



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0760/P2

TJD&PJK:cjs&kjf

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P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

OK
(in 9-16)
by Monday, if possible

D-note

regenerate ↓

1 AN ACT *to amend* 1.12 (1) (b), 13.172 (1), 13.62 (2), 13.95 (intro.), 16.002 (2),
2 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4),
3 16.417 (1) (a), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.70 (2), 16.72
4 (2) (e) (intro.), 16.72 (2) (f), 16.75 (1m), 16.75 (8) (a) 1., 16.75 (8) (a) 2., 16.75 (9),
5 16.765 (1), 16.765 (2), 16.765 (4), 16.765 (5), 16.765 (6), 16.765 (7) (intro.),
6 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 25.50 (1) (d), 71.26 (1) (be), 77.54
7 (9a) (a), 101.055 (2) (a), 101.177 (1) (d), 230.03 (3), 230.80 (4) and 230.90 (1) (c);
8 *to repeal and recreate* 16.417 (1) (a); and *to create* 13.94 (1) (dj), 13.94 (1s)
9 (c) 6., 40.02 (54) (n), 70.11 (41c) and chapter 636 of the statutes; **relating to:**

1

^{Badger}
the ^Hhealth ^Bbenefit ^Aplan authority, health benefit exchange operation, and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 SECTION 1. 1.12 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 7, is
4 amended to read:

5 1.12 (1) (b) "State agency" means an office, department, agency, institution of
6 higher education, the legislature, a legislative service agency, the courts, a judicial
7 branch agency, an association, society, or other body in state government that is
8 created or authorized to be created by the constitution or by law, for which
9 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
10 Authority, the ^{Badger}Health Benefit ^{Plan} Authority, and the Wisconsin Economic
11 Development Corporation. ✓

12 SECTION 2. 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
13 amended to read:

14 13.172 (1) In this section, "agency" means an office, department, agency,
15 institution of higher education, association, society, or other body in state
16 government created or authorized to be created by the constitution or any law, that
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, and any authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or
19 subch. III of ch. 636 or in ch. 231, 233, 234, 238, or 279. ✓

1 **SECTION 3.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 13.62 (2) "Agency" means any board, commission, department, office, society,
4 institution of higher education, council, or committee in the state government, or any
5 authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch.
6 636 or in ch. 231, 232, 233, 234, 237, 238, or 279, except that the term does not include
7 a council or committee of the legislature.

8 **SECTION 4.** 13.94 (1) (dj) of the statutes is created to read:

9 13.94 (1) (dj) At least once every 2 years, perform a financial audit and
10 performance evaluation audit of any health benefit plan exchange under subch. II
11 of ch. 636 and an audit of the [^]Health Benefit Plan Authority's policies and
12 management practices and file copies of each audit report under this paragraph with
13 the distributees specified in par. (b).

14 **SECTION 5.** 13.94 (1s) (c) 6. of the statutes is created to read:

15 13.94 (1s) (c) 6. [^]The Health Benefit Plan Authority for the cost of the audit
16 under sub. (1) (dj). Badger

17 **SECTION 6.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
20 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
21 shall be strictly nonpartisan and shall at all times observe the confidential nature
22 of the research requests received by it; however, with the prior approval of the
23 requester in each instance, the bureau may duplicate the results of its research for
24 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
25 designated employees shall at all times, with or without notice, have access to all

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1 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
2 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
3 the Health Benefit Plan Authority, the Lower Fox River Remediation Authority, the
4 Wisconsin Economic Development Corporation, and the Fox River Navigational
5 System Authority, and to any books, records, or other documents maintained by such
6 agencies or authorities and relating to their expenditures, revenues, operations, and
7 structure.

8 SECTION 7. 16.002 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
9 amended to read:

10 16.002 (2) "Departments" means constitutional offices, departments, and
11 independent agencies and includes all societies, associations, and other agencies of
12 state government for which appropriations are made by law, but not including
13 authorities an authority created in subch. II of ch. 114 or subch. III of ch. 149 or
14 subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

15 SECTION 8. 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
16 amended to read:

17 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
18 department as the secretary designates may enter into the offices of state agencies
19 and authorities created under subch. II of ch. 114 and subch. III of ch. 149 and subch.
20 III of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and may examine their
21 books and accounts and any other matter that in the secretary's judgment should be
22 examined and may interrogate the agency's employees publicly or privately relative
23 thereto.

