

State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3798/P2

PJK&JK:wljrs

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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✓

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, 149.165 (4), 149.17 (2), 149.17 (4),
5 149.175, 149.20 and 149.25; *to renumber* 149.14 (6) (b); *to renumber and*
6 *amend* 25.55 (3), 25.55 (4), 149.14 (3) (intro.), 149.14 (4m) and 149.142 (1) (a);
7 *to consolidate, renumber and amend* 149.146 (1) (a) and (b); *to amend*
8 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 76.67 (2), 77.92 (4), chapter
9 149 (title), 149.10 (intro.), 149.10 (2), 149.10 (2j) (a) 3., 149.10 (2t) (c), 149.10 (3),
10 149.10 (3e), 149.10 (7), 149.10 (8), 149.10 (9), 149.115, 149.12 (1) (intro.), 149.12
11 (1) (a), 149.12 (1m), 149.12 (3) (a), 149.13 (1), 149.13 (3) (a), 149.13 (3) (b), 149.13
12 (4), 149.14 (1) (a), 149.14 (2) (a), 149.14 (3) (d), 149.14 (3) (e), 149.14 (3) (m),
13 149.14 (3) (o), 149.14 (7) (b), 149.14 (7) (c), 149.165 (1), 149.165 (2) (a) (intro.),
14 149.165 (2) (a) 1., 149.165 (2) (a) 2., 149.165 (2) (a) 3., 149.165 (2) (a) 4., 149.165
15 (2) (a) 5., 149.165 (2) (bc), 149.165 (3) (a), 149.165 (3) (b) (intro.), 149.165 (3m),

1 149.17 (1), 149.18, 601.41 (1), 601.415 (12), 601.64 (1), 601.64 (3) (a), 601.64 (3)
 2 (c), 601.64 (4), 613.03 (4) and 632.785 (title); **to repeal and recreate** 149.11,
 3 149.14 (3) (b), 149.14 (3) (c), 149.14 (4) and 149.143; and **to create** 20.145 (5),
 4 71.07 (5g), 71.10 (4) (cp), 71.28 (5g), 71.30 (3) (dm), 71.47 (5g), 71.49 (1) (dm),
 5 76.655, subchapter I (title) of chapter 149 [precedes 149.10], 149.10 (1),
 6 subchapter II (title) of chapter 149 [precedes 149.11], 149.12 (2) (g), 149.12 (4),
 7 149.14 (3) (f), 149.141, subchapter III of chapter 149 [precedes 149.40],
 8 subchapter III of chapter 149 [precedes 149.60] and 631.20 (2) (f) of the statutes;
 9 **relating to:** the Health Insurance Risk-Sharing Plan; creating the Health
 10 Insurance Risk-Sharing Plan Authority; a health benefit ~~plan~~^{program} for person^s
 11 eligible for tax 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 subch. III of ch. 149 for deposit in the
 16 Health 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.

Insert 2-16

Insert 3-7

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.

Insert 4-15



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:

Insert 9-8

Insert 9-24

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} ² 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~~ ^{strike} prevents ^{that}
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. Subchapter II (title) of chapter 149 [precedes 149.11] of the
5 statutes is created to read:

6 CHAPTER 149

7 SUBCHAPTER II

8 HEALTH INSURANCE RISK-SHARING

9 PLAN PROVISIONS

10 SECTION 36. 149.11 of the statutes is repealed and recreated to read:

11 149.11 Administration of plan. (1) AUTHORITY. The authority shall be
12 responsible for the operation of the plan and may enter into contracts for the plan's
13 administration.

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

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

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

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

23 no 41 (c) Moneys in the fund may be expended only for the purposes specified in par.

