



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3798/1

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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) (c) 2., 149.14 (4c), 149.14 (5) (d),
3 149.14 (5) (e), 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) (am), 149.146 (2) (b), 149.15, 149.16, 149.165 (4),
5 149.17 (2), 149.17 (4), 149.175, 149.20, 149.25 and 149.40; *to renumber* 149.14
6 (3) (p) and 149.14 (6) (b); *to renumber and amend* 25.55 (3), 25.55 (4), 149.12
7 (2) (f), 149.14 (4m), 149.142 (1) (a) and 149.146 (2) (a); *to consolidate,*
8 *renumber and amend* 149.146 (1) (a) and (b); *to amend* 1.12 (1) (b), 13.172
9 (1), 13.62 (2), 13.94 (1) (b), 13.94 (1) (g), 13.95 (intro.), 16.002 (2), 16.004 (4),
10 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (a),
11 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.70 (2), 16.72 (2) (e) (intro.),
12 16.72 (2) (f), 16.75 (1m), 16.75 (8) (a) 1., 16.75 (8) (a) 2., 16.75 (9), 16.765 (1),
13 16.765 (2), 16.765 (4), 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d),
14 16.765 (8), 16.85 (2), 16.865 (8), 71.21 (4), 71.26 (1) (be), 71.26 (2) (a), 71.34 (1)

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1 (g), 71.45 (2) (a) 10., 76.67 (2), 77.54 (9a) (a), 77.92 (4), 101.055 (2) (a), 101.177
2 (1) (d), chapter 149 (title), 149.10 (intro.), 149.10 (2), 149.10 (2j) (a) 3., 149.10
3 (2t) (c), 149.10 (3), 149.10 (3e), 149.10 (7), 149.10 (8), 149.10 (9), 149.115, 149.12
4 (1) (intro.), 149.12 (1) (a), 149.12 (1m), 149.12 (3) (a), 149.13 (1), 149.13 (3) (a),
5 149.13 (3) (b), 149.13 (4), 149.14 (1) (a), 149.14 (2) (a), 149.14 (3) (intro.), 149.14
6 (3) (c) 3., 149.14 (3) (c) 3., 149.14 (3) (d), 149.14 (3) (e), 149.14 (3) (m), 149.14 (3)
7 (o), 149.14 (4) (d), 149.14 (4) (m), 149.14 (5) (b), 149.14 (5) (c), 149.14 (7) (b),
8 149.14 (7) (c), 149.165 (1), 149.165 (2) (a) (intro.), 149.165 (2) (bc), 149.165 (3)
9 (a), 149.165 (3) (b) (intro.), 149.165 (3m), 149.17 (1), 149.18, 230.03 (3), 230.80
10 (4), 601.41 (1), 601.415 (12), 601.64 (1), 601.64 (3) (a), 601.64 (3) (c), 601.64 (4),
11 613.03 (4), 632.785 (title) and 895.65 (1) (c); **to repeal and recreate** 149.11,
12 149.14 (3) (b), 149.14 (3) (c) 1., 149.14 (4), 149.14 (5) and 149.143; and **to create**
13 13.94 (1) (dh), 20.145 (5), 70.11 (41m), 71.07 (5g), 71.10 (4) (cp), 71.28 (5g), 71.30
14 (3) (dm), 71.47 (5g), 71.49 (1) (dm), 76.655, subchapter I (title) of chapter 149
15 [precedes 149.10], 149.10 (1), 149.105, subchapter II (title) of chapter 149
16 [precedes 149.11], 149.12 (2) (f) 2., 149.12 (2) (g), 149.12 (4) and (5), 149.14 (3)
17 (f), 149.141, subchapter III of chapter 149 [precedes 149.40], subchapter IV of
18 chapter 149 [precedes 149.60] and 631.20 (2) (f) of the statutes; **relating to:** the
19 Health Insurance Risk-Sharing Plan; creating the Health Insurance
20 Risk-Sharing Plan Authority; a health benefit program for persons eligible for
21 tax credits for payment of premiums; an income and franchise tax credit for

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1 Health Insurance Risk-Sharing Plan assessments; and making an
2 appropriation.

Analysis by the Legislative Reference Bureau

Background of Health Insurance Risk-Sharing Plan

The Health Insurance Risk-Sharing Plan (HIRSP) under current law provides major medical health insurance coverage for persons who are covered under Medicare because they are disabled, persons who have tested positive for human immunodeficiency virus (HIV), persons who have been refused coverage, or coverage at an affordable price, in the private health insurance market because of their mental or physical health condition, as well as persons (called "eligible individuals" in the statutes) who do not currently have health insurance coverage, but who were covered under certain types of health insurance coverage (called creditable coverage) for at least 18 months in the past. HIRSP is funded by premiums paid by covered persons, insurer assessments, and provider payment discounts, and is administered by the Department of Health and Family Services (DHFS), a board of governors, and a plan administrator.

Creation of Health Insurance Risk-Sharing Plan Authority

This bill creates the Health Insurance Risk-Sharing Plan Authority (HIRSP Authority) for the primary purpose of assuming the administration of HIRSP, beginning on July 1, 2006. An authority is a public body with a board of directors that is created by state law but that is not a state agency. The board of directors of the HIRSP Authority consists of the commissioner of insurance (commissioner), or the commissioner's designee, as a nonvoting member and 13 other members who are appointed by the governor, with the advice and consent of the senate, for three-year terms. These 13 members must include persons with coverage under HIRSP and representatives of insurers, health care providers, and small businesses. The board may appoint an executive director, who may not be a member of the board.

Because the HIRSP Authority is not a state agency, numerous laws that apply to state agencies do not apply to the HIRSP Authority. However, the HIRSP Authority is treated like a state agency in the following respects, among others: 1) it is generally subject to the open records and open meetings laws; 2) it is treated like a state agency for purposes of the law regulating lobbying; 3) it is exempt from income tax, sales and use tax, and property taxes; 4) its employees may not engage in political activities while engaged in official duties; and it must use a competitive bid or proposal process whenever contracting for professional services.