24 SECTION 9. 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10, is
25 amended to read:

1 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
2 authorities created under subch. II of ch. 114 and subch. III of ch. 149 and subch. III
3 of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and their officers and
4 employees, shall cooperate with the secretary and shall comply with every request
5 of the secretary relating to his or her functions.

6 **SECTION 10.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

8 16.004 (12) (a) In this subsection, "state agency" means an association,
9 authority, board, department, commission, independent agency, institution, office,
10 society, or other body in state government created or authorized to be created by the
11 constitution or any law, including the legislature, the office of the governor, and the
12 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
13 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
14 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
15 Development Corporation, the Health Benefit (Plan) Authority, and the Fox River
16 Navigational System Authority. Badger

17 **SECTION 11.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 16.045 (1) (a) "Agency" means an office, department, independent agency,
20 institution of higher education, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law, that
22 is entitled to expend moneys appropriated by law, including the legislature and the
23 courts, but not including an authority created in subch. II of ch. 114 or, subch. III of
24 ch. 149, or subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

1 **SECTION 12.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
4 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
5 River Remediation Authority, the Wisconsin Economic Development Corporation,
6 ~~the Health Benefit Plan Authority, and the Health Insurance Risk-Sharing Plan~~
7 Authority. Badger

8 **SECTION 13.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
9 amended to read:

10 16.41 (4) In this section, "authority" means a body created under subch. II of
11 ch. 114 or, subch. III of ch. 149, or subch. III of ch. 636 or under ch. 231, 233, 234, 237,
12 238, or 279.

13 **SECTION 14.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,
14 section 19, is amended to read:

15 16.417 (1) (a) "Agency" means an office, department, independent agency,
16 institution of higher education, association, society, or other body in state
17 government created or authorized to be created by the constitution or any law, that
18 is entitled to expend moneys appropriated by law, including the legislature and the
19 courts, but not including an authority or the body created under subch. III of ch. 149
20 or subch. III of ch. 636 or under ch. 238.

21 **SECTION 15.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,
22 section 20, and 2011 Wisconsin Acts 32 and (this act), is repealed and recreated
23 to read:

24 16.417 (1) (a) "Agency" means an office, department, independent agency,
25 institution of higher education, association, society, or other body in state

1 government created or authorized to be created by the constitution or any law, that
2 is entitled to expend moneys appropriated by law, including the legislature and the
3 courts, but not including an authority or the body created under subch. III of ch. 149
4 or subch. III of ch. 636.

5 **SECTION 16.** 16.52 (7) of the statutes, as affected by 2011 Wisconsin Act 10, is
6 amended to read:

7 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
8 that is authorized to maintain a contingent fund under s. 20.920 may establish a
9 petty cash account from its contingent fund. The procedure for operation and
10 maintenance of petty cash accounts and the character of expenditures therefrom
11 shall be prescribed by the secretary. In this subsection, "agency" means an office,
12 department, independent agency, institution of higher education, association,
13 society, or other body in state government created or authorized to be created by the
14 constitution or any law, that is entitled to expend moneys appropriated by law,
15 including the legislature and the courts, but not including an authority created in
16 subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 636 or in ch. 231, 233,
17 234, 237, 238, or 279.

18 **SECTION 17.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
19 is amended to read:

20 16.528 (1) (a) "Agency" means an office, department, independent agency,
21 institution of higher education, association, society, or other body in state
22 government created or authorized to be created by the constitution or any law, that
23 is entitled to expend moneys appropriated by law, including the legislature and the
24 courts, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of
25 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

1 **SECTION 18.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 16.53 (2) **IMPROPER INVOICES.** If an agency receives an improperly completed
4 invoice, the agency shall notify the sender of the invoice within 10 working days after
5 it receives the invoice of the reason it is improperly completed. In this subsection,
6 “agency” means an office, department, independent agency, institution of higher
7 education, association, society, or other body in state government created or
8 authorized to be created by the constitution or any law, that is entitled to expend
9 moneys appropriated by law, including the legislature and the courts, but not
10 including an authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch.
11 III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

12 **SECTION 19.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
13 10, is amended to read:

14 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
15 institution of higher education, association, society or other body in state
16 government created or authorized to be created by the constitution or any law, which
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of
19 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

20 **SECTION 20.** 16.70 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
21 amended to read:

22 16.70 (2) “Authority” means a body created under subch. II of ch. 114 ~~or~~, subch.
23 III of ch. 149, or subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237, or 279.