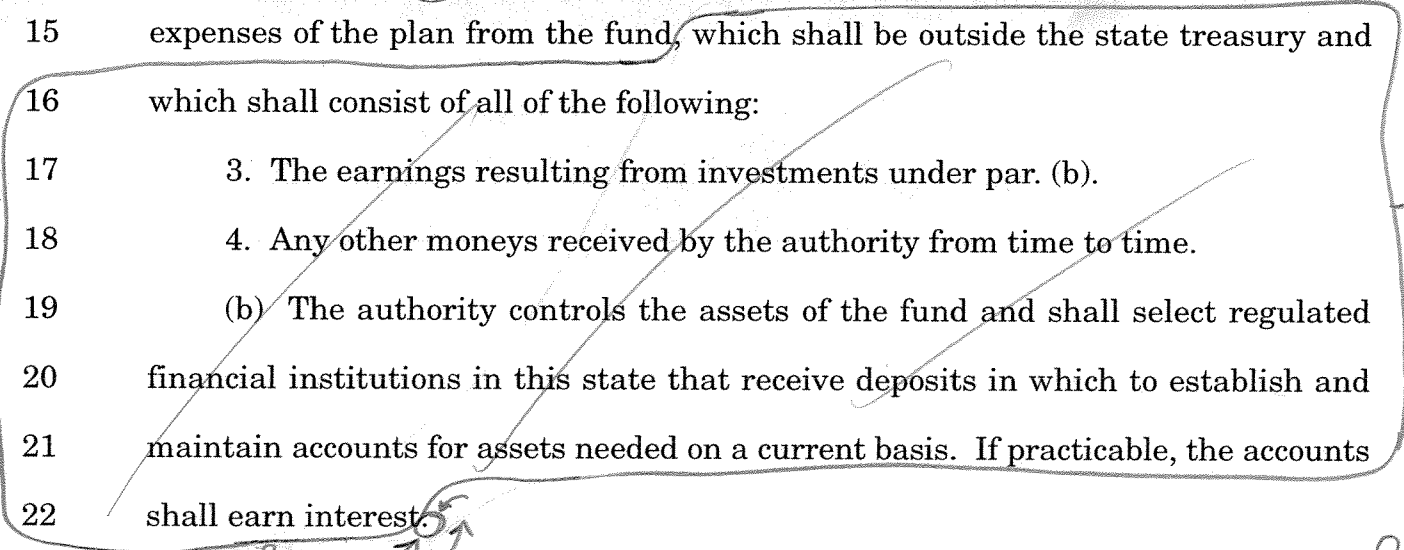
24 (a) → this subsection

LRS:
(make sub.(2) two sentences -
no paragraphs)

25 SECTION 37. 149.115 of the statutes is amended to read:

Insert 12-3

subject to
A. 149.147, 1



1 **149.115 Rules relating to creditable coverage.** The commissioner, ~~in~~
2 ~~consultation with the department,~~ shall promulgate rules that specify how
3 creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that
4 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
5 rules shall comply with section 2701 (c) of P.L. 104-191.

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

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

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

16 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

17 **SECTION 40.** 149.12 (1m) of the statutes is amended to read:

18 149.12 (1m) The ~~board or plan administrator~~ authority may not certify a
19 person as eligible under circumstances requiring notice under sub. (1) (a) to (d) if the
20 required notices were issued by an insurance intermediary who is not acting as an
21 administrator, as defined in s. 633.01.

22 **SECTION 41.** 149.12 (2) (g) of the statutes is created to read:

23 149.12 (2) (g) A person is not eligible for coverage under the plan if the person
24 is eligible for any of the following:

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

Insert 13-21

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

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

5 4. Services provided under the program of all-inclusive care for persons aged
6 55 or older authorized under 42 USC 1396u-4.

7 5. Services provided under the demonstration program under a federal waiver
8 authorized under 42 USC 1315.

9 6. Health care coverage under the Badger Care health care program under s.
10 49.665.

11 **SECTION 42.** 149.12 (3) (a) of the statutes is amended to read:

12 149.12 (3) (a) Except as provided in pars. (b) ~~to (e)~~ and (bm), no person is eligible
13 for coverage under the plan for whom a premium, deductible, or coinsurance amount
14 is paid or reimbursed by a federal, state, county, or municipal government or agency
15 as of the first day of any term for which a premium amount is paid or reimbursed and
16 as of the day after the last day of any term during which a deductible or coinsurance
17 amount is paid or reimbursed.

18 **SECTION 43.** 149.12 (3) (c) of the statutes is repealed.

19 **SECTION 44.** 149.12 (4) ^{and (5) are} of the statutes ~~is~~ ^{are} created to read:

20 **149.12(4)** The authority shall establish policies for determining and verifying
21 the continued eligibility of an eligible person.

22 **SECTION 45.** 149.13 (1) of the statutes is amended to read:

23 149.13 (1) Every insurer shall participate in the cost of administering the plan,
24 except the commissioner may by rule exempt as a class those insurers whose share
25 as determined under sub. (2) would be so minimal as to not exceed the estimated cost

Insert 14-19

1 of levying the assessment. The commissioner shall advise the department authority
2 of the insurers participating in the cost of administering the plan.

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

4 149.13 (3) (a) Each insurer's proportion of participation under sub. (2) shall be
5 determined annually by the commissioner based on annual statements and other
6 reports filed by the insurer with the commissioner. The commissioner shall assess
7 an insurer for the insurer's proportion of participation based on the total
8 assessments estimated by the ~~department under s. 149.143 (2) (a) 3.~~ authority.

9 **SECTION 47.** 149.13 (3) (b) of the statutes is amended to read:

10 149.13 (3) (b) If the department authority or the commissioner finds that the
11 commissioner's authority to require insurers to report under chs. 600 to 646 and 655
12 is not adequate to permit ~~the department,~~ the commissioner or the board authority
13 to carry out the ~~department's,~~ commissioner's or board's authority's responsibilities
14 under this chapter subchapter, the commissioner shall promulgate rules requiring
15 insurers to report the information necessary for the ~~department,~~ commissioner and
16 board authority to make the determinations required under this chapter subchapter.

