~~ and (bm), no person is eligible
7 for coverage under the plan for whom a premium, deductible, or coinsurance amount
8 is paid or reimbursed by a federal, state, county, or municipal government or agency
9 as of the first day of any term for which a premium amount is paid or reimbursed and
10 as of the day after the last day of any term during which a deductible or coinsurance
11 amount is paid or reimbursed.

12 **SECTION 42.** 149.12 (3) (c) of the statutes is repealed.

13 **SECTION 43.** 149.12 (4) of the statutes is created to read:

14 149.12 (4) The authority shall establish policies for determining and verifying
15 the continued eligibility of an eligible person.

16 **SECTION 44.** 149.13 (1) of the statutes is amended to read:

17 149.13 (1) Every insurer shall participate in the cost of administering the plan,
18 except the commissioner may by rule exempt as a class those insurers whose share
19 as determined under sub. (2) would be so minimal as to not exceed the estimated cost
20 of levying the assessment. The commissioner shall advise the ~~department~~ authority
21 of the insurers participating in the cost of administering the plan.

22 **SECTION 45.** 149.13 (3) (a) of the statutes is amended to read:

23 149.13 (3) (a) Each insurer's proportion of participation under sub. (2) shall be
24 determined annually by the commissioner based on annual statements and other
25 reports filed by the insurer with the commissioner. The commissioner shall assess

1 an insurer for the insurer's proportion of participation based on the total
2 assessments estimated by the department under s. 149.143 (2) (a) 3. authority.

3 **SECTION 46.** 149.13 (3) (b) of the statutes is amended to read:

4 149.13 (3) (b) If the department authority or the commissioner finds that the
5 commissioner's authority to require insurers to report under chs. 600 to 646 and 655
6 is not adequate to permit the department, the commissioner or the board authority
7 to carry out the department's, commissioner's or board's authority's responsibilities
8 under this chapter subchapter, the commissioner shall promulgate rules requiring
9 insurers to report the information necessary for the department, commissioner and
10 board authority to make the determinations required under this chapter subchapter.

11 **SECTION 47.** 149.13 (4) of the statutes is amended to read:

12 149.13 (4) Notwithstanding subs. (1) to (3), the department authority, with the
13 agreement of the commissioner, may perform various administrative functions
14 related to the assessment of insurers participating in the cost of administering the
15 plan.

16 **SECTION 48.** 149.14 (1) (a) of the statutes is amended to read:

17 149.14 (1) (a) The plan shall offer coverage for each eligible person in an
18 annually renewable policy the coverage specified in this section for each eligible
19 person. If an eligible person is also eligible for medicare Medicare coverage, the plan
20 shall not pay or reimburse any person for expenses paid for by medicare Medicare.

21 **SECTION 49.** 149.14 (2) (a) of the statutes is amended to read:

22 149.14 (2) (a) The plan shall provide every eligible person who is not eligible
23 for medicare Medicare with major medical expense coverage. Major medical expense
24 coverage offered under the plan under this section shall pay an eligible person's
25 covered expenses, subject to sub. (3) and deductible, copayment, and coinsurance

1 payments authorized under sub. (5), up to a lifetime limit of \$1,000,000 per covered
2 individual. ~~The maximum limit under this paragraph shall not be altered by the~~
3 ~~board, and no actuarially equivalent benefit may be substituted by the board.~~

4 **SECTION 50.** 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and
5 amended to read:

6 149.14 (3) COVERED EXPENSES. ~~Except as provided in sub. (4), except as~~
7 ~~restricted by cost containment provisions under s. 149.17 (4) and except as reduced~~
8 ~~by the department under ss. 149.143 and 149.144, covered Covered expenses for the~~
9 ~~coverage under this section the plan shall be the payment rates established by the~~
10 ~~department under s. 149.142 authority for the services provided by persons licensed~~
11 ~~under ch. 446 and certified under s. 49.45 (2) (a) 11. ~~Except as provided in sub. (4),~~~~
12 ~~except as restricted by cost containment provisions under s. 149.17 (4) and except as~~
13 ~~reduced by the department under ss. 149.143 and 149.144, covered Covered expenses~~
14 ~~for the coverage under this section the plan shall also be the payment rates~~
15 ~~established by the department under s. 149.142 authority for, at a minimum, the~~
16 ~~following services and articles if the service or article is prescribed by a physician~~
17 ~~who is licensed under ch. 448 or in another state and who is certified under s. 49.45~~
18 ~~(2) (a) 11. and if the service or article is provided by a provider certified under s. 49.45~~
19 ~~(2) (a) 11.:~~

20 **SECTION 51.** 149.14 (3) (b) of the statutes is repealed and recreated to read:

21 149.14 (3) (b) Professional services for the diagnosis or treatment of injuries,
22 illnesses, or conditions, other than mental or dental.

23 **SECTION 52.** 149.14 (3) (c) of the statutes is repealed and recreated to read:

24 149.14 (3) (c) Outpatient services, as defined in s. 632.89 (1) (e), for diagnosis
25 and treatment of nervous and mental disorders. The coverage under this paragraph

1 shall be subject to a 50 percent coinsurance requirement, and the plan's payment per
2 policy year for an eligible person shall not exceed \$XXXX.