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

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1 16.72 (2) (e) (intro.) In writing the specifications under this subsection, the
2 department and any other designated purchasing agent under s. 16.71 (1) shall
3 incorporate requirements for the purchase of products made from recycled materials
4 and recovered materials if their use is technically and economically feasible. Each
5 authority other than the University of Wisconsin Hospitals and Clinics Authority,
6 the Lower Fox River Remediation Authority, the Health Benefit Plan Authority, and
7 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:

Badger

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, the Lower Fox
16 River Remediation Authority, the Health Benefit Plan Authority, and the Health
17 Insurance Risk-Sharing Plan Authority shall incorporate requirements relating to
18 the recyclability and ultimate disposition of products and, wherever possible, shall
19 write the specifications so as to minimize the amount of solid waste generated by the
20 state, consistent with the priorities established under s. 287.05 (12). All
21 specifications under this subsection shall discourage the purchase of single-use,
22 disposable products and require, whenever practical, the purchase of multiple-use,
23 durable products.

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

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1 16.75 (1m) The department shall award each order or contract for materials,
 2 supplies or equipment on the basis of life cycle cost estimates, whenever such action
 3 is appropriate. Each authority other than the University of Wisconsin Hospitals and
 4 Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin
 5 Aerospace Authority, the Health Benefit Plan Authority, and the Health Insurance
 6 Risk-Sharing Plan Authority shall award each order or contract for materials,
 7 supplies or equipment on the basis of life cycle cost estimates, whenever such action
 8 is appropriate. The terms, conditions and evaluation criteria to be applied shall be
 9 incorporated in the solicitation of bids or proposals. The life cycle cost formula may
 10 include, but is not limited to, the applicable costs of energy efficiency, acquisition and
 11 conversion, money, transportation, warehousing and distribution, training,
 12 operation and maintenance and disposition or resale. The department shall prepare
 13 documents containing technical guidance for the development and use of life cycle
 14 cost estimates, and shall make the documents available to local governmental units.

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

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

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

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1 16.75 (8) (a) 2. Each agency and authority other than the University of
2 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
3 Authority, the Health Benefit (Plan) Authority, and the Health Insurance
4 Risk-Sharing Plan Authority shall ensure that the average recycled or recovered
5 content of all paper purchased by the agency or authority measured as a proportion,
6 by weight, of the fiber content of paper products purchased in a fiscal year, is not less
7 than 40% of all purchased paper.

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

9 16.75 (9) The department, any other designated purchasing agent under s.
10 16.71 (1), any agency making purchases under s. 16.74, and any authority other than
11 the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River
12 Remediation Authority, the Health Benefit (Plan) Authority, and the Health
13 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
14 purchasing selections using specifications prepared under s. 16.72 (2) (f).

15 SECTION 27. 16.765 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
18 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
19 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
20 Health Benefit (Plan) Authority, the Lower Fox River Remediation Authority, the
21 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
22 Entertainment Corporation shall include in all contracts executed by them a
23 provision obligating the contractor not to discriminate against any employee or
24 applicant for employment because of age, race, religion, color, handicap, sex, physical
25 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as

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1 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
2 orientation, obligating the contractor to take affirmative action to ensure equal
3 employment opportunities.

4 SECTION 28. 16.765 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

6 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
7 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
8 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
9 Health Benefit Plan Authority, the Lower Fox River Remediation Authority, the
10 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
11 Entertainment Corporation shall include the following provision in every contract
12 executed by them: "In connection with the performance of work under this contract,
13 the contractor agrees not to discriminate against any employee or applicant for
14 employment because of age, race, religion, color, handicap, sex, physical condition,
15 developmental disability as defined in s. 51.01 (5), sexual orientation or national
16 origin. This provision shall include, but not be limited to, the following: employment,
17 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
18 termination; rates of pay or other forms of compensation; and selection for training,
19 including apprenticeship. Except with respect to sexual orientation, the contractor
20 further agrees to take affirmative action to ensure equal employment opportunities.
21 The contractor agrees to post in conspicuous places, available for employees and
22 applicants for employment, notices to be provided by the contracting officer setting
23 forth the provisions of the nondiscrimination clause".