The HIRSP Authority is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) its employees are not state employees, are not included in the state system of personnel management, may not participate in the system for state retirement benefits or health insurance coverage, and are hired outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) although HIRSP is subject to an annual

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financial audit by the Legislative Audit Bureau, the HIRSP Authority is not subject to auditing by the Legislative Audit Bureau; and 5) the Code of Ethics for Public Officials and Employees ~~does not apply to any member or employee of the HIRSP Authority.~~ *keep*

Unlike most other authorities under current law, the HIRSP Authority may not issue bonds. It pays the administrative and operating expenses of HIRSP, as under current law, through premiums paid by persons with coverage under HIRSP, insurer assessments, and provider payment discounts. The HIRSP Authority must annually submit a report to the legislature and to the governor on the operation of HIRSP. *covers*

Changes to the Health Insurance Risk-Sharing Plan

This bill makes a number of changes to HIRSP, including the following:

1. *Administration.* Under current law, HIRSP is administered by DHFS, a board of governors, and a plan administrator under contract with DHFS. Effective July 1, 2006, the bill eliminates the HIRSP board of governors and transfers administrative authority over HIRSP from DHFS to the HIRSP Authority and its board of directors. The bill requires DHFS to terminate its contract with the plan administrator, effective July 1, 2006, and requires the HIRSP Authority to enter into an identical contract with the same plan administrator with a beginning date of July 1, 2006, and an ending date that is the same as the ending date of the original contract between DHFS and the plan administrator. Because the bill authorizes the HIRSP Authority to enter into contracts for the administration of HIRSP, after the end of its contract with the current plan administrator, it may contract with the same or a different plan administrator, but must use a competitive request-for-proposals process to do so.

2. *Eligibility.* To be eligible for HIRSP, a person must be a state resident. The bill changes from 30 days to three months the length of time that a person must be domiciled in this state to be considered a state resident for purposes of HIRSP eligibility.

In general, a person who is eligible for Medical Assistance (MA) is not eligible for HIRSP. The bill provides that persons who are eligible for only certain limited services provided under MA, such as family planning services for low-income women and payment of Medicare premiums, deductibles, and coinsurance for persons eligible for Medicare who meet the income and resource limitations, are not ineligible for HIRSP coverage because of their eligibility for only those MA services. The bill provides, however, that HIRSP will not pay for services that are reimbursed under MA. The bill also specifically provides that persons who are eligible for certain listed programs or benefits, such as the Badger Care Health Care Program and Long-Term Support Community Options Program, are ineligible for HIRSP coverage.

Under current law, a person who is rejected for health insurance coverage by one or more insurers within nine months of applying for HIRSP coverage is eligible for HIRSP. The bill changes that requirement to two or more insurers.

The bill adds Medicare Part ~~B~~, which is the prescription drug benefit under Medicare, to the definition of Medicare for purposes of HIRSP. Thus, a person who is eligible for HIRSP based on their coverage under Medicare because they are disabled would be eligible for HIRSP coverage if they had coverage under Medicare

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Part B. In addition, HIRSP does not pay for benefits that are paid for by Medicare, so HIRSP would not pay for prescription drugs covered under the person's Medicare Part B coverage.

3. *Benefit design.* Benefits provided by HIRSP, as well as deductibles and out-of-pocket limits, are specified in the statutes. Except for eligible individuals, who are not subject to any preexisting condition exclusion, a condition that a person was diagnosed with or treated for within six months of obtaining coverage under HIRSP is excluded from coverage for the first six months. Current law authorizes DHFS to establish copayments and out-of-pocket limits for prescription drug coverage. The bill retains all current law benefits, deductibles, copayments, out-of-pocket limits, and the preexisting condition exclusion through December 31, 2006. Beginning on January 1, 2007, benefits are modified somewhat, mostly by limiting the extent of certain benefits to the extent that commercial insurers are required to provide under the statutes known as health insurance mandates, and coverage for the services of a home health agency is added. No benefits are eliminated. Also beginning on that date, the HIRSP Authority is authorized to establish deductibles, copayments, coinsurance, limitations, and, except for eligible individuals, exclusions that are not specified in the statutes, and to develop additional benefit designs that are responsive to market conditions. The Office of the Commissioner of Insurance (OCI) may disapprove any policy developed by the HIRSP Authority if the benefit design is not comparable to a typical comprehensive individual health insurance policy in the private market, the benefit levels do not generally reflect comprehensive individual health insurance in the private market, or the deductibles, copayments, or coinsurance are not actuarially equivalent to comprehensive individual health insurance in the private market or would create undue financial hardship.

to the extent required by the health insurance mandates

4. *Payment of plan costs.* Current law sets out a complex formula for payment of the administrative and operating expenses of HIRSP. In general, premiums must be set at a rate that pays for 60 percent of costs and may not exceed 200 percent of the rate a standard risk would be charged for the same coverage and deductibles. Insurer assessments and provider payment discounts must each pay for half of the remaining 40 percent of costs. The bill eliminates the formula but retains the requirements that premiums must be set at a rate to pay for 60 percent of costs, excluding premium, deductible, and copayment subsidy costs (subsidy costs), and may not exceed 200 percent of rates applicable to standard risks, that insurer assessments must be set at an amount to cover 20 percent of costs, excluding subsidy costs, and that provider payment discounts must be set at a rate to cover 20 percent of costs, excluding subsidy costs. Subsidy costs are to be paid first from any federal high risk pool grant funds that are received by OCI, and the remainder of subsidy costs are paid equally through insurer assessments and provider payment discounts. If federal high risk pool grant funds received in a year exceed subsidy costs in that year, the excess federal funds must be used to pay the administrative and operating costs before premiums, insurer assessments, and provider discounts are applied to the costs.

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5. *Subsidies.* Under current law, generally, persons with coverage under HIRSP who have household incomes below \$25,000 receive premium and deductible subsidies and may receive prescription drug copayment subsidies. For a person who is eligible for a subsidy, the statutes set out, on the basis of the person's household income category, the specific deductible amount that the person must pay and the premium rate that the person must pay as a percentage of the rate that a standard risk would be charged for the same coverage and deductibles. The bill retains the subsidies and makes no changes to the categories of persons who are eligible for subsidies and no changes to the standard risk rates that are the basis for premium reductions. Beginning on January 1, 2007, however, the specific reduced deductible amounts are eliminated and the HIRSP Authority is directed to establish and provide deductible subsidies for those persons paying reduced deductibles under current law and is authorized to provide prescription drug copayment subsidies for those same persons.

Health Care Tax Credit Program

The federal Trade Adjustment Assistance Reform Act of 2002 (TAA) provides, among other benefits related to employment, a federal income tax credit for up to 65 percent of the amount of the premium paid by eligible persons for coverage for themselves and their dependents under qualified health insurance. Eligible persons are those who are eligible for TAA employment-related benefits because they have lost their jobs or experienced reduced work hours and wages because of increased imports and those who are at least 55 years of age and receiving benefits from the Pension Benefit Guaranty Corporation. The bill requires the HIRSP Authority to design and administer, as long as the federal income tax credit is available, a plan of health care coverage that satisfies the requirements for qualified health insurance for coverage of persons who are eligible for the tax credit.