17 **SECTION 48.** 149.13 (4) of the statutes is amended to read:

18 149.13 (4) Notwithstanding subs. (1) to (3), the department authority, with the
19 agreement of the commissioner, may perform various administrative functions
20 related to the assessment of insurers participating in the cost of administering the
21 plan.

22 **SECTION 49.** 149.14 (1) (a) of the statutes is amended to read:

23 149.14 (1) (a) The plan shall offer coverage for each eligible person in an
24 annually renewable policy ~~the coverage specified in this section for each eligible~~

1 person. If an eligible person is also eligible for ~~medicare~~ Medicare coverage, the plan
2 shall not pay or reimburse any person for expenses paid for by ~~medicare~~ Medicare.

3 **SECTION 50.** 149.14 (2) (a) of the statutes is amended to read:

4 149.14 (2) (a) The plan shall provide every eligible person who is not eligible
5 for ~~medicare~~ Medicare with major medical expense coverage. Major medical expense
6 coverage offered under the plan under this section shall pay an eligible person's
7 covered expenses, subject to ~~sub. (3) and~~ deductible, copayment, and coinsurance
8 payments ~~authorized under sub. (5), up to a lifetime limit of \$1,000,000 per covered~~
9 individual. ~~The maximum limit under this paragraph shall not be altered by the~~
10 board, and no actuarially equivalent benefit may be substituted by the board.

11 **SECTION 51.** 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and
12 amended to read:

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

1 (2) (a) 11. and if the service or article is provided by a provider certified under s. 49.45
2 (2) (a) 11.:

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

4 149.14 (3) (b) Professional services for the diagnosis or treatment of injuries,
5 illnesses, or conditions, other than mental or dental.

6 SECTION 53. 149.14 (3) (c) of the statutes is repealed and recreated to read:

7 149.14 (3) (c) Outpatient services, as defined in s. 632.89 (1) (e), for diagnosis
8 and treatment of nervous and mental disorders. The coverage under this paragraph
9 shall be subject to a 50 percent coinsurance requirement, and the plan's payment per
10 policy year for an eligible person shall not exceed \$XXXX.

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

11 SECTION 54. 149.14 (3) (d) of the statutes is amended to read:

12 149.14 (3) (d) Drugs requiring a physician's prescription, subject to sub. (4e).

13 SECTION 55. 149.14 (3) (e) of the statutes is amended to read:

14 149.14 (3) (e) Services For persons eligible for Medicare, skilled nursing
15 services of a licensed skilled nursing facility for ~~eligible persons eligible for medicare,~~
16 ~~to the extent required by s. 632.895 (3) and for not more than an aggregate 120 days~~
17 ~~during a calendar year, if the services are of the type which would qualify as~~
18 ~~reimbursable services under medicare. Coverage under this paragraph which is not~~
19 ~~required by s. 632.895 (3) is subject to the deductible and coinsurance requirements~~
20 under sub. (5) not more than 120 days during a policy year.

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

21 SECTION 56. 149.14 (3) (f) of the statutes is created to read:

22 149.14 (3) (f) Services of a home health agency, as defined in s. 50.49 (1) (a), up
23 to a maximum of 270 services per year.

*only to the extent required under
s. 632.895 (2)*

Insert 17-10

Insert 17-20

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

SECTION 57. 149.14 (3) (m) of the statutes is amended to read:

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

SECTION 58. 149.14 (3) (nm) of the statutes is repealed.

SECTION 59. 149.14 (3) (o) of the statutes is amended to read:

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

SECTION 60. 149.14 (3) (r) of the statutes is repealed.

SECTION 61. 149.14 (4) of the statutes is repealed and recreated to read:

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

***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?

SECTION 62. 149.14 (4c) of the statutes is repealed.

Insert 18-9

benefit designs

1 SECTION 63. 149.14 (4m) of the statutes is renumbered 149.142 (2m) and
2 amended to read:

3 149.142 (2m) PAYMENT IS PAYMENT IN FULL. Except for copayments, coinsurance,
4 or deductibles required or authorized under the plan, a provider of a covered service
5 or article shall accept as payment in full for the covered service or article the payment
6 rate determined under ss. 149.142, ~~149.143~~ and 149.144 sub. (1) and may not bill an
7 eligible person who receives the service or article for any amount by which the charge
8 for the service or article is reduced under s. ~~149.142, 149.143~~ or 149.144 sub. (1).