24 SECTION 29. 16.765 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

Badger

1 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
 2 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
 3 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
 4 Health Benefit (Plan) Authority, the Lower Fox River Remediation Authority, and the
 5 Bradley Center Sports and Entertainment Corporation shall take appropriate action
 6 to revise the standard government contract forms under this section.

7 **SECTION 30.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
 8 is amended to read:

Badger

9 16.765 (5) The head of each contracting agency and the boards of directors of
 10 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
 11 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
 12 Insurance Risk-Sharing Plan Authority, the Health Benefit (Plan) Authority, the
 13 Lower Fox River Remediation Authority, the Wisconsin Economic Development
 14 Corporation, and the Bradley Center Sports and Entertainment Corporation shall
 15 be primarily responsible for obtaining compliance by any contractor with the
 16 nondiscrimination and affirmative action provisions prescribed by this section,
 17 according to procedures recommended by the department. The department shall
 18 make recommendations to the contracting agencies and the boards of directors of the
 19 University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational
 20 System Authority, the Wisconsin Aerospace Authority, the Health Insurance
 21 Risk-Sharing Plan Authority, the Health Benefit (Plan) Authority, the Lower Fox
 22 River Remediation Authority, the Wisconsin Economic Development Corporation,
 23 and the Bradley Center Sports and Entertainment Corporation for improving and
 24 making more effective the nondiscrimination and affirmative action provisions of

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1 contracts. The department shall promulgate such rules as may be necessary for the
2 performance of its functions under this section.

3 SECTION 31. 16.765 (6) of the statutes, as affected by 2011 Wisconsin Act 10,
4 is amended to read:

5 16.765 (6) The department may receive complaints of alleged violations of the
6 nondiscrimination provisions of such contracts. The department shall investigate
7 and determine whether a violation of this section has occurred. The department may
8 delegate this authority to the contracting agency, the University of Wisconsin
9 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
10 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
11 the Health Benefit (Plan) Authority, the Lower Fox River Remediation Authority, the
12 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
13 Entertainment Corporation for processing in accordance with the department's
14 procedures.

15 SECTION 32. 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
16 Act 10, is amended to read:

17 16.765 (7) (intro.) When a violation of this section has been determined by the
18 department, the contracting agency, the University of Wisconsin Hospitals and
19 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
20 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
21 Health Benefit (Plan) Authority, the Lower Fox River Remediation Authority, the
22 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
23 Entertainment Corporation, the contracting agency, the University of Wisconsin
24 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
25 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

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1 the Health Benefit Plan Authority, the Lower Fox River Remediation Authority, the
2 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
3 Entertainment Corporation shall:

4 **SECTION 33.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

Badger

6 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
7 further violations of this section and to report its corrective action to the contracting
8 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
9 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
10 Insurance Risk-Sharing Plan Authority, the Health Benefit Plan Authority, the
11 Lower Fox River Remediation Authority, the Wisconsin Economic Development
12 Corporation, or the Bradley Center Sports and Entertainment Corporation.

13 **SECTION 34.** 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
14 is amended to read:

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15 16.765 (8) If further violations of this section are committed during the term
16 of the contract, the contracting agency, the Fox River Navigational System Authority,
17 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
18 Authority, the Health Benefit Plan Authority, the Lower Fox River Remediation
19 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
20 Sports and Entertainment Corporation may permit the violating party to complete
21 the contract, after complying with this section, but thereafter the contracting agency,
22 the Fox River Navigational System Authority, the Wisconsin Aerospace Authority,
23 the Health Insurance Risk-Sharing Plan Authority, the Health Benefit Plan
24 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
25 Development Corporation, or the Bradley Center Sports and Entertainment

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1 Corporation shall request the department to place the name of the party on the
 2 ineligible list for state contracts, or the contracting agency, the Fox River
 3 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
 4 Insurance Risk-Sharing Plan Authority, the Health Benefit Plan Authority, the
 5 Lower Fox River Remediation Authority, the Wisconsin Economic Development
 6 Corporation, or the Bradley Center Sports and Entertainment Corporation may
 7 terminate the contract without liability for the uncompleted portion or any materials
 8 or services purchased or paid for by the contracting party for use in completing the
 9 contract.