****NOTE: What amount do you want inserted?

3 **SECTION 53.** 149.14 (3) (d) of the statutes is amended to read:

4 149.14 (3) (d) Drugs requiring a physician's prescription, ~~subject to sub. (4e).~~

5 **SECTION 54.** 149.14 (3) (e) of the statutes is amended to read:

6 149.14 (3) (e) Services For persons eligible for Medicare, skilled nursing
7 services of a licensed skilled nursing facility for ~~eligible persons eligible for medicare,~~
8 ~~to the extent required by s. 632.895 (3) and for not more than an aggregate 120 days~~
9 ~~during a calendar year, if the services are of the type which would qualify as~~
10 ~~reimbursable services under medicare. Coverage under this paragraph which is not~~
11 ~~required by s. 632.895 (3) is subject to the deductible and coinsurance requirements~~
12 ~~under sub. (5) not more than 120 days during a policy year.~~

****NOTE: Is this how you want this paragraph reconciled with par. (p)?

13 **SECTION 55.** 149.14 (3) (f) of the statutes is created to read:

14 149.14 (3) (f) Services of a home health agency, as defined in s. 50.49 (1) (a), up
15 to a maximum of 270 services per year.

****NOTE: Should this specify "per *policy year*"? Is it clear what constitutes "a
service" so that 270 discrete services may be counted?

16 **SECTION 56.** 149.14 (3) (m) of the statutes is amended to read:

17 149.14 (3) (m) Oral surgery for excision of partially or completely unerupted,
18 impacted teeth and oral surgery with respect to the gums and other tissues of the
19 mouth when not performed in connection with the extraction or repair of teeth.

20 **SECTION 57.** 149.14 (3) (nm) of the statutes is repealed.

21 **SECTION 58.** 149.14 (3) (o) of the statutes is amended to read:

1 149.14 (3) (o) ~~Transportation~~ Emergency and other medically necessary
2 transportation provided by a licensed ambulance service to the nearest facility
3 qualified to treat the a covered condition.

4 **SECTION 59.** 149.14 (3) (r) of the statutes is repealed.

5 **SECTION 60.** 149.14 (4) of the statutes is repealed and recreated to read:

6 149.14 (4) PLAN DESIGN. Subject to subs. (1), (2), (3), and (6), the authority shall
7 establish the plan design, after taking into consideration the levels of health
8 insurance coverage provided in the state and medical economic factors, as
9 appropriate. Subject to subs. (1), (2), (3), and (6), the authority shall provide benefit
10 levels, deductibles, copayment and coinsurance requirements, exclusions, and
11 limitations under the plan that the authority determines are generally reflective and
12 commensurate with comprehensive health insurance coverage offered in the private
13 individual market in the state. The authority may develop additional plans that are
14 responsive to market conditions.

Insert 18-14

15 **SECTION 61.** 149.14 (4c) of the statutes is repealed.

16 **SECTION 62.** 149.14 (4m) of the statutes is renumbered 149.142 (2m) and
17 amended to read:

18 149.142 (2m) PAYMENT IS PAYMENT IN FULL. Except for copayments, coinsurance,
19 or deductibles required or authorized under the plan, a provider of a covered service
20 or article shall accept as payment in full for the covered service or article the payment
21 rate determined under ~~ss. 149.142, 149.143 and 149.144~~ sub. (1) and may not bill an
22 eligible person who receives the service or article for any amount by which the charge
23 for the service or article is reduced under ~~s. 149.142, 149.143 or 149.144~~ sub. (1).

24 **SECTION 63.** 149.14 (5) of the statutes is repealed.

25 **SECTION 64.** 149.14 (5m) of the statutes is repealed.

1 **SECTION 65.** 149.14 (6) (a) of the statutes is repealed.

2 **SECTION 66.** 149.14 (6) (b) of the statutes is renumbered 149.14 (6).

3 **SECTION 67.** 149.14 (7) (b) of the statutes is amended to read:

4 149.14 (7) (b) The department authority has a cause of action against an
5 eligible participant for the recovery of the amount of benefits paid which are not for
6 covered expenses under the plan. Benefits under the plan may be reduced or refused
7 as a setoff against any amount recoverable under this paragraph.

8 **SECTION 68.** 149.14 (7) (c) of the statutes is amended to read:

9 149.14 (7) (c) The department authority is subrogated to the rights of an
10 eligible person to recover special damages for illness or injury to the person caused
11 by the act of a 3rd person to the extent that benefits are provided under the plan.
12 ~~Section 814.03 (3) applies to the department under this paragraph.~~

 ***NOTE: I removed the last sentence altogether because it refers to a section of the
statutes that relates specifically to DHFS and the payment of MA benefits.

13 **SECTION 69.** 149.14 (8) of the statutes is repealed.

14 **SECTION 70.** 149.141 of the statutes is created to read:

15 **149.141 Premiums. (1) PERCENTAGE OF COSTS.** Except as provided in sub. (2),
16 the authority shall set premium rates for coverage under the plan at a level that is
17 sufficient to cover 60 percent of plan costs, as provided in s. 149.143 (1).

18 **(2) LIMITATION.** In no event may plan premium rates exceed 200 percent of rates
19 applicable to individual standard risks.