9 SECTION 64. 149.14 (5) of the statutes is repealed.

10 SECTION 65. 149.14 (5m) of the statutes is repealed.

11 SECTION 66. 149.14 (6) (a) of the statutes is repealed.

12 SECTION 67. 149.14 (6) (b) of the statutes is renumbered 149.14 (6).

13 SECTION 68. 149.14 (7) (b) of the statutes is amended to read:

14 149.14 (7) (b) The department authority has a cause of action against an
15 eligible participant for the recovery of the amount of benefits paid ~~which~~ ^{strikes} are not for ^{that}
16 covered expenses under the plan. Benefits under the plan may be reduced or refused
17 as a setoff against any amount recoverable under this paragraph.

18 SECTION 69. 149.14 (7) (c) of the statutes is amended to read:

19 149.14 (7) (c) The department authority is subrogated to the rights of an
20 eligible person to recover special damages for illness or injury to the person caused
21 by the act of a 3rd person to the extent that benefits are provided under the plan.
22 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.

23 SECTION 70. 149.14 (8) of the statutes is repealed.

Insert 19-9

1 SECTION 71. 149.141 of the statutes is created to read:

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

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

7 SECTION 72. 149.142 (1) (a) of the statutes is renumbered 149.142 (1) and
8 amended to read:

9 149.142 (1) ESTABLISHMENT OF RATES. ~~Except as provided in par. (b), the~~
10 ~~department~~ The authority shall establish provider payment rates for covered
11 expenses that consist of the allowable charges paid under s. 49.46 (2) for the services
12 and articles provided plus an enhancement determined by the ~~department~~ authority.
13 The rates shall be based on the allowable charges paid under s. 49.46 (2), projected
14 plan costs, and trend factors. Using the same methodology that applies to medical
15 assistance under subch. IV of ch. 49, the ~~department~~ authority shall establish
16 hospital outpatient per visit reimbursement rates and hospital inpatient
17 reimbursement rates that are specific to diagnostically related groups of eligible
18 persons. The adjustments to the usual and customary rates shall be sufficient to
19 cover 20 percent of plan costs, as provided in s. 149.143 (3).

20 SECTION 73. 149.142 (1) (b) of the statutes is repealed.

21 SECTION 74. 149.142 (2) of the statutes is repealed.

22 SECTION 75. 149.143 of the statutes is repealed and recreated to read:

23 149.143 Payment of plan costs. (1) COSTS EXCLUDING SUBSIDIES. The
24 authority shall pay plan costs, excluding any premium, deductible, and copayment
25 subsidies, first from federal funds, if any, that ~~the authority receives~~ under s.

are transferred to the fund

20.145 (5)(m)

1 ~~XXXX~~ and that exceed premium, deductible, and copayment subsidy costs in a
2 policy year. The remainder of the plan costs, excluding premium, deductible, and
3 copayment subsidy costs, shall be paid as follows:

- 4 (a) Sixty percent from premiums paid by eligible persons.
- 5 (b) Twenty percent from insurer assessments under s. 149.13.
- 6 (c) Twenty percent from adjustments to provider payment rates under s.
- 7 149.142.

are transferred to the fund

8 (2) SUBSIDY COSTS. The authority shall pay for premium, deductible, and
9 copayment subsidies in a policy year first from federal funds, if any, that the
10 authority receives under s. ~~XXXX~~ in that year. The remainder of the subsidy costs
11 shall be paid as follows:

20.145 (5)(m)

- 12 (a) Fifty percent from insurer assessments under s. 149.13.
- 13 (b) Fifty percent from adjustments to provider payment rates under s. 149.142.

****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.

14 SECTION 76. 149.144 of the statutes is repealed.

15 SECTION 77. 149.145 of the statutes is repealed.

16 SECTION 78. 149.146 (1) (a) and (b) of the statutes are consolidated,
17 renumbered 149.14 (2) (c) and amended to read:

18 149.14 (2) (c) ~~Beginning on January 1, 1998, in~~ In addition to the coverage
19 required under s. 149.14 pars. (a) and (b), the plan shall offer to all eligible persons
20 who are not eligible for medicare Medicare a choice of coverage, as described in
21 section 2744 (a) (1) (C), P.L. 104-191. Any such choice of coverage shall be major
22 medical expense coverage. (b) An eligible person under par. (a) who is not eligible
23 for Medicare may elect once each year, at the time and according to procedures

1 established by the department authority, among the coverages offered under this
 2 ~~section and s. 149.14. If an eligible person elects new coverage, any preexisting~~
 3 ~~condition exclusion imposed under the new coverage is met to the extent that the~~
 4 ~~eligible person has been previously and continuously covered under this chapter. No~~
 5 ~~preexisting condition exclusion may be imposed on an eligible person who elects new~~
 6 ~~coverage if the person was an eligible individual when first covered under this~~
 7 ~~chapter and the person remained continuously covered under this chapter up to the~~
 8 ~~time of electing the new coverage paragraph and par. (a).~~

9 SECTION 79. 149.146 (2) of the statutes is repealed.

10 SECTION 80. 149.15 of the statutes is repealed.

11 SECTION 81. 149.16 of the statutes is repealed.

12 SECTION 82. 149.165 (1) of the statutes is amended to read:

13 149.165 (1) ~~Except as provided in s. 149.146 (2) (a), the department~~ The
 14 authority shall reduce the premiums established under s. 149.11 in conformity with
 15 ~~ss. 149.14 (5m), 149.143 and 149.17~~ s. 149.141 for the eligible persons and in the
 16 manner set forth in subs. (2) and (3).