Assessment Credits

The bill creates an income and franchise tax credit and a license fee credit for insurers that pay assessments to OCI. The amount of the credit is equal to a percentage of the amount of the assessment that the insurer paid in the calendar year in which the insurer's taxable year begins. The Department of Revenue and OCI determine the percentage of the amount that each insurer may claim in each taxable year so that the total amount of the credits awarded to all insurers in each fiscal year is approximately \$5,000,000.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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

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

1 SECTION 1. 1.12 (1) (b) of the statutes is amended to read:

Although the credits apply to taxable years beginning after December 31, 2005, the credits awarded for the 2006 and 2007 taxable years may not be claimed until taxable years beginning after December 31, 2007.

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1 1.12 (1) (b) “State agency” means an office, department, agency, institution of
2 higher education, the legislature, a legislative service agency, the courts, a judicial
3 branch agency, an association, society, or other body in state government which that
4 is created or authorized to be created by the constitution or by law, for which
5 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
6 Authority.

7 **SECTION 2.** 13.172 (1) of the statutes is amended to read:

8 13.172 (1) In this section, “agency” means an office, department, agency,
9 institution of higher education, association, society, or other body in state
10 government created or authorized to be created by the constitution or any law, ~~which~~
11 that is entitled to expend moneys appropriated by law, including the legislature and
12 the courts, and any authority created in subch. III of ch. 149 or in ch. 231, 233, or 234.

13 **SECTION 3.** 13.62 (2) of the statutes is amended to read:

14 13.62 (2) “Agency” means any board, commission, department, office, society,
15 institution of higher education, council, or committee in the state government, or any
16 authority created in subch. III of ch. 149 or in ch. 231, 232, 233, 234, or 237, except
17 that the term does not include a council or committee of the legislature.

18 **SECTION 4.** 13.94 (1) (b) of the statutes is amended to read:

19 13.94 (1) (b) Audit the records of every state department, board, commission,
20 independent agency, or authority, excluding the Health Insurance Risk-Sharing
21 Plan Authority, at least once each 5 years and audit the records of other departments
22 as defined in sub. (4) when the state auditor deems it advisable or when he or she is
23 so directed and, in conjunction therewith, reconcile the records of the department
24 audited with those of the department of administration. Audits of the records of a
25 county, city, village, town, or school district may be performed only as provided in par.

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1 (m). Within 30 days after completion of any such audit, the bureau shall file with the
2 chief clerk of each house of the legislature, the governor, the department of
3 administration, the legislative reference bureau, the joint committee on finance, the
4 legislative fiscal bureau, and the department audited, a detailed report thereof,
5 including its recommendations for improvement and efficiency and including
6 specific instances, if any, of illegal or improper expenditures. The chief clerks shall
7 distribute the report to the joint legislative audit committee, the appropriate
8 standing committees of the legislature, and the joint committee on legislative
9 organization.

10 **SECTION 5.** 13.94 (1) (dh) of the statutes is created to read:

11 13.94 (1) (dh) Notwithstanding par. (b), annually conduct a financial audit of
12 the Health Insurance Risk-Sharing Plan under subch. II of ch. 149 and file copies
13 of each audit report under this paragraph with the distributees specified in par. (b).

14 **SECTION 6.** 13.94 (1) (g) of the statutes is amended to read:

15 13.94 (1) (g) Require each state department, board, commission, independent
16 agency, or authority, excluding the Health Insurance Risk-Sharing Plan Authority,
17 to file with the bureau on or before September 1 of each year a report on all
18 receivables due the state as of the preceding June 30 which were occasioned by
19 activities of the reporting unit. The report may also be required of other
20 departments, except counties, cities, villages, towns, and school districts. The report
21 shall show the aggregate amount of such receivables according to fiscal year of origin
22 and collections thereon during the fiscal year preceding the report. The state auditor
23 may require any department to file with the bureau a detailed list of the receivables
24 comprising the aggregate amounts shown on the reports prescribed by this
25 paragraph.

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1 **SECTION 7.** 13.95 (intro.) of the statutes, as affected by 2005 Wisconsin Act 25,
2 is amended to read:

3 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
4 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
5 shall be strictly nonpartisan and shall at all times observe the confidential nature
6 of the research requests received by it; however, with the prior approval of the
7 requester in each instance, the bureau may duplicate the results of its research for
8 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
9 designated employees shall at all times, with or without notice, have access to all
10 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
11 Health Insurance Risk-Sharing Plan Authority, and the Fox River Navigational
12 System Authority, and to any books, records, or other documents maintained by such
13 agencies or authorities and relating to their expenditures, revenues, operations, and
14 structure.

15 **SECTION 8.** 16.002 (2) of the statutes is amended to read:

16 16.002 (2) “Departments” means constitutional offices, departments, and
17 independent agencies and includes all societies, associations, and other agencies of
18 state government for which appropriations are made by law, but not including
19 authorities created in subch. III of ch. 149 and in chs. 231, 232, 233, 234, 235, and
20 237.

21 **SECTION 9.** 16.004 (4) of the statutes is amended to read:

22 16.004 (4) **FREEDOM OF ACCESS.** The secretary and such employees of the
23 department as the secretary designates may enter into the offices of state agencies
24 and authorities created under subch. III of ch. 149 and under chs. 231, 233, 234, and
25 237, and may examine their books and accounts and any other matter ~~which~~ that in

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1 the secretary's judgment should be examined and may interrogate the agency's
2 employees publicly or privately relative thereto.

3 **SECTION 10.** 16.004 (5) of the statutes is amended to read:

4 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
5 authorities created under subch. III of ch. 149 and under chs. 231, 233, 234, and 237,
6 and their officers and employees, shall cooperate with the secretary and shall comply
7 with every request of the secretary relating to his or her functions.

8 **SECTION 11.** 16.004 (12) (a) of the statutes is amended to read:

9 16.004 (12) (a) In this subsection, "state agency" means an association,
10 authority, board, department, commission, independent agency, institution, office,
11 society, or other body in state government created or authorized to be created by the
12 constitution or any law, including the legislature, the office of the governor, and the
13 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
14 the Health Insurance Risk-Sharing Plan Authority, and the Fox River Navigational
15 System Authority.

16 **SECTION 12.** 16.045 (1) (a) of the statutes is amended to read:

17 16.045 (1) (a) "Agency" means an office, department, independent agency,
18 institution of higher education, association, society, or other body in state
19 government created or authorized to be created by the constitution or any law, ~~which~~
20 that is entitled to expend moneys appropriated by law, including the legislature and
21 the courts, but not including an authority created in subch. III of ch. 149 or in ch. 231,
22 232, 233, 234, 235, or 237.