20 **SECTION 71.** 149.142 (1) (a) of the statutes is renumbered 149.142 (1) and
21 amended to read:

22 149.142 (1) ESTABLISHMENT OF RATES. ~~Except as provided in par. (b), the~~
23 ~~department~~ The authority shall establish provider payment rates for covered

1 expenses that consist of the allowable charges paid under s. 49.46 (2) for the services
2 and articles provided plus an enhancement determined by the ~~department~~ authority.
3 The rates shall be based on the allowable charges paid under s. 49.46 (2), projected
4 plan costs, and trend factors. Using the same methodology that applies to medical
5 assistance under subch. IV of ch. 49, the ~~department~~ authority shall establish
6 hospital outpatient per visit reimbursement rates and hospital inpatient
7 reimbursement rates that are specific to diagnostically related groups of eligible
8 persons. The adjustments to the usual and customary rates shall be sufficient to
9 cover 20 percent of plan costs, as provided in s. 149.143 (3).

10 SECTION 72. 149.142 (1) (b) of the statutes is repealed.

11 SECTION 73. 149.142 (2) of the statutes is repealed.

12 SECTION 74. 149.143 of the statutes is repealed and recreated to read:

13 **149.143 Payment of plan costs. (1) COSTS EXCLUDING SUBSIDIES.** The
14 authority shall pay plan costs, excluding any premium, deductible, and copayment
15 subsidies, first from federal funds, if any, that the authority receives under s.
16 XX.XXX and that exceed premium, deductible, and copayment subsidy costs in a
17 policy year. The remainder of the plan costs, excluding premium, deductible, and
18 copayment subsidy costs, shall be paid as follows:

19 (a) Sixty percent from premiums paid by eligible persons.

20 (b) Twenty percent from insurer assessments under s. 149.13.

21 (c) Twenty percent from adjustments to provider payment rates under s.
22 149.142.

23 (2) SUBSIDY COSTS. The authority shall pay for premium, deductible, and
24 copayment subsidies in a policy year first from federal funds, if any, that the

Insert 21-42

1 authority receives under s. XX.XXX in that year. The remainder of the subsidy costs
2 shall be paid as follows:

3 (a) Fifty percent from insurer assessments under s. 149.13.

4 (b) Fifty percent from adjustments to provider payment rates under s. 149.142.

5 **SECTION 75.** 149.144 of the statutes is repealed.

6 **SECTION 76.** 149.145 of the statutes is repealed.

7 **SECTION 77.** 149.146 (1) (a) and (b) of the statutes are consolidated,
8 renumbered 149.14 (2) (c) and amended to read:

9 149.14 (2) (c) ~~Beginning on January 1, 1998, in~~ In addition to the coverage
10 required under s. ~~149.14 pars. (a) and (b),~~ the plan shall offer to all eligible persons
11 who are not eligible for ~~medicare~~ Medicare a choice of coverage, as described in
12 section 2744 (a) (1) (C), P.L. 104-191. Any such choice of coverage shall be major
13 medical expense coverage. (b) An eligible person ~~under par. (a) who is not eligible~~
14 for Medicare may elect once each year, at the time and according to procedures
15 established by the ~~department~~ authority, among the coverages offered under this
16 section ~~and s. 149.14. If an eligible person elects new coverage, any preexisting~~
17 ~~condition exclusion imposed under the new coverage is met to the extent that the~~
18 ~~eligible person has been previously and continuously covered under this chapter. No~~
19 ~~preexisting condition exclusion may be imposed on an eligible person who elects new~~
20 ~~coverage if the person was an eligible individual when first covered under this~~
21 ~~chapter and the person remained continuously covered under this chapter up to the~~
22 ~~time of electing the new coverage~~ paragraph and par. (a).

23 **SECTION 78.** 149.146 (2) of the statutes is repealed.

24 **SECTION 79.** 149.15 of the statutes is repealed.

25 **SECTION 80.** 149.155 of the statutes is created to read:

1 **149.155 Additional duties of board.** The board shall do all of the following:

2 (1) Adopt policies for the administration of this chapter, including delegation
3 of any part of its powers and its own procedures.

4 (5) Seek to qualify the plan as a state pharmacy assistance program, as defined
5 in 42 CFR 423.464.

6 (6) Annually submit a report to the legislature under s. 13.172 (2) and to the
7 governor on the operation of the plan.

8 **SECTION 81.** 149.16 (title) of the statutes is repealed.

9 **SECTION 82.** 149.16 (1m) of the statutes is repealed.

10 **SECTION 83.** 149.16 (3) (a) of the statutes is renumbered 149.155 (2) and
11 amended to read:

12 149.155 (2) ~~The plan administrator shall perform~~ Perform all eligibility and
13 administrative claims payment functions relating to the plan.

14 **SECTION 84.** 149.16 (3) (b) of the statutes is renumbered 149.155 (3) and
15 amended to read:

16 149.155 (3) ~~The plan administrator shall establish~~ Establish a premium billing
17 procedure for collection of premiums from insured persons. Billings shall be made
18 on a periodic basis as determined by the ~~department~~ board.