10 SECTION 35. 16.85 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
 11 amended to read:

12 16.85 (2) To furnish engineering, architectural, project management, and other
 13 building construction services whenever requisitions therefor are presented to the
 14 department by any agency. The department may deposit moneys received from the
 15 provision of these services in the account under s. 20.505 (1) (kc) or in the general
 16 fund as general purpose revenue — earned. In this subsection, “agency” means an
 17 office, department, independent agency, institution of higher education, association,
 18 society, or other body in state government created or authorized to be created by the
 19 constitution or any law, which is entitled to expend moneys appropriated by law,
 20 including the legislature and the courts, but not including an authority created in
 21 subch. II of ch. 114 or, subch. III of ch. 149, or subch. III of ch. 636 or in ch. 231, 233,
 22 234, 237, 238, or 279.

23 SECTION 36. 16.865 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
 24 is amended to read:

1 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
2 proportionate share of the estimated costs attributable to programs administered by
3 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
4 may charge premiums to agencies to finance costs under this subsection and pay the
5 costs from the appropriation on an actual basis. The department shall deposit all
6 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
7 Costs assessed under this subsection may include judgments, investigative and
8 adjustment fees, data processing and staff support costs, program administration
9 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
10 subsection, "agency" means an office, department, independent agency, institution
11 of higher education, association, society, or other body in state government created
12 or authorized to be created by the constitution or any law, that is entitled to expend
13 moneys appropriated by law, including the legislature and the courts, but not
14 including an authority created in subch. II of ch. 114 or, subch. III of ch. 149, or subch.
15 III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

16 **SECTION 37.** 25.50 (1) (d) of the statutes is amended to read:

17 25.50 (1) (d) "Local government" means any county, town, village, city, power
18 district, sewerage district, drainage district, town sanitary district, public inland
19 lake protection and rehabilitation district, local professional baseball park district
20 created under subch. III of ch. 229, long-term care district under s. 46.2895, local
21 professional football stadium district created under subch. IV of ch. 229, local
22 cultural arts district created under subch. V of ch. 229, public library system, school
23 district or technical college district in this state, any commission, committee, board
24 or officer of any governmental subdivision of this state, any court of this state, other

1 than the court of appeals or the supreme court, or any authority created under s.
2 114.61, 149.41, 231.02, 233.02 ~~or~~, 234.02, or 636.70. *Badger*

3 SECTION 38. 40.02 (54) (n) of the statutes is created to read:

4 40.02 (54) (n) The Health Benefit Plan Authority. *Badger*

5 SECTION 39. 70.11 (41c) of the statutes is created to read: *Badger*

6 70.11 (41c) HEALTH BENEFIT PLAN AUTHORITY. All property owned by the Health
7 Benefit Plan Authority, provided that the use of the property is primarily related to
8 the purposes of the authority.

9 SECTION 40. 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,
10 is amended to read: *Badger*

11 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
12 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
13 Authority, of the Health Benefit Plan Authority, of the Fox River Navigational
14 System Authority, of the Wisconsin Economic Development Corporation, and of the
15 Wisconsin Aerospace Authority.

16 SECTION 41. 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read: *Badger*

18 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
19 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
20 Insurance Risk-Sharing Plan Authority, the Health Benefit Plan Authority, the
21 Wisconsin Economic Development Corporation, and the Fox River Navigational
22 System Authority.

23 SECTION 42. 101.055 (2) (a) of the statutes is amended to read:

24 101.055 (2) (a) "Agency" means an office, department, independent agency,
25 authority, institution, association, society, or other body in state government created

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1 or authorized to be created by the constitution or any law, and includes the
2 legislature and the courts, but excludes the Health Insurance Risk-Sharing Plan
3 Authority and the Health Benefit Plan Authority.

4 SECTION 43. 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
5 10, is amended to read:

6 101.177 (1) (d) "State agency" means any office, department, agency,
7 institution of higher education, association, society, or other body in state
8 government created or authorized to be created by the constitution or any law, that
9 is entitled to expend moneys appropriated by law, including the legislature and the
10 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
11 Center Sports and Entertainment Corporation, the University of Wisconsin
12 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
13 Economic Development Corporation, and the Wisconsin Health and Educational
14 Facilities Authority, but excluding the Health Insurance Risk-Sharing Plan
15 Authority, the Health Benefit Plan Authority, and the Lower Fox River Remediation
16 Authority.