23 **SECTION 13.** 16.15 (1) (ab) of the statutes is amended to read:

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1 16.15 (1) (ab) “Authority” has the meaning given under s. 16.70 (2), but
2 excludes the University of Wisconsin Hospitals and Clinics Authority and the Health
3 Insurance Risk-Sharing Plan Authority.

4 **SECTION 14.** 16.41 (4) of the statutes is amended to read:

5 16.41 (4) In this section, “authority” means a body created under subch. III of
6 ch. 149 or under ch. 231, 233, 234, or 237.

7 **SECTION 15.** 16.417 (1) (a) of the statutes is amended to read:

8 16.417 (1) (a) “Agency” means an office, department, independent agency,
9 institution of higher education, association, society, or other body in state
10 government created or authorized to be created by the constitution or any law, which
11 that is entitled to expend moneys appropriated by law, including the legislature and
12 the courts, but not including an authority or the body created under subch. III of ch.
13 149.

14 **SECTION 16.** 16.52 (7) of the statutes is amended to read:

15 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
16 which that is authorized to maintain a contingent fund under s. 20.920 may establish
17 a petty cash account from its contingent fund. The procedure for operation and
18 maintenance of petty cash accounts and the character of expenditures therefrom
19 shall be prescribed by the secretary. In this subsection, “agency” means an office,
20 department, independent agency, institution of higher education, association,
21 society, or other body in state government created or authorized to be created by the
22 constitution or any law, ~~which~~ that is entitled to expend moneys appropriated by law,
23 including the legislature and the courts, but not including an authority created in
24 subch. III of ch. 149 or in ch. 231, 233, 234, or 237.

25 **SECTION 17.** 16.528 (1) (a) of the statutes is amended to read:

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1 16.528 (1) (a) “Agency” means an office, department, independent agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law, which
4 that is entitled to expend moneys appropriated by law, including the legislature and
5 the courts, but not including an authority created in subch. III of ch. 149 or in ch. 231,
6 233, 234, or 237.

7 **SECTION 18.** 16.53 (2) of the statutes is amended to read:

8 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
9 invoice, the agency shall notify the sender of the invoice within 10 working days after
10 it receives the invoice of the reason it is improperly completed. In this subsection,
11 “agency” means an office, department, independent agency, institution of higher
12 education, association, society, or other body in state government created or
13 authorized to be created by the constitution or any law, ~~which~~ that is entitled to
14 expend moneys appropriated by law, including the legislature and the courts, but not
15 including an authority created in subch. III of ch. 149 or in ch. 231, 233, 234, or 237.

16 **SECTION 19.** 16.54 (9) (a) 1. of the statutes is amended to read:

17 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
18 institution of higher education, association, society or other body in state
19 government created or authorized to be created by the constitution or any law, which
20 is entitled to expend moneys appropriated by law, including the legislature and the
21 courts, but not including an authority created in subch. III of ch. 149 or in ch. 231,
22 233, 234, or 237.

23 **SECTION 20.** 16.70 (2) of the statutes is amended to read:

24 16.70 (2) “Authority” means a body created under subch. III of ch. 149 or under
25 ch. 231, 232, 233, 234, 235, or 237.

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1 **SECTION 21.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

2 16.72 (2) (e) (intro.) In writing the specifications under this subsection, the
3 department and any other designated purchasing agent under s. 16.71 (1) shall
4 incorporate requirements for the purchase of products made from recycled materials
5 and recovered materials if their use is technically and economically feasible. Each
6 authority other than the University of Wisconsin Hospitals and Clinics Authority
7 and the Health Insurance Risk-Sharing Plan Authority, in writing specifications for
8 purchasing by the authority, shall incorporate requirements for the purchase of
9 products made from recycled materials and recovered materials if their use is
10 technically and economically feasible. The specifications shall include requirements
11 for the purchase of the following materials:

12 **SECTION 22.** 16.72 (2) (f) of the statutes is amended to read:

13 16.72 (2) (f) In writing specifications under this subsection, the department,
14 any other designated purchasing agent under s. 16.71 (1), and each authority other
15 than the University of Wisconsin Hospitals and Clinics Authority and the Health
16 Insurance Risk-Sharing Plan Authority shall incorporate requirements relating to
17 the recyclability and ultimate disposition of products and, wherever possible, shall
18 write the specifications so as to minimize the amount of solid waste generated by the
19 state, consistent with the priorities established under s. 287.05 (12). All
20 specifications under this subsection shall discourage the purchase of single-use,
21 disposable products and require, whenever practical, the purchase of multiple-use,
22 durable products.

23 **SECTION 23.** 16.75 (1m) of the statutes is amended to read:

24 16.75 (1m) The department shall award each order or contract for materials,
25 supplies or equipment on the basis of life cycle cost estimates, whenever such action

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1 is appropriate. Each authority other than the University of Wisconsin Hospitals and
2 Clinics Authority and the Health Insurance Risk-Sharing Plan Authority shall
3 award each order or contract for materials, supplies or equipment on the basis of life
4 cycle cost estimates, whenever such action is appropriate. The terms, conditions and
5 evaluation criteria to be applied shall be incorporated in the solicitation of bids or
6 proposals. The life cycle cost formula may include, but is not limited to, the
7 applicable costs of energy efficiency, acquisition and conversion, money,
8 transportation, warehousing and distribution, training, operation and maintenance
9 and disposition or resale. The department shall prepare documents containing
10 technical guidance for the development and use of life cycle cost estimates, and shall
11 make the documents available to local governmental units.

12 **SECTION 24.** 16.75 (8) (a) 1. of the statutes is amended to read:

13 16.75 (8) (a) 1. The department, any other designated purchasing agent under
14 s. 16.71 (1), any agency making purchases under s. 16.74, and each authority other
15 than the University of Wisconsin Hospitals and Clinics Authority and the Health
16 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
17 purchasing selections using specifications developed under s. 16.72 (2) (e) to
18 maximize the purchase of materials utilizing recycled materials and recovered
19 materials.

20 **SECTION 25.** 16.75 (8) (a) 2. of the statutes is amended to read:

21 16.75 (8) (a) 2. Each agency and authority other than the University of
22 Wisconsin Hospitals and Clinics Authority and the Health Insurance Risk-Sharing
23 Plan Authority shall ensure that the average recycled or recovered content of all
24 paper purchased by the agency or authority measured as a proportion, by weight, of

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1 the fiber content of paper products purchased in a fiscal year, is not less than 40%
2 of all purchased paper.

3 **SECTION 26.** 16.75 (9) of the statutes is amended to read:

4 16.75 (9) The department, any other designated purchasing agent under s.
5 16.71 (1), any agency making purchases under s. 16.74, and any authority other than
6 the University of Wisconsin Hospitals and Clinics Authority and the Health
7 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
8 purchasing selections using specifications prepared under s. 16.72 (2) (f).