19 **SECTION 85.** 149.16 (3) (c) of the statutes is renumbered 149.155 (4), and
20 149.155 (4) (intro.), as renumbered, is amended to read:

21 149.155 (4) (intro.) ~~The plan administrator shall perform~~ Perform all necessary
22 functions to assure timely payment of benefits to covered persons under the plan,
23 including:

****NOTE: I have not modified the above subsections that were placed in s. 149.155
in LRB-0243/P5. They will be treated in the next version of the draft because they may
be moved to the new subchapter III that will create the authority.

1 SECTION 86. 149.16 (3) (e) of the statutes is repealed.

2 SECTION 87. 149.16 (4) of the statutes is repealed.

3 SECTION 88. 149.16 (5) of the statutes is repealed.

4 SECTION 89. 149.165 (1) of the statutes is amended to read:

5 149.165 (1) ~~Except as provided in s. 149.146 (2) (a), the department~~ The
6 authority shall reduce the premiums established under s. 149.11 in conformity with
7 ss. 149.14 (5m), 149.143 and 149.17 s. 149.141 for the eligible persons and in the
8 manner set forth in subs. (2) and (3).

9 SECTION 90. 149.165 (2) (a) (intro.) of the statutes is amended to read:

10 149.165 (2) (a) (intro.) Subject to sub. (3m), if the household income, as defined
11 in s. 71.52 (5) and as determined under sub. (3), of an eligible person ~~with~~ coverage
12 under s. 149.14 (2) (a) is equal to or greater than the first amount and less than the
13 2nd amount listed in any of the following, the ~~department~~ authority shall reduce the
14 premium for the eligible person to the rate shown after the amounts:

15 SECTION 91. 149.165 (2) (a) 1. of the statutes is amended to read:

16 149.165 (2) (a) 1. If equal to or greater than \$0 and less than \$10,000, to 100%
17 of the rate that a standard risk would be charged under an individual policy
18 providing substantially the same coverage and deductibles as provided under s.
19 149.14 (2) (a) and (5)-(a) (4).

20 SECTION 92. 149.165 (2) (a) 2. of the statutes is amended to read:

21 149.165 (2) (a) 2. If equal to or greater than \$10,000 and less than \$14,000, to
22 106.5% of the rate that a standard risk would be charged under an individual policy
23 providing substantially the same coverage and deductibles as provided under s.
24 149.14 (2) (a) and (5)-(a) (4).

25 SECTION 93. 149.165 (2) (a) 3. of the statutes is amended to read:

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who is not an eligible individual and who has

1 149.165 (2) (a) 3. If equal to or greater than \$14,000 and less than \$17,000, to
2 115.5% of the rate that a standard risk would be charged under an individual policy
3 providing substantially the same coverage and deductibles as provided under s.
4 149.14 (2) (a) and ~~(5)-(a)~~ (4).

5 SECTION 94. 149.165 (2) (a) 4. of the statutes is amended to read:

6 149.165 (2) (a) 4. If equal to or greater than \$17,000 and less than \$20,000, to
7 124.5% of the rate that a standard risk would be charged under an individual policy
8 providing substantially the same coverage and deductibles as provided under s.
9 149.14 (2) (a) and ~~(5)-(a)~~ (4).

10 SECTION 95. 149.165 (2) (a) 5. of the statutes is amended to read:

11 149.165 (2) (a) 5. If equal to or greater than \$20,000 and less than \$25,000, to
12 130% of the rate that a standard risk would be charged under an individual policy
13 providing substantially the same coverage and deductibles as provided under s.
14 149.14 (2) (a) and ~~(5)-(a)~~ (4).

15 SECTION 96. 149.165 (2) (bc) of the statutes is amended to read:

16 149.165 (2) (bc) Subject to sub. (3m), if the household income, as defined in s.
17 71.52 (5) and as determined under sub. (3), of an eligible person with coverage under
18 s. 149.14 (2) (b) is equal to or greater than the first amount and less than the 2nd
19 amount listed in par. (a) 1., 2., 3., 4. or 5., the department authority shall reduce the
20 premium established for the eligible person by the same percentage as the
21 department authority reduces, under par. (a), the premium established for an
22 eligible person with coverage under s. 149.14 (2) (a) who has a household income
23 specified in the same subdivision under par. (a) as the household income of the
24 eligible person with coverage under s. 149.14 (2) (b).

25 SECTION 97. 149.165 (3) (a) of the statutes is amended to read:

1 149.165 (3) (a) Subject to par. (b), the ~~department~~ authority shall establish and
2 implement the method for determining the household income of an eligible person
3 under sub. (2).

4 **SECTION 98.** 149.165 (3) (b) (intro.) of the statutes is amended to read:

5 149.165 (3) (b) (intro.) In determining household income under sub. (2), the
6 ~~department~~ authority shall consider information submitted by an eligible person on
7 a completed federal profit or loss from farming form, schedule F, if all of the following
8 apply:

9 **SECTION 99.** 149.165 (3m) of the statutes is amended to read:

10 149.165 (3m) The ~~board~~ authority may approve adjustment of the household
11 income dollar amounts listed in sub. (2) (a) 1. to 5., except for the first dollar amount
12 listed in sub. (2) (a) 1., to reflect changes in the consumer price index for all urban
13 consumers, U.S. city average, as determined by the U.S. department of labor.

14 **SECTION 100.** 149.165 (4) of the statutes is repealed.