17 SECTION 83. 149.165 (2) (a) (intro.) of the statutes is amended to read:

18 149.165 (2) (a) (intro.) Subject to sub. (3m), if the household income, ^{plain} as defined
 19 in s. 71.52 (5) and as determined under sub. (3), of an eligible person with who is not
 20 an eligible individual and who has coverage under s. 149.14 (2) (a) is equal to or
 21 greater than the first amount and less than the 2nd amount listed in any of the
 22 following, the ~~department~~ authority shall reduce the premium for the eligible person
 23 to the rate shown after the amounts:

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

Sheet 22-9

1 **SECTION 84.** 149.165 (2) (a) 1. of the statutes is amended to read:

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

6 **SECTION 85.** 149.165 (2) (a) 2. of the statutes is amended to read:

7 149.165 (2) (a) 2. If equal to or greater than \$10,000 and less than \$14,000, to
8 106.5% of the rate that a standard risk would be charged under an individual policy
9 providing substantially the same coverage and deductibles as provided under s.
10 149.14 (2) (a) and ~~(5)(a)~~ (4).

11 **SECTION 86.** 149.165 (2) (a) 3. of the statutes is amended to read:

12 149.165 (2) (a) 3. If equal to or greater than \$14,000 and less than \$17,000, to
13 115.5% of the rate that a standard risk would be charged under an individual policy
14 providing substantially the same coverage and deductibles as provided under s.
15 149.14 (2) (a) and ~~(5)(a)~~ (4).

16 **SECTION 87.** 149.165 (2) (a) 4. of the statutes is amended to read:

17 149.165 (2) (a) 4. If equal to or greater than \$17,000 and less than \$20,000, to
18 124.5% of the rate that a standard risk would be charged under an individual policy
19 providing substantially the same coverage and deductibles as provided under s.
20 149.14 (2) (a) and ~~(5)(a)~~ (4).

21 **SECTION 88.** 149.165 (2) (a) 5. of the statutes is amended to read:

22 149.165 (2) (a) 5. If equal to or greater than \$20,000 and less than \$25,000, to
23 130% of the rate that a standard risk would be charged under an individual policy
24 providing substantially the same coverage and deductibles as provided under s.
25 149.14 (2) (a) and ~~(5)(a)~~ (4).

Insert 23-25 →

1 **SECTION 89.** 149.165 (2) (bc) of the statutes is amended to read:

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

11 **SECTION 90.** 149.165 (3) (a) of the statutes is amended to read:

12 149.165 (3) (a) Subject to par. (b), the department authority shall establish and
13 implement the method for determining the household income of an eligible person
14 under sub. (2).

15 **SECTION 91.** 149.165 (3) (b) (intro.) of the statutes is amended to read:

16 149.165 (3) (b) (intro.) In determining household income under sub. (2), the
17 department authority shall consider information submitted by an eligible person on
18 a completed federal profit or loss from farming form, schedule F, if all of the following
19 apply:

20 **SECTION 92.** 149.165 (3m) of the statutes is amended to read:

21 149.165 (3m) The board authority may approve adjustment of the household
22 income dollar amounts listed in sub. (2) (a) 1. to 5., except for the first dollar amount
23 listed in sub. (2) (a) 1., to reflect changes in the consumer price index for all urban
24 consumers, U.S. city average, as determined by the U.S. department of labor.

25 **SECTION 93.** 149.165 (4) of the statutes is repealed.

1 SECTION 94. 149.17 (1) of the statutes is amended to read:

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

4 SECTION 95. 149.17 (2) of the statutes is repealed.

5 SECTION 96. 149.17 (4) of the statutes is repealed.

6 SECTION 97. 149.175 of the statutes is repealed.

7 SECTION 98. 149.18 of the statutes is amended to read:

8 **149.18 Chapters 600 to 645 applicable.** Except as otherwise provided in this
9 chapter ~~chapter~~ subchapter, the plan shall comply and be administered in compliance with
10 chs. 600 to 645.