9 **SECTION 27.** 16.765 (1) of the statutes is amended to read:

10 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
11 Clinics Authority, the Fox River Navigational System Authority, the Health
12 Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and
13 Entertainment Corporation shall include in all contracts executed by them a
14 provision obligating the contractor not to discriminate against any employee or
15 applicant for employment because of age, race, religion, color, handicap, sex, physical
16 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
17 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
18 orientation, obligating the contractor to take affirmative action to ensure equal
19 employment opportunities.

20 **SECTION 28.** 16.765 (2) of the statutes is amended to read:

21 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
22 Clinics Authority, the Fox River Navigational System Authority, the Health
23 Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and
24 Entertainment Corporation shall include the following provision in every contract
25 executed by them: “In connection with the performance of work under this contract,

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1 the contractor agrees not to discriminate against any employee or applicant for
2 employment because of age, race, religion, color, handicap, sex, physical condition,
3 developmental disability as defined in s. 51.01 (5), sexual orientation or national
4 origin. This provision shall include, but not be limited to, the following: employment,
5 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
6 termination; rates of pay or other forms of compensation; and selection for training,
7 including apprenticeship. Except with respect to sexual orientation, the contractor
8 further agrees to take affirmative action to ensure equal employment opportunities.
9 The contractor agrees to post in conspicuous places, available for employees and
10 applicants for employment, notices to be provided by the contracting officer setting
11 forth the provisions of the nondiscrimination clause”.

12 **SECTION 29.** 16.765 (4) of the statutes is amended to read:

13 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
14 Clinics Authority, the Fox River Navigational System Authority, the Health
15 Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and
16 Entertainment Corporation shall take appropriate action to revise the standard
17 government contract forms under this section.

18 **SECTION 30.** 16.765 (5) of the statutes is amended to read:

19 16.765 (5) The head of each contracting agency and the boards of directors of
20 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
21 Navigational System Authority, the Health Insurance Risk-Sharing Plan Authority,
22 and the Bradley Center Sports and Entertainment Corporation shall be primarily
23 responsible for obtaining compliance by any contractor with the nondiscrimination
24 and affirmative action provisions prescribed by this section, according to procedures
25 recommended by the department. The department shall make recommendations to

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1 the contracting agencies and the boards of directors of the University of Wisconsin
2 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
3 Health Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and
4 Entertainment Corporation for improving and making more effective the
5 nondiscrimination and affirmative action provisions of contracts. The department
6 shall promulgate such rules as may be necessary for the performance of its functions
7 under this section.

8 **SECTION 31.** 16.765 (6) of the statutes is amended to read:

9 16.765 (6) The department may receive complaints of alleged violations of the
10 nondiscrimination provisions of such contracts. The department shall investigate
11 and determine whether a violation of this section has occurred. The department may
12 delegate this authority to the contracting agency, the University of Wisconsin
13 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
14 Health Insurance Risk-Sharing Plan Authority, or the Bradley Center Sports and
15 Entertainment Corporation for processing in accordance with the department's
16 procedures.

17 **SECTION 32.** 16.765 (7) (intro.) of the statutes is amended to read:

18 16.765 (7) (intro.) When a violation of this section has been determined by the
19 department, the contracting agency, the University of Wisconsin Hospitals and
20 Clinics Authority, the Fox River Navigational System Authority, the Health
21 Insurance Risk-Sharing Plan Authority, or the Bradley Center Sports and
22 Entertainment Corporation, the contracting agency, the University of Wisconsin
23 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
24 Health Insurance Risk-Sharing Plan Authority, or the Bradley Center Sports and
25 Entertainment Corporation shall:

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1 **SECTION 33.** 16.765 (7) (d) of the statutes is amended to read:

2 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
3 further violations of this section and to report its corrective action to the contracting
4 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
5 Navigational System Authority, the Health Insurance Risk-Sharing Plan Authority,
6 or the Bradley center sports and entertainment corporation Center Sports and
7 Entertainment Corporation.

8 **SECTION 34.** 16.765 (8) of the statutes is amended to read:

9 16.765 (8) If further violations of this section are committed during the term
10 of the contract, the contracting agency, the Fox River Navigational System Authority,
11 the Health Insurance Risk-Sharing Plan Authority, or the Bradley Center Sports
12 and Entertainment Corporation may permit the violating party to complete the
13 contract, after complying with this section, but thereafter the contracting agency, the
14 Fox River Navigational System Authority, the Health Insurance Risk-Sharing Plan
15 Authority, or the Bradley Center Sports and Entertainment Corporation shall
16 request the department to place the name of the party on the ineligible list for state
17 contracts, or the contracting agency, the Fox River Navigational System Authority,
18 the Health Insurance Risk-Sharing Plan Authority, or the Bradley Center Sports
19 and Entertainment Corporation may terminate the contract without liability for the
20 uncompleted portion or any materials or services purchased or paid for by the
21 contracting party for use in completing the contract.

22 **SECTION 35.** 16.85 (2) of the statutes is amended to read:

23 16.85 (2) To furnish engineering, architectural, project management, and other
24 building construction services whenever requisitions therefor are presented to the
25 department by any agency. The department may deposit moneys received from the

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1 provision of these services in the account under s. 20.505 (1) (kc) or in the general
2 fund as general purpose revenue — earned. In this subsection, “agency” means an
3 office, department, independent agency, institution of higher education, association,
4 society, or other body in state government created or authorized to be created by the
5 constitution or any law, which is entitled to expend moneys appropriated by law,
6 including the legislature and the courts, but not including an authority created in
7 subch. III of ch. 149 or in ch. 231, 233, 234, or 237.

8 **SECTION 36.** 16.865 (8) of the statutes is amended to read:

9 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
10 proportionate share of the estimated costs attributable to programs administered by
11 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
12 may charge premiums to agencies to finance costs under this subsection and pay the
13 costs from the appropriation on an actual basis. The department shall deposit all
14 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
15 Costs assessed under this subsection may include judgments, investigative and
16 adjustment fees, data processing and staff support costs, program administration
17 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
18 subsection, “agency” means an office, department, independent agency, institution
19 of higher education, association, society, or other body in state government created
20 or authorized to be created by the constitution or any law, ~~which~~ that is entitled to
21 expend moneys appropriated by law, including the legislature and the courts, but not
22 including an authority created in subch. III of ch. 149 or in ch. 231, 232, 233, 234, 235,
23 or 237.