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17 SECTION 44. 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10

18 and 32 is amended to read:

19 230.03 (3) "Agency" means any board, commission, committee, council, or
20 department in state government or a unit thereof created by the constitution or
21 statutes if such board, commission, committee, council, department, unit, or the
22 head thereof, is authorized to appoint subordinate staff by the constitution or
23 statute, except the Board of Regents of the University of Wisconsin System, a
24 legislative or judicial board, commission, committee, council, department, or unit
25 thereof or an authority created under subch. II of ch. 114 or, subch. III of ch. 149, or

1 subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237, 238, or 279. "Agency"
2 does not mean any local unit of government or body within one or more local units
3 of government that is created by law or by action of one or more local units of
4 government.

5 SECTION 45. 230.80 (4) of the statutes is amended to read:

6 230.80 (4) "Governmental unit" means any association, authority, board,
7 commission, department, independent agency, institution, office, society, or other
8 body in state government created or authorized to be created by the constitution or
9 any law, including the legislature, the office of the governor, and the courts, but
10 excluding the Health Insurance Risk-Sharing Plan Authority and the Health
11 Benefit (Plan) Authority. "Governmental unit" does not mean any political
12 subdivision of the state or body within one or more political subdivisions that is
13 created by law or by action of one or more political subdivisions.

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14 SECTION 46. 230.90 (1) (c) of the statutes is amended to read:

15 230.90 (1) (c) "Governmental unit" means any association, authority, board,
16 commission, department, independent agency, institution, office, society or other
17 body in state government created or authorized to be created by the constitution or
18 any law, including the legislature, the office of the governor and the courts.
19 "Governmental unit" does not mean the University of Wisconsin Hospitals and
20 Clinics Authority, the Health Insurance Risk-Sharing Plan Authority, the Health
21 Benefit (Plan) Authority, or any political subdivision of the state or body within one
22 or more political subdivisions which is created by law or by action of one or more
23 political subdivisions.

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24 SECTION 47. Chapter 636 of the statutes is created to read:

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CHAPTER 636

HEALTH BENEFIT PLAN EXCHANGE

SUBCHAPTER I

GENERAL PROVISIONS

636.01 Definitions. In this chapter:

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(1) "Authority" means the Health Benefit Plan Authority.

(2) "Educated health care consumer" means an individual who is knowledgeable about the health care system and who has background or experience in making informed decisions regarding health, medical, and scientific matters.

(3) "Federal act" means the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and any amendments to, or regulations or guidance issued under, those acts.

(4) (a) Except as provided in pars. (b) to (e), "health benefit plan" means a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(b) "Health benefit plan" does not include any of the following:

1. Coverage only for accident, or disability income insurance, or any combination of those.
2. Coverage issued as a supplement to liability insurance.
3. Liability insurance, including general liability insurance and automobile liability insurance.
4. Worker's compensation or similar insurance.
5. Automobile medical payment insurance.
6. Credit-only insurance.

1 7. Coverage for on-site medical clinics.

2 8. Other similar insurance coverage, specified in federal regulations issued
3 under P.L. 104-191, under which benefits for health care services are secondary or
4 incidental to other insurance benefits.

5 (c) "Health benefit plan" does not include any of the following benefits if they
6 are provided under a separate policy, certificate, or contract of insurance or otherwise
7 not an integral part of the plan:

8 1. Limited scope dental or vision benefits.

9 2. Benefits for long-term care, nursing home care, home health care,
10 community-based care, or any combination of those.

11 3. Other similar, limited benefits specified in federal regulations issued under
12 P.L. 104-191.

13 (d) "Health benefit plan" does not include any of the following benefits if the
14 benefits are provided under a separate policy, certificate, or contract of insurance,
15 there is no coordination between the provision of the benefits and any exclusion of
16 benefits under any group health plan maintained by the same plan sponsor, and the
17 benefits are paid with respect to an event without regard to whether benefits are
18 provided with respect to such an event under any group health plan maintained by
19 the same plan sponsor:

20 1. Coverage only for a specified disease or illness.

21 2. Hospital indemnity or other fixed indemnity insurance.

22 (e) "Health benefit plan" does not include any of the following if offered as a
23 separate policy, certificate, or contract of insurance:

24 1. Medicare supplemental health insurance as defined under section 1882 (g)
25 (1) of the federal Social Security Act.

1 2. Coverage supplemental to the coverage provided under 10 USC ch. 55
2 (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

3 3. Similar supplemental coverage provided to coverage under a group health
4 plan.