11 SECTION 99. 149.20 of the statutes is repealed.

12 SECTION 100. 149.25 of the statutes is repealed.

13 SECTION 101. Subchapter III of chapter 149 [precedes 149.40] of the statutes
14 is created to read:

15 **CHAPTER 149**

16 **SUBCHAPTER III**

17 **HEALTH INSURANCE RISK-SHARING**

18 **PLAN AUTHORITY**

19 **149.40 Creation and organization of authority.** (1) There is created a
20 public body corporate and politic to be known as the "Health Insurance Risk-Sharing
21 Plan Authority." The board of directors of the authority shall consist of the
22 commissioner of insurance, or his or her designee, as a nonvoting member, and the
23 following members, who shall be ^{nominated} ~~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.

and with the advice and consent of the senate appointed,

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

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

7 (c) Five other members, at least one of whom represents small businesses that
8 purchase private health insurance and at least ²one of whom ^{are persons} is a person with coverage
9 under the plan.

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

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

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

20 (5) ⁴The members of the board of directors shall annually elect a chairperson
21 and may elect other officers as they consider appropriate. Seven voting members of
22 the board of directors constitute a quorum for the purpose of conducting the business
23 and exercising the powers of the authority, notwithstanding the existence of any
24 vacancy. The board of directors may take action upon a vote of a majority of the
25 members present, unless the bylaws of the authority require a larger number.

Annually, the governor shall appoint one member other than the commissioner as

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

1 (B) 5 (6) The board of directors ~~shall~~ ^{may} appoint a chief executive officer who shall not
 2 be a member of the board of directors and who shall serve at the pleasure of the board
 3 of directors. The authority may delegate by resolution to one or more of its members
 4 or its executive director any powers and duties that it considers proper. The chief
 5 executive officer shall receive such compensation as may be determined by the board
 6 of directors. The chief executive officer or other person designated by resolution of
 7 the board of directors shall keep a record of the proceedings of the authority and shall
 8 be custodian of all books, documents, and papers filed with the authority, the minute
 9 book or journal of the authority, and its official seal. The chief executive officer or
 10 other person may cause copies to be made of all minutes and other records and
 11 documents of the authority and may give certificates under the official seal of the
 12 authority to the effect that such copies are true copies, and all persons dealing with
 13 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?

14 **149.43 Duties of authority.** In addition to all other duties imposed under this
 15 chapter, the authority shall do all of the following:

- 16 (1) Adopt policies for the administration of this chapter.
- 17 (2) Contract with the plan administrator under s. 149.16, 2003 stats., in the
 18 manner required under 2005 Wisconsin Act (this act), section 9121 (1) (b).
- 19 (3) Establish the authority's annual budget and monitor the fiscal
 20 management of the authority.

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

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

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

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

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

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

14 (7) Seek to qualify ^{or maintain} the plan as a state pharmacy assistance program, as defined
15 in 42 CFR 423.464.

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

18 **149.45 Powers of authority.** (1) Except as restricted under sub. (2), the
19 authority shall have all the powers necessary or convenient to carry out the purposes
20 and provisions of this chapter. In addition to all other powers granted by this chapter,
21 the authority may:

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

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

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

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

3 (e) Sue and be sued.

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

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

9 (h) Execute contracts and other instruments.

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

12 (j) Procure liability insurance.

13 (2) The authority may not issue bonds.

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

24 (2) If an employee of the authority declares an intention to run for partisan
25 political office, the employee shall be placed on a leave of absence for the duration

Insert 29-13

1 of the election campaign and if elected shall no longer be employed by the authority
2 on assuming the duties and responsibilities of such office.

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

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

8 **149.53 Liability limited.** (1) Neither the state nor any political subdivision
9 of the state nor any officer, employee, or agent of the state or a political subdivision
10 who is acting within the scope of employment or agency is liable for any debt,
11 obligation, act, or omission of the authority.

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

14 **SECTION 102.** Subchapter III of chapter 149 [precedes 149.60] of the statutes
15 is created to read:

16 **CHAPTER 149**

17 **SUBCHAPTER IV**

18 **HEALTH CARE TAX CREDIT ~~PLAN~~**

CAPS PROGRAM

19 **149.60 Definition.** In this subchapter, "eligible individual" has the meaning
20 given in 26 USC 35 (c).

21 **149.65 Plan requirements.** The authority shall design and administer a plan
22 of health care coverage, called the Health Care Tax Credit ~~Plan~~, under which a
23 covered eligible individual may receive an income tax credit under 26 USC 35 for a
24 portion of premiums paid for the coverage. The Health Care Tax Credit ~~Plan~~ shall

Program

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Program

① *be designed to* satisfy the requirements of qualified health insurance under 26 USC 35 (e) (1) (E),
2 (2), and (3).

3 **149.70 Eligibility.** An individual shall be eligible for coverage under the
4 Health Care Tax Credit ~~Plan~~ if the individual is any of the following:

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

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

13 **SECTION 103.** 601.41 (1) of the statutes is amended to read:

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

18 **SECTION 104.** 601.415 (12) of the statutes is amended to read:

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

23 **SECTION 105.** 601.64 (1) of the statutes is amended to read:

24 601.64 (1) INJUNCTIONS AND RESTRAINING ORDERS. The commissioner may
25 commence an action in circuit court in the name of the state to restrain by temporary

Insert 31-12

"Program"

1 or permanent injunction or by temporary restraining order any violation of chs. 600
2 to 655, or s. 149.13 ~~or 149.144~~, any rule promulgated under chs. 600 to 655, or any
3 order issued under s. 601.41 (4). The commissioner need not show irreparable harm
4 or lack of an adequate remedy at law in an action commenced under this subsection.