24 **SECTION 37.** 20.145 (5) of the statutes is created to read:

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1 20.145 (5) HEALTH INSURANCE RISK-SHARING PLAN. (g) *Insurer assessments*. All
2 moneys received in insurer assessments under s. 149.13, to be paid to the Health
3 Insurance Risk-Sharing Plan Authority under subch. III of ch. 149 for deposit in the
4 Health Insurance Risk-Sharing Plan fund under s. 149.11 (2).

5 (m) *Federal grants for high risk pool*. All moneys received from the federal
6 government in high risk pool grants, to be paid to the Health Insurance
7 Risk-Sharing Plan Authority under subch. III of ch. 149 for deposit in the Health
8 Insurance Risk-Sharing Plan fund under s. 149.11 (2).

9 **SECTION 38.** 20.435 (4) (u) of the statutes is repealed.

10 **SECTION 39.** 20.435 (4) (v) of the statutes is repealed.

11 **SECTION 40.** 25.17 (1) (gf) of the statutes is repealed.

12 **SECTION 41.** 25.55 (intro.) of the statutes is repealed.

13 **SECTION 42.** 25.55 (3) of the statutes is renumbered 149.11 (2) (a) 1. and
14 amended to read:

15 149.11 (2) (a) 1. Insurer assessments under ~~ch. 149~~ s. 149.13, paid to the
16 authority under s. 20.145 (5) (g).

17 **SECTION 43.** 25.55 (4) of the statutes is renumbered 149.11 (2) (a) 2. and
18 amended to read:

19 149.11 (2) (a) 2. Premiums paid by eligible persons ~~under ch. 149.~~

20 **SECTION 44.** 70.11 (41m) of the statutes is created to read:

21 70.11 (41m) HEALTH INSURANCE RISK-SHARING PLAN AUTHORITY. All property
22 owned by the Health Insurance Risk-Sharing Plan Authority, provided that use of
23 the property is primarily related to the purposes of the authority.

24 **SECTION 45.** 71.07 (5g) of the statutes is created to read:

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1 71.07 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT. (a)
2 *Definitions.* In this subsection, “claimant” means a partner, limited liability
3 company member, or tax-option corporation shareholder who files a claim under this
4 subsection and who is a partner, member, or shareholder of an entity that is an
5 insurer, as defined in s. 149.10 (5).

6 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
7 taxable years beginning after December 31, 2005, a claimant may claim as a credit
8 against the taxes imposed under s. 71.02 an amount that is equal to a percentage of
9 the amount of the assessment under s. 149.13 that the claimant paid in the calendar
10 year in which the claimant’s taxable year begins.

11 (c) *Limitations.* 1. The department of revenue, in consultation with the office
12 of the commissioner of insurance, shall determine the percentage under par. (b) for
13 each claimant for each taxable year so that the amount of the credit awarded to all
14 claimants under this subsection and ss. 71.28 (5g), 71.47 (5g), and 76.655 is as close
15 as practicable to \$5,000,000 in each fiscal year.

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

24 3. The amount of any credits that a claimant is awarded under this subsection
25 for taxable years beginning after December 31, 2005, and before January 1, 2008,

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1 may first be claimed against the tax imposed under this subchapter for taxable years
2 beginning after December 31, 2007, and in the manner determined by the
3 department of revenue.

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

6 **SECTION 46.** 71.10 (4) (cp) of the statutes is created to read:

7 71.10 (4) (cp) Health Insurance Risk-Sharing Plan assessments credit under
8 s. 71.07 (5g).

9 **SECTION 47.** 71.21 (4) of the statutes is amended to read:

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5g) and passed
12 through to partners shall be added to the partnership's income.

13 **SECTION 48.** 71.26 (1) (be) of the statutes is amended to read:

14 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
15 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
16 Authority, and of the Fox River Navigational System Authority.

17 **SECTION 49.** 71.26 (2) (a) of the statutes is amended to read:

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

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

11 **SECTION 50.** 71.28 (5g) of the statutes is created to read:

12 71.28 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT. (a)
13 *Definitions.* In this subsection, "claimant" means an insurer, as defined in s. 149.10
14 (5), who files a claim under this subsection.

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

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

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1 2. Partnerships, limited liability companies, and tax-option corporations may
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 the credit are based on their payment of amounts described under par. (b). A
4 partnership, limited liability company, or tax-option corporation shall compute the
5 amount of credit that each of its partners, members, or shareholders may claim and
6 shall provide that information to each of them. Partners, members of limited liability
7 companies, and shareholders of tax-option corporations may claim the credit in
8 proportion to their ownership interests.

9 3. The amount of any credits that a claimant is awarded under this subsection
10 for taxable years beginning after December 31, 2005, and before January 1, 2008,
11 may first be claimed against the tax imposed under this subchapter for taxable years
12 beginning after December 31, 2007, and in the manner determined by the
13 department of revenue.

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

16 **SECTION 51.** 71.30 (3) (dm) of the statutes is created to read:

17 71.30 (3) (dm) Health Insurance Risk-Sharing Plan assessments credit under
18 s. 71.28 (5g).

19 **SECTION 52.** 71.34 (1) (g) of the statutes is amended to read:

20 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
22 (3n), (3t), ~~and (5b), and (5g)~~ and passed through to shareholders.

23 **SECTION 53.** 71.45 (2) (a) 10. of the statutes is amended to read:

24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
25 computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b), and (5g)~~ and not passed

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1 through by a partnership, limited liability company, or tax-option corporation that
2 has added that amount to the partnership's, limited liability company's, or
3 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
4 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

5 **SECTION 54.** 71.47 (5g) of the statutes is created to read:

6 **71.47 (5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT.** (a)

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

9 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
10 taxable years beginning after December 31, 2005, a claimant may claim as a credit
11 against the taxes imposed under s. 71.43 an amount that is equal to a percentage of
12 the amount of assessment under s. 149.13 that the claimant paid in the calendar year
13 in which the claimant's taxable year begins.

14 (c) *Limitations.* 1. The department of revenue, in consultation with the office
15 of the commissioner of insurance, shall determine the percentage under par. (b) for
16 each claimant for each taxable year so that the amount of the credit awarded to all
17 claimants under this subsection and ss. 71.07 (5g), 71.28 (5g), and 76.655 is as close
18 as practicable to \$5,000,000 in each fiscal year.

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

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1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

3 3. The amount of any credits that a claimant is awarded under this subsection
4 for taxable years beginning after December 31, 2005, and before January 1, 2008,
5 may first be claimed against the tax imposed under this subchapter for taxable years
6 beginning after December 31, 2007, and in the manner determined by the
7 department of revenue.