15 **SECTION 101.** 149.17 (1) of the statutes is amended to read:

16 149.17 (1) Subject to ~~ss. 149.14 (5m), s. 149.143 and 149.146 (2) (b)~~, a rating
17 plan calculated in accordance with generally accepted actuarial principles.

18 **SECTION 102.** 149.17 (2) of the statutes is repealed.

19 **SECTION 103.** 149.17 (4) of the statutes is repealed.

20 **SECTION 104.** 149.175 of the statutes is repealed.

21 **SECTION 105.** 149.18 of the statutes is amended to read:

22 **149.18 Chapters 600 to 645 applicable.** Except as otherwise provided in this
23 ~~chapter~~ subchapter, the plan shall comply and be administered in compliance with
24 chs. 600 to 645.

25 **SECTION 106.** 149.20 of the statutes is repealed.

1 SECTION 107. 149.25 of the statutes is repealed.

2 SECTION 108. Subchapter III of chapter 149 [precedes 149.40] of the statutes
3 is created to read:

4 CHAPTER 149

5 SUBCHAPTER III

6 HEALTH INSURANCE RISK-SHARING

7 PLAN AUTHORITY

8 149.40 Creation and organization of authority. (1) There is created a
9 public body corporate and politic to be known as the "Health Insurance Risk-Sharing
10 Plan Authority." The board of directors of the authority shall consist of the following
11 members:

***NOTE: More to follow.... The authority language will be included in the next
version.

Insert 26-10
Insert 26-11

12 SECTION 109. 601.41 (1) of the statutes is amended to read:

13 601.41 (1) DUTIES. The commissioner shall administer and enforce chs. 600 to
14 655 and ss. 59.52 (11) (c), 66.0137 (4) and (4m), 100.203, 120.13 (2) (b) to (g), and
15 149.13, and 149.144 and shall act as promptly as possible under the circumstances
16 on all matters placed before the commissioner.

17 SECTION 110. 601.415 (12) of the statutes is amended to read:

18 601.415 (12) ~~HEALTH INSURANCE RISK-SHARING PLAN~~ INSURANCE RISK-SHARING
19 PLAN. The commissioner shall perform the duties specified to be performed by the
20 commissioner in ss. s. 149.13 and 149.144. ~~The commissioner, or his or her designee,~~
21 ~~shall serve as a member of the board under s. 149.15.~~

22 SECTION 111. 601.64 (1) of the statutes is amended to read:

1 601.64 (1) INJUNCTIONS AND RESTRAINING ORDERS. The commissioner may
2 commence an action in circuit court in the name of the state to restrain by temporary
3 or permanent injunction or by temporary restraining order any violation of chs. 600
4 to 655, or s. 149.13 ~~or 149.144~~, any rule promulgated under chs. 600 to 655, or any
5 order issued under s. 601.41 (4). The commissioner need not show irreparable harm
6 or lack of an adequate remedy at law in an action commenced under this subsection.

7 **SECTION 112.** 601.64 (3) (a) of the statutes is amended to read:

8 601.64 (3) (a) *Restitutionary forfeiture.* Whoever violates an effective order
9 issued under s. 601.41 (4), any insurance statute or rule, or s. 149.13 ~~or 149.144~~ shall
10 forfeit to the state twice the amount of any profit gained from the violation, in
11 addition to any other forfeiture or penalty imposed.

12 **SECTION 113.** 601.64 (3) (c) of the statutes is amended to read:

13 601.64 (3) (c) *Forfeiture for violation of statute or rule.* Whoever violates an
14 insurance statute or rule or s. 149.13 ~~or 149.144~~, intentionally aids a person in
15 violating an insurance statute or rule or s. 149.13 ~~or 149.144~~, or knowingly permits
16 a person over whom he or she has authority to violate an insurance statute or rule
17 or s. 149.13 ~~or 149.144~~ shall forfeit to the state not more than \$1,000 for each
18 violation. If the statute or rule imposes a duty to make a report to the commissioner,
19 each week of delay in complying with the duty is a new violation.

20 **SECTION 114.** 601.64 (4) of the statutes is amended to read:

21 601.64 (4) **CRIMINAL PENALTY.** Whoever intentionally violates or intentionally
22 permits any person over whom he or she has authority to violate or intentionally aids
23 any person in violating any insurance statute or rule of this state, s. 149.13 ~~or~~
24 ~~149.144~~, or any effective order issued under s. 601.41 (4) is guilty of a Class I felony,

1 unless a specific penalty is provided elsewhere in the statutes. Intent has the
2 meaning expressed under s. 939.23.

3 SECTION 115. 613.03 (4) of the statutes is amended to read:

4 613.03 (4) ~~MANDATORY HEALTH INSURANCE RISK-SHARING PLAN~~ HEALTH INSURANCE
5 RISK-SHARING PLAN. Service insurance corporations organized or operating under
6 this chapter are subject to the requirements that apply to insurers and insurance
7 under ch. 149.

8 SECTION 116. 631.20 (2) (f) of the statutes is created to read:

9 631.20 (2) (f) In the case of a policy form under ch. 149, that the benefit design
10 is not comparable to a typical individual health insurance policy offered in the
11 private sector market in this state.