5 SECTION 106. 601.64 (3) (a) of the statutes is amended to read:

6 601.64 (3) (a) *Restitutionary forfeiture.* Whoever violates an effective order
7 issued under s. 601.41 (4), any insurance statute or rule, or s. 149.13 ~~or 149.144~~ shall
8 forfeit to the state twice the amount of any profit gained from the violation, in
9 addition to any other forfeiture or penalty imposed.

10 SECTION 107. 601.64 (3) (c) of the statutes is amended to read:

11 601.64 (3) (c) *Forfeiture for violation of statute or rule.* Whoever violates an
12 insurance statute or rule or s. 149.13 ~~or 149.144~~, intentionally aids a person in
13 violating an insurance statute or rule or s. 149.13 ~~or 149.144~~, or knowingly permits
14 a person over whom he or she has authority to violate an insurance statute or rule
15 or s. 149.13 ~~or 149.144~~ shall forfeit to the state not more than \$1,000 for each
16 violation. If the statute or rule imposes a duty to make a report to the commissioner,
17 each week of delay in complying with the duty is a new violation.

18 SECTION 108. 601.64 (4) of the statutes is amended to read:

19 601.64 (4) CRIMINAL PENALTY. Whoever intentionally violates or intentionally
20 permits any person over whom he or she has authority to violate or intentionally aids
21 any person in violating any insurance statute or rule of this state, s. 149.13 ~~or~~
22 ~~149.144~~, or any effective order issued under s. 601.41 (4) is guilty of a Class I felony,
23 unless a specific penalty is provided elsewhere in the statutes. Intent has the
24 meaning expressed under s. 939.23.

25 SECTION 109. 613.03 (4) of the statutes is amended to read:

Insert 32-24

1 613.03 (4) ~~MANDATORY HEALTH INSURANCE RISK-SHARING PLAN~~ HEALTH INSURANCE
2 RISK-SHARING PLAN. Service insurance corporations organized or operating under
3 this chapter are subject to the requirements that apply to insurers and insurance
4 under ch. 149.

5 **SECTION 110.** 631.20 (2) (f) of the statutes is created to read:

6 631.20 (2) (f) In the case of a policy form under ch. 149, that ~~the~~ benefit design
7 is not comparable to a typical ^{comprehensive} individual health insurance policy offered in the
8 private sector market in this state.

9 **SECTION 111.** 632.785 (title) of the statutes is amended to read:

10 **632.785 (title) Notice of mandatory risk-sharing plan Health Insurance**
11 **Risk-Sharing Plan.**

12 **SECTION 9121. Nonstatutory provisions; health and family services**

13 (1) HEALTH INSURANCE RISK-SHARING PLAN; TERMINATING ADMINISTRATOR
14 CONTRACT.

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

22 (b) Notwithstanding the treatment of sections 149.11 (1), 149.12 (1) (intro.) and
23 (1m), and 149.16 of the statutes, as affected by this act, the Health Insurance
24 Risk-Sharing Plan Authority shall enter into a contract with the plan administrator
25 under section 149.16, 2003 stats., that has the same terms and conditions as the

Insert 33-8

Insert 33-11

any of the following applies: 411, The

1 contract under paragraph (a) and under which the plan administrator has the same
 2 rights, duties, and obligations as it had under the contract under paragraph (a) and
 3 the Health Insurance Risk-Sharing Plan Authority has the same rights, duties, and
 4 obligations as the department of health and family services had under the contract
 5 under paragraph (a). The contract under this paragraph shall have a term beginning
 6 on the date on which the contract under paragraph (a) is terminated under
 7 paragraph (a). The department of health and family services, the plan
 8 administrator, and the Health Insurance Risk-Sharing Plan Authority shall
 9 cooperate with one another to ensure that the administration of the Health
 10 Insurance Risk-Sharing Plan continues without interruption after the termination
 11 of the contract under paragraph (a) and the commencement of the contract under this
 12 paragraph.

Insert 34-12

SECTION 9221. Appropriation changes; health and family services.

13 (1) TRANSFERS FOR FUNDING HEALTH INSURANCE RISK-SHARING PLAN. The
 14 unencumbered balances in the appropriation accounts under section 20.435 (4) (u),
 15 2003 stats., and section 20.435 (4) (v), 2003 stats., and in the Health Insurance
 16 Risk-Sharing Plan fund under section 25.55, 2003 stats., immediately before the
 17 effective date of this subsection, are transferred to the Health Insurance
 18 Risk-Sharing Plan fund under section 149.11 (2) of the statutes, as affected by this
 19 act.
 20

Insert 34-20

SECTION 9321. Initial applicability; health and family services.