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

10 **SECTION 55.** 71.49 (1) (dm) of the statutes is created to read:

11 71.49 (1) (dm) Health Insurance Risk-Sharing Plan assessments credit under
12 s. 71.47 (5g).

13 **SECTION 56.** 76.655 of the statutes is created to read:

14 **76.655 Health Insurance Risk-Sharing Plan assessments credit. (1)**

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

17 **(2) FILING CLAIMS.** Subject to the limitations provided under this section, for
18 taxable years beginning after December 31, 2005, a claimant may claim as a credit
19 against the fees imposed under ss. 76.60, 76.63, 76.65, 76.66 or 76.67 an amount that
20 is equal to a percentage of the amount of assessment under s. 149.13 that the
21 claimant paid in the calendar year in which the claimant’s taxable year begins.

22 **(3) LIMITATIONS.** (a) The department of revenue, in consultation with the office
23 of the commissioner of insurance, shall determine the percentage under sub. (2) for
24 each claimant for each taxable year so that the amount of the credit awarded to all

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1 claimants under this section and ss. 71.07 (5g), 71.28 (5g), and 71.47 (5g) is as close
2 as practicable to \$5,000,000 in each fiscal year.

3 (b) The amount of any credits that a claimant is awarded under this section for
4 taxable years beginning after December 31, 2005, and before January 1, 2008, may
5 first be claimed against the fees imposed under ss. 76.60, 76.63, 76.65, or 76.67 for
6 taxable years beginning after December 31, 2007, and in the manner determined by
7 the department of revenue.

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

14 **SECTION 57.** 76.67 (2) of the statutes is amended to read:

15 76.67 (2) If any domestic insurer is licensed to transact insurance business in
16 another state, this state may not require similar insurers domiciled in that other
17 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
18 a domestic insurer is required to pay to that other state for the same year less the
19 ~~credit~~ credits under ~~s. ss.~~ ss. 76.635 and 76.655, except that the amount imposed shall
20 not be less than the total of the amounts due under ss. 76.65 (2) and 601.93 and, if
21 the insurer is subject to s. 76.60, 0.375% of its gross premiums, as calculated under
22 s. 76.62, less offsets allowed under s. 646.51 (7) or under ~~s. ss.~~ ss. 76.635 and 76.655
23 against that total, and except that the amount imposed shall not be less than the
24 amount due under s. 601.93.

25 **SECTION 58.** 77.54 (9a) (a) of the statutes is amended to read:

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1 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
2 Hospitals and Clinics Authority, the Health Insurance Risk-Sharing Plan Authority,
3 and the Fox River Navigational System Authority.

4 **SECTION 59.** 77.92 (4) of the statutes is amended to read:

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

20 **SECTION 60.** 101.055 (2) (a) of the statutes is amended to read:

21 101.055 (2) (a) “Agency” means an office, department, independent agency,
22 authority, institution, association, society, or other body in state government created
23 or authorized to be created by the constitution or any law, and includes the
24 legislature and the courts, but excludes the Health Insurance Risk-Sharing Plan
25 Authority.

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1 **SECTION 61.** 101.177 (1) (d) of the statutes is amended to read:

2 101.177 (1) (d) “State agency” means any office, department, agency,
3 institution of higher education, association, society, or other body in state
4 government created or authorized to be created by the constitution or any law which
5 , that is entitled to expend moneys appropriated by law, including the legislature and
6 the courts, the Wisconsin Housing and Economic Development Authority, the
7 Bradley Center Sports and Entertainment Corporation, the University of Wisconsin
8 Hospitals and Clinics Authority, and the Wisconsin Health and Educational
9 Facilities Authority, but excluding the Health Insurance Risk-Sharing Plan
10 Authority.

11 **SECTION 62.** Chapter 149 (title) of the statutes is amended to read:

CHAPTER 149**MANDATORY HEALTH INSURANCE****RISK-SHARING PLAN PLANS**

12
13
14
15 **SECTION 63.** Subchapter I (title) of chapter 149 [precedes 149.10] of the statutes
16 is created to read:

CHAPTER 149**SUBCHAPTER I****GENERAL PROVISIONS**

17
18
19
20 **SECTION 64.** 149.10 (intro.) of the statutes is amended to read:

21 **149.10 Definitions.** (intro.) In this chapter, unless the context requires
22 otherwise:

23 **SECTION 65.** 149.10 (1) of the statutes is created to read:

24 149.10 (1) “Authority” means the Health Insurance Risk-Sharing Plan
25 Authority.

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1 **SECTION 66.** 149.10 (2) of the statutes is amended to read:

2 149.10 (2) “Board” means the board of ~~governors established under s. 149.15~~
3 directors of the authority.

4 **SECTION 67.** 149.10 (2j) (a) 3. of the statutes is amended to read:

5 149.10 (2j) (a) 3. Part A ~~or~~, part B, or part D of title XVIII of the federal Social
6 Security Act.

7 **SECTION 68.** 149.10 (2m) of the statutes is repealed.

8 **SECTION 69.** 149.10 (2t) (c) of the statutes is amended to read:

9 149.10 (2t) (c) The individual does not have creditable coverage and is not
10 eligible for coverage under a group health plan, part A ~~or~~, part B, or part D of title
11 XVIII of the federal Social Security Act or a state plan under title XIX of the federal
12 Social Security Act or any successor program.

13 **SECTION 70.** 149.10 (3) of the statutes is amended to read:

14 149.10 (3) “Eligible person” means a resident ~~of this state~~ who qualifies under
15 s. 149.12 whether or not the person is legally responsible for the payment of medical
16 expenses incurred on the person’s behalf.

17 **SECTION 71.** 149.10 (3e) of the statutes is amended to read:

18 149.10 (3e) “Fund” means the ~~health insurance risk-sharing plan~~ Health
19 Insurance Risk-Sharing Plan fund under s. 149.11 (2).

20 **SECTION 72.** 149.10 (7) of the statutes is amended to read:

21 149.10 (7) “Medicare” means coverage under ~~both part A and~~, part B, and part
22 D of Title XVIII of the federal social security act, 42 USC 1395 et seq., as amended.

23 **SECTION 73.** 149.10 (8) of the statutes is amended to read:

24 149.10 (8) “Plan” means the health care insurance plan established and
25 administered under subchapter II of this chapter.