12 SECTION 117. 632.785 (title) of the statutes is amended to read:

13 **632.785 (title) Notice of mandatory risk-sharing plan Health Insurance**
14 **Risk-Sharing Plan.**

15 **AR(A) SECTION 9121. Nonstatutory provisions; health and family services.**

16 **AR(B) (1) HEALTH INSURANCE RISK-SHARING PLAN; TERMINATING ADMINISTRATOR**
17 **CONTRACT.**

18 (a) Because the legislature has determined that it is in the best interest of the
19 Health Insurance Risk-Sharing Plan to have the Health Insurance Risk-Sharing
20 Plan Authority administer the Health Insurance Risk-Sharing Plan, the
21 department of health and family services shall immediately give written notice to the
22 plan administrator under section 149.16, 2003 stats., terminating the contract
23 between the department of health and family services and the plan administrator
24 180 days after the notice is given.

(intro)
↑

ARC

1

(b) Notwithstanding the treatment of sections 149.11 (1), 149.12 (1) and (1m),

2

and 149.16 of the statutes, as affected by this act, the Health Insurance

3

Risk-Sharing Plan Authority shall enter into a contract with the plan administrator

4

under section 149.16, 2003 stats., that has the same terms and conditions as the

5

contract under paragraph (a) and under which the plan administrator has the same

6

rights, duties, and obligations as it had under the contract under paragraph (a) and

7

the Health Insurance Risk-Sharing Plan Authority has the same rights, duties, and

8

obligations as the department of health and family services had under the contract

9

under paragraph (a). The contract under this paragraph shall have a term beginning

10

on the date on which the contract under paragraph (a) is terminated under

11

paragraph (a). The department of health and family services, the plan

12

administrator, and the Health Insurance Risk-Sharing Plan Authority shall

13

cooperate with one another to ensure that the administration of the Health

14

Insurance Risk-Sharing Plan continues without interruption after the termination

15

of the contract under paragraph (a) and the commencement of the contract under this

16

paragraph.

17

SECTION 9221. Appropriation changes; health and family services.

18

(1) TRANSFERS FOR FUNDING HEALTH INSURANCE RISK-SHARING PLAN. The

19

unencumbered balances in the appropriation accounts under section 20.435 (4) (u),

20

2003 stats., and section 20.435 (4) (v), 2003 stats., and in the Health Insurance

21

Risk-Sharing Plan fund under section 25.55, 2003 stats., immediately before the

22

effective date of this subsection, are transferred to the Health Insurance

23

Risk-Sharing Plan fund under section 149.11 (2) of the statutes, as affected by this

24

act.

25

SECTION 9321. Initial applicability; health and family services.

1 (1) **HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION.** The
2 treatment of sections 20.145 (5), 20.435 (4) (u) and (v), 25.17 (1) (gf), 25.55 (intro.),
3 (3), and (4), 149.10 (2), (2j) (a) 3., (2m), (2t) (c), (3e), (7), and (10), 149.11, 149.115,
4 149.12 (1) (intro.) and (a), (1m), (3) (a) and (c), (4), and (5), 149.13 (1), (3) (a) and (b),
5 and (4), 149.14 (1) (a), (2) (a), (3) (intro.) and (a) to (r), (4), (4c), (4m), (5), (5m), (6) (a)
6 and (b), (7) (b) and (c), and (8), 149.141, 149.142 (1) (a) and (b) and (2), 149.143,
7 149.144, 149.145, 149.146 (1) (a) and (b) and (2), 149.15, 149.155, 149.16 (title), (1m),
8 (3) (a), (b), (c), and (e), (4), and (5), 149.165, 149.17 (1), (2), and (4), 149.175, 149.20,
9 601.41 (1), 601.415 (12), 601.64 (1), (3) (a) and (c), and (4), 613.03 (4), 631.20 (2) (f),
10 and 632.785 (title) and chapter 149 (title) of the statutes first applies to the plan year
11 beginning on January 1, 2006.

****NOTE: Due to time constraints and anticipated changes, this subsection has not
been changed from LRB-0243/P5 for this version of the draft.

12 (2) **RESIDENCY FOR THE HEALTH INSURANCE RISK-SHARING PLAN.** The treatment
13 of section 149.10 (9) of the statutes first applies to persons who submit applications
14 for coverage under the Health Insurance Risk-Sharing Plan on the effective date of
15 this subsection.

16 **SECTION 9341. Initial applicability; revenue.**

17 (1) **HEALTH INSURANCE RISK-SHARING PLAN; INCOME TAX EXEMPTIONS.** The
18 treatment of sections 71.07 (5g), 71.10 (4) (cp), 71.21 (4), 71.26 (2) (a), 71.28 (5g),
19 71.30 (3) (dm), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5g), 71.49 (1) (dm), 76.655, 76.67
20 (2), and 77.92 (4) of the statutes first applies to taxable years beginning on January
21 1, 2006.