21 (1) HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION. The
 22 treatment of sections 20.145 (5), 20.435 (4) (u) and (v), 25.17 (1) (gf), 25.55 (intro.),
 23 (3), and (4), 149.10 (2), (2j) (a) 3., (2m), (2t) (c), (3e), (7), and (10), 149.11, 149.115,
 24 149.12 (1) (intro.) and (a), (1m), (3) (a) and (c), (4), and (5), 149.13 (1), (3) (a) and (b),
 25

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1 and (4), 149.14 (1) (a), (2) (a), (3) (intro.) and (a) to ^{CP}(r), (4), (4c), (4m), (5), (5m), (6) (a)
2 and (b), (7) (b) and (c), and (8), 149.141, 149.142 (1) (a) and (b) and (2), 149.143,
3 149.144, 149.145, 149.146 (1) (a) and (b) and (2), 149.15, 149.155, 149.16 (title), (1m),
4 (3) (a), (b), (c), and (e), (4), and (5), 149.165, 149.17 (1), (2), and (4), 149.175, 149.20,
5 601.41 (1), 601.415 (12), 601.64 (1), (3) (a) and (c), and (4), 613.03 (4), 631.20 (2) (f),
6 and 632.785 (title) and chapter 149 (title) of the statutes first applies to the plan year
7 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.

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

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

13 (1) **HEALTH INSURANCE RISK-SHARING PLAN; INCOME TAX EXEMPTIONS.** The
14 treatment of sections 71.07 (5g), 71.10 (4) (cp), 71.21 (4), 71.26 (2) (a), 71.28 (5g),
15 71.30 (3) (dm), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5g), 71.49 (1) (dm), 76.655, 76.67
16 (2), and 77.92 (4) of the statutes first applies to taxable years beginning on January
17 1, 2006.

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

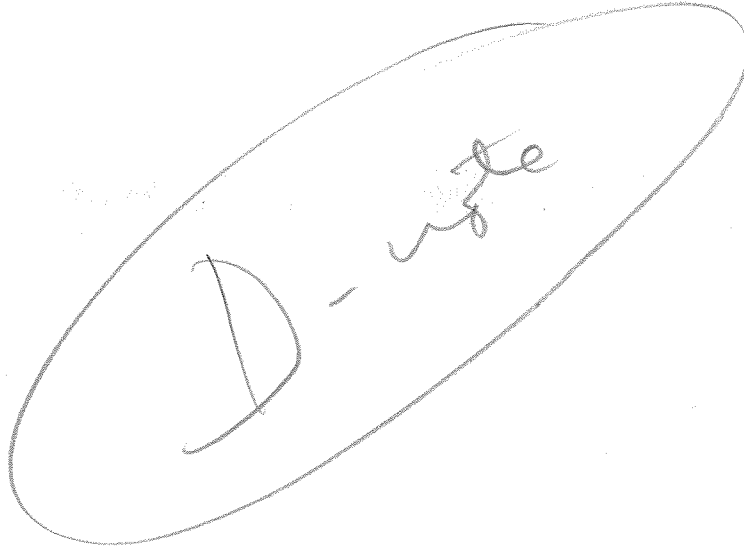
19 (1) **HEALTH INSURANCE RISK-SHARING PLAN; TRANSFER OF ADMINISTRATION.** The
20 treatment of sections 20.145 (5), 20.435 (4) (u) and (v), 25.17 (1) (gf), 25.55 (intro.),
21 (3), and (4), 149.10 (2), (2j) (a) 3., (2m), (2t) (c), (3e), (7), (9), and (10), 149.115, 149.12
22 (1) (intro.) and (a), (1m), (3) (a) and (c), (4), and (5), 149.13 (1), (3) (a) and (b), and (4),
23 149.14 (1) (a), (2) (a), (3) (intro.) and (a) to ^{CP}(r), (4), (4c), (4m), (5), (5m), (6) (a) and (b),

1 (7) (b) and (c), and (8), 149.141, 149.142 (1) (a) and (b) and (2), 149.143, 149.144,
2 149.145, 149.146 (1) (a) and (b) and (2), 149.15, 149.155, 149.16 (title), (1m), (3) (a),
3 (b), (c), and (e), (4), and (5), 149.165, 149.17 (1), (2), and (4), 149.175, 149.20, 601.41
4 (1), 601.415 (12), 601.64 (1), (3) (a) and (c), and (4), 613.03 (4), 631.20 (2) (f), and
5 632.785 (title) and chapter 149 (title) of the statutes and SECTIONS 9221 (1) and 9321
6 (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.

7

(END)

A large, hand-drawn oval containing the handwritten signature "D. W. J." in cursive script.