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1 **SECTION 74.** 149.10 (9) of the statutes is amended to read:

2 149.10 (9) “Resident” means a person who has been legally domiciled in this
3 state for a period of at least ~~30 days~~ 3 months or, with respect to an eligible individual,
4 an individual who resides in this state. For purposes of this chapter, legal domicile
5 is established by living in this state and obtaining a Wisconsin motor vehicle
6 operator’s license, registering to vote in Wisconsin, or filing a Wisconsin income tax
7 return. A child is legally domiciled in this state if the child lives in this state and if
8 at least one of the child’s parents or the child’s guardian is legally domiciled in this
9 state. A person with a developmental disability or another disability ~~which~~ that
10 prevents the person from obtaining a Wisconsin motor vehicle operator’s license,
11 registering to vote in Wisconsin, or filing a Wisconsin income tax return, is legally
12 domiciled in this state by living in this state.

13 **SECTION 75.** 149.10 (10) of the statutes is repealed.

14 **SECTION 76.** 149.105 of the statutes is created to read:

15 **149.105 Immunity.** No cause of action of any nature may arise against, and
16 no liability may be imposed upon, the authority, plan, or board; or any agent,
17 employee, or director of any of them; or participating insurers; or the commissioner;
18 or any of the commissioner’s agents, employees, or representatives, for any act or
19 omission by any of them in the performance of their powers and duties under this
20 chapter, unless the person asserting liability proves that the act or omission
21 constitutes willful misconduct.

22 **SECTION 77.** Subchapter II (title) of chapter 149 [precedes 149.11] of the
23 statutes is created to read:

24

CHAPTER 149

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SUBCHAPTER II

HEALTH INSURANCE RISK-SHARING

PLAN PROVISIONS

SECTION 78. 149.11 of the statutes is repealed and recreated to read:

149.11 Administration of plan. (1) **AUTHORITY.** The authority shall be responsible for the operation of the plan and, subject to ss. 149.143 (2) and 149.47, may enter into contracts for the plan's administration.

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

3. Federal moneys paid to the authority under s. 20.145 (5) (m).

4. The moneys transferred under 2005 Wisconsin Act ... (this act), section 166 (1).

5. The earnings resulting from investments under par. (b).

6. Any other moneys received by the authority from time to time.

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

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

SECTION 79. 149.115 of the statutes is amended to read:

149.115 Rules relating to creditable coverage. The commissioner, ~~in consultation with the department,~~ shall promulgate rules that specify how creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that

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1 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
2 rules shall comply with section 2701 (c) of P.L. 104–191.

3 **SECTION 80.** 149.12 (1) (intro.) of the statutes is amended to read:

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

12 **SECTION 81.** 149.12 (1) (a) of the statutes is amended to read:

13 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

14 **SECTION 82.** 149.12 (1m) of the statutes is amended to read:

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

19 **SECTION 83.** 149.12 (2) (f) of the statutes is renumbered 149.12 (2) (f) 1. and
20 amended to read:

21 149.12 (2) (f) 1. ~~No~~ Except as provided in subd. 2., no person who is eligible for
22 medical assistance is eligible for coverage under the plan.

23 **SECTION 84.** 149.12 (2) (f) 2. of the statutes is created to read:

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1 149.12 (2) (f) 2. Subdivision 1. does not apply to a person who is otherwise
2 eligible for coverage under the plan and who is eligible for only any of the following
3 types of medical assistance:

4 a. Family planning services under s. 49.45 (24r).

5 b. Care and services for the treatment of an emergency medical condition under
6 42 USC 1396b (v), as provided in s. 49.45 (27).

7 c. Medical assistance under s. 49.46 (1) (a) 15.

8 d. Ambulatory prenatal care under s. 49.465.

9 e. Medicare premium, coinsurance, and deductible payments under s. 49.46 (2)
10 (c) 2. or 3., 49.468 (1) (b) or (c), or 49.47 (6) (a) 6. b. or c.

11 f. Medicare premium payments under s. 49.46 (2) (cm), 49.468 (1m) or (2), or
12 49.47 (6) (a) 6m.

13 **SECTION 85.** 149.12 (2) (g) of the statutes is created to read:

14 149.12 (2) (g) A person is not eligible for coverage under the plan if the person
15 is eligible for any of the following:

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

17 2. Medical assistance provided as part of a family care benefit, as defined in s.
18 46.2805 (4).

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

21 4. Services provided under the program of all-inclusive care for persons aged
22 55 or older authorized under 42 USC 1396u-4.

23 5. Services provided under the demonstration program under a federal waiver
24 authorized under 42 USC 1315.

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1 6. Health care coverage under the Badger Care health care program under s.
2 49.665.

3 **SECTION 86.** 149.12 (3) (a) of the statutes is amended to read:

4 149.12 (3) (a) Except as provided in pars. (b) to (e) and (bm), no person is eligible
5 for coverage under the plan for whom a premium, deductible, or coinsurance amount
6 is paid or reimbursed by a federal, state, county, or municipal government or agency
7 as of the first day of any term for which a premium amount is paid or reimbursed and
8 as of the day after the last day of any term during which a deductible or coinsurance
9 amount is paid or reimbursed.

10 **SECTION 87.** 149.12 (3) (c) of the statutes is repealed.

11 **SECTION 88.** 149.12 (4) and (5) of the statutes are created to read:

12 149.12 (4) Subject to subs. (1m), (2), and (3), the authority may establish
13 criteria that would enable additional persons to be eligible for coverage under the
14 plan. The authority shall ensure that any expansion of eligibility is consistent with
15 the purpose of the plan to provide health care coverage for those who are unable to
16 obtain health insurance in the private market and does not endanger the solvency
17 of the plan.

18 (5) The authority shall establish policies for determining and verifying the
19 continued eligibility of an eligible person.

20 **SECTION 89.** 149.13 (1) of the statutes is amended to read:

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

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1 **SECTION 90.** 149.13 (3) (a) of the statutes is amended to read:

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

7 **SECTION 91.** 149.13 (3) (b) of the statutes is amended to read:

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

15 **SECTION 92.** 149.13 (4) of the statutes is amended to read:

16 149.13 (4) Notwithstanding subs. (1) to (3), the ~~department~~ authority, with the
17 agreement of the commissioner, may perform various administrative functions
18 related to the assessment of insurers participating in the cost of administering the
19 plan.

20 **SECTION 93.** 149.14 (1) (a) of the statutes is amended to read:

21 149.14 (1) (a) The plan shall offer coverage for each eligible person in an
22 annually renewable policy ~~the coverage specified in this section for each eligible~~
23 ~~person.~~ If an eligible person is also eligible for ~~medicare~~ Medicare coverage, the plan
24 shall not pay or reimburse any person for expenses paid for by ~~medicare~~ Medicare.
25 If an eligible person is eligible for a type of medical assistance specified in s. 149.12

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1 (2) (f) 2., the plan shall not pay or reimburse the person for expenses paid for by
2 Medical Assistance.

3 **SECTION 94.** 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 95.** 149.14 (3) (intro.) of the statutes is amended to read:

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