22 **SECTION 9421. Effective dates; health and family services.**

1 (1) HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION. The
2 treatment of sections 20.145 (5), 20.435 (4) (u) and (v), 25.17 (1) (gf), 25.55 (intro.),
3 (3), and (4), 149.10 (2), (2j) (a) 3., (2m), (2t) (c), (3e), (7), (9), and (10), 149.115, 149.12
4 (1) (intro.) and (a), (1m), (3) (a) and (c), (4), and (5), 149.13 (1), (3) (a) and (b), and (4),
5 149.14 (1) (a), (2) (a), (3) (intro.) and (a) to (r), (4), (4c), (4m), (5), (5m), (6) (a) and (b),
6 (7) (b) and (c), and (8), 149.141, 149.142 (1) (a) and (b) and (2), 149.143, 149.144,
7 149.145, 149.146 (1) (a) and (b) and (2), 149.15, 149.155, 149.16 (title), (1m), (3) (a),
8 (b), (c), and (e), (4), and (5), 149.165, 149.17 (1), (2), and (4), 149.175, 149.20, 601.41
9 (1), 601.415 (12), 601.64 (1), (3) (a) and (c), and (4), 613.03 (4), 631.20 (2) (f), and
10 632.785 (title) and chapter 149 (title) of the statutes and SECTIONS 9221 (1) and 9321
11 (2) of this act take effect on January 1, 2006.

***NOTE: Due to time constraints and anticipated changes, this subsection has not
been changed from LRB-0243/P5 for this version of the draft.

12

(END)



D - note

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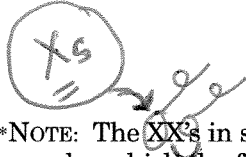
LRB-3798/P2ins
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INSERT 18-14

***NOTE: The last sentence sounds as though the authority may develop plans in addition to HIRSP. Should "plans" be "plan designs" or "benefit designs" instead?

(END OF INSERT 18-14)

INSERT 21-4

*  ***NOTE: The ~~Xs~~ in s. 149.143 refer to the section, whether an appropriation or otherwise, under which the federal funds are transferred to the authority. I need more information from you, however, before that section can be drafted, if at all.

(END OF INSERT 21-4)

INSERT 23-14

***NOTE: See the change I made to s. 149.165 (2) (a) (intro.) since the last version. Is this what you want?

(END OF INERT 23-14)

INSERT 26-10

1087

 HOF

1 commissioner of insurance, or his or her designee, as a nonvoting member, and
2 the following members, who shall be appointed by the governor for 3-year terms:

***NOTE: You were going to decide if the governor was going to appoint the members outright or nominate them, to be appointed with the advice and consent of the senate.

 4

3 (a) Four members who represent insurers participating in the plan.

4 (b) Four members who represent health care providers, including one
5 representative of the Wisconsin Medical Society, one representative of the Wisconsin
6 Hospital Association, Inc., one representative of the Pharmacy Society of Wisconsin,
7 and one representative of health care providers that provide services to persons with
8 coverage under the plan.

9 (c) Five other members, at least one of whom represents small businesses that
10 purchase private health insurance and at least one of whom is a person with coverage
11 under the plan.

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Ins 26-10 contd 2007

1 (2) A vacancy on the board of directors shall be filled in the same manner as
2 the original appointment to the board of directors for the remainder of the unexpired
3 term, if any.

4 (3) A member of the board of directors may not be compensated for his or her
5 services but shall be reimbursed for actual and necessary expenses, including travel
6 expenses, incurred in the performance of his or her duties.

7 (4) No cause of action of any nature may arise against and no civil liability may
8 be imposed upon a member of the board of directors for any act or omission in the
9 performance of his or her powers and duties under this chapter, unless the person
10 asserting liability proves that the act or omission constitutes willful misconduct.

11 (5) The members of the board of directors shall annually elect a chairperson
12 and may elect other officers as they consider appropriate. Seven voting members of
13 the board of directors constitute a quorum for the purpose of conducting the business
14 and exercising the powers of the authority, notwithstanding the existence of any
15 vacancy. The board of directors may take action upon a vote of a majority of the
16 members present, unless the bylaws of the authority require a larger number.

* ****NOTE: You were going to decide if the chairperson of the board would be elected
by the board or appointed by the governor. *W*

17 (6) The board of directors shall appoint a chief executive officer who shall not
18 be a member of the board of directors and who shall serve at the pleasure of the board
19 of directors. The authority may delegate by resolution to one or more of its members
20 or its executive director any powers and duties that it considers proper. The chief
21 executive officer shall receive such compensation as may be determined by the board
22 of directors. The chief executive officer or other person designated by resolution of
23 the board of directors shall keep a record of the proceedings of the authority and shall

↓

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1 be custodian of all books, documents, and papers filed with the authority, the minute
2 book or journal of the authority, and its official seal. The chief executive officer or
3 other person may cause copies to be made of all minutes and other records and
4 documents of the authority and may give certificates under the official seal of the
5 authority to the effect that such copies are true copies, and all persons dealing with
6 the authority may rely upon such certificates.

****NOTE: This subsection is the same as s. 237.02 (6), which relates to the Fox River
Navigational System Authority. As I mentioned before, every authority in current law
appoints a chief executive officer or an executive director. Do you want the same for the
HIRSP Authority? If so, which do you want? Is this subsection okay as is?

7 **149.43 Duties of authority.** In addition to all other duties imposed under this
8 chapter, the authority shall do all of the following:

9 (1) Adopt policies for the administration of this chapter.