5 **(5)** “Health carrier” or “carrier” means an entity subject to the insurance laws
6 and rules of this state, or subject to the jurisdiction of the commissioner, that
7 contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse
8 any of the costs of health care services, including a sickness and accident insurance
9 company, a health maintenance organization, a nonprofit hospital and health service
10 corporation, or any other entity providing a plan of health insurance, health benefits,
11 or health services.

12 **(5m)** “Minimum essential coverage” has the meaning given in 26 USC 5000A
13 (f) (1).

14 **(6)** “Qualified dental plan” means a limited scope dental plan that has been
15 certified in accordance with s. 636.42 (5).

16 **(7)** “Qualified employer” means a small employer that elects to make its
17 full-time employees eligible for one or more qualified health plans offered through
18 the SHOP Exchange and, at the option of the employer, some or all of its part-time
19 employees, provided that the employer satisfies any of the following:

20 (a) The employer has its principal place of business in this state and elects to
21 provide coverage through the SHOP Exchange to all of its eligible employees,
22 wherever employed.

23 (b) The employer elects to provide coverage through the SHOP Exchange to all
24 of its eligible employees who are principally employed in this state.

1 (8) "Qualified health plan" means a health benefit plan that has in effect a
2 certification that the plan meets the criteria for certification described in section
3 1311 (c) of the federal act and s. 636.42.

4 (9) "Qualified individual" means an individual, including a minor, who satisfies
5 all of the following:

6 (a) The individual is seeking to enroll in a qualified health plan offered to
7 individuals through the exchange under subch. II.

8 (b) The individual resides in this state.

9 (c) At the time of enrollment, the individual is not incarcerated^{in a correctional facility} other than
10 incarceration pending the disposition of charges. ✓

11 (d) The individual is, and is reasonably expected to be for the entire period for
12 which enrollment is sought, a citizen or national of the United States or an alien
13 lawfully present in the United States.

14 (10) "Secretary" means the secretary of the federal department of health and
15 human services.

16 (11) "SHOP Exchange" means a small business health options program
17 established under s. 636.30 (1) (q).

18 (12) (a) "Small employer" means an employer that employed an average of not
19 more than 100 employees during the preceding calendar year.

20 (b) For purposes of this subsection, all of the following apply:

21 1. All persons treated as a single employer under section 414 (b), (c), (m), or (o)
22 of the Internal Revenue Code shall be treated as a single employer.

23 2. An employer and any predecessor employer shall be treated as a single
24 employer.

1 if the individual enrolls in another type of minimum essential coverage because the
2 individual has become newly eligible for that coverage or because the individual's
3 employer-sponsored coverage has become affordable under the standards of section
4 36B (c) (2) (C) of the Internal Revenue Code.

5 (4) The authority may enter into information-sharing agreements with federal
6 and state agencies and entities operating exchanges in other states to carry out its
7 responsibilities under this chapter, provided that such agreements include adequate
8 protections with respect to the confidentiality of the information to be shared and
9 comply with all state and federal laws and rules and regulations.

10 **636.30 Exchange duties and powers.** (1) In addition to all other duties
11 imposed under this chapter, the authority shall do all of the following relating to the
12 exchange:

13 (a) Implement procedures for the certification, recertification, and
14 decertification, consistent with guidelines developed by the secretary under section
15 1311 (c) of the federal act and s. 636.42, of health benefit plans as qualified health
16 plans.

17 (b) Provide for the operation of a toll-free telephone hotline to respond to
18 requests for assistance.

19 (c) Provide for enrollment periods, as provided under section 1311 (c) (6) of the
20 federal act.

21 (d) Maintain an Internet Web site through which enrollees and prospective
22 enrollees of qualified health plans may obtain standardized comparative
23 information on such plans.

24 (e) Assign a rating to each qualified health plan offered through the exchange
25 in accordance with the criteria developed by the secretary under section 1311 (c) (3)


1 of the federal act, and determine each qualified health plan's level of coverage in
2 accordance with regulations issued by the secretary under section 1302 (d) (2) (A) of
3 the federal act.

4 (f) Use a standardized format for presenting health benefit options in the
5 exchange, including the use of the uniform outline of coverage established under
6 section 2715 of the federal Public Health Service Act (42 USC 300gg-15).

7 (g) Establish quality improvement standards for health benefit plans offered
8 through the exchange.

9 (h) Establish a system for enrolling eligible groups