10 (2) Contract with the plan administrator under s. 149.16, 2003 stats., in the
11 manner required under 2005 Wisconsin Act ... (this act), section 9121 (1) (b). *ARC(A) ARC(B) ARC(C)*

12 (3) Establish the authority's annual budget and monitor the fiscal
13 management of the authority.

14 (4) Perform all eligibility and administrative claims payment functions
15 relating to the plan.

16 (5) Establish a premium billing procedure for collection of premiums from
17 insured persons. Billings shall be made on a periodic basis as determined by the
18 authority.

19 (6) Perform all necessary functions to assure timely payment of benefits to
20 covered persons under the plan, including:

21 (a) Making available information relating to the proper manner of submitting
22 a claim for benefits under the plan and distributing forms upon which submissions
23 shall be made.



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1 (b) Evaluating the eligibility of each claim for payment under the plan.

2 (c) Notifying each claimant within 30 days after receiving a properly completed
3 and executed proof of loss whether the claim is accepted, rejected, or compromised.

4 (7) Seek to qualify the plan as a state pharmacy assistance program, as defined
5 in 42 CFR 423.464.

6 (8) Annually submit a report to the legislature under s. 13.172 (2) and to the
7 governor on the operation of the plan.

8 **149.45 Powers of authority.** (1) Except as restricted under sub. (2), the
9 authority shall have all the powers necessary or convenient to carry out the purposes
10 and provisions of this chapter. In addition to all other powers granted by this chapter,
11 the authority may:

12 (a) Adopt bylaws and policies and procedures for the regulation of its affairs
13 and the conduct of its business.

14 (b) Have a seal and alter the seal at pleasure; have perpetual existence; and
15 maintain an office.

16 (c) Hire employees, define their duties, and fix their rate of compensation.

17 (d) Incur debt, except as restricted under sub. (2).

18 (e) Sue and be sued.

19 (f) Contract for any legal services required for the authority.

20 (g) Appoint any technical or professional advisory committee that the authority
21 finds necessary to assist the authority in exercising its duties and powers. The
22 authority shall define the duties of the committee, and provide reimbursement for
23 the expenses of the committee.

24 (h) Execute contracts and other instruments.



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1 (i) Accept gifts, grants, loans, or other contributions from private or public
2 sources.

3 (j) Procure liability insurance.

4 (2) The authority may not issue bonds.

5 **149.50 Political activities.** (1) No employee of the authority may directly
6 or indirectly solicit or receive subscriptions or contributions for any partisan political
7 party or any political purpose while engaged in his or her official duties as an
8 employee. No employee of the authority may engage in any form of political activity
9 calculated to favor or improve the chances of any political party or any person seeking
10 or attempting to hold partisan political office while engaged in his or her official
11 duties as an employee or engage in any political activity while not engaged in his or
12 her official duties as an employee to such an extent that the person's efficiency during
13 working hours will be impaired or that he or she will be tardy or absent from work.
14 Any violation of this section is adequate grounds for dismissal.

15 (2) If an employee of the authority declares an intention to run for partisan
16 political office, the employee shall be placed on a leave of absence for the duration
17 of the election campaign and if elected shall no longer be employed by the authority
18 on assuming the duties and responsibilities of such office.

19 (3) An employee of the authority may be granted, by the chief executive officer,
20 a leave of absence to participate in partisan political campaigning.

21 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the
22 restrictions of sub. (1), except as they apply to the solicitation of assistance,
23 subscription, or support from any other employee in the authority.

24 **149.53 Liability limited.** (1) Neither the state nor any political subdivision
25 of the state nor any officer, employee, or agent of the state or a political subdivision



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1 who is acting within the scope of employment or agency is liable for any debt,
2 obligation, act, or omission of the authority.

3 (2) All of the expenses incurred by the authority in exercising its duties and
4 powers under this chapter shall be payable only from funds of the authority.

5 SECTION ~~1~~ Subchapter III of chapter 149 [precedes 149.60] of the statutes is
6 created to read:

7 **CHAPTER 149**

8 **SUBCHAPTER IV**

9 **HEALTH CARE TAX CREDIT PLAN**

10 **149.60 Definition.** In this subchapter, "eligible individual" has the meaning
11 given in 26 USC 35 (c).

12 **149.65 Plan requirements.** The authority shall design and administer a plan
13 of health care coverage, called the Health Care Tax Credit Plan, under which a
14 covered eligible individual may receive an income tax credit under 26 USC 35 for a
15 portion of premiums paid for the coverage. The Health Care Tax Credit Plan shall
16 satisfy the requirements of qualified health insurance under 26 USC 35 (e) (1) (E),
17 (2), and (3).

18 **149.70 Eligibility.** An individual shall be eligible for coverage under the
19 Health Care Tax Credit Plan if the individual is any of the following:

- 20 (1) An eligible individual for whom all of the following apply:
 - 21 (a) The aggregate of the individual's periods of creditable coverage, determined
 - 22 in the manner provided by rule under s. 149.115, is 3 months or more.
 - 23 (b) The individual does not have other health care coverage.
 - 24 (c) The individual is not confined in a prison, jail, or house of correction.



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- 1 (2) An individual who is a qualifying family member, as defined in 26 USC 35
2 (d), of an eligible individual described in sub. (1) and who does not have other health
3 care coverage.

(END OF INSERT 26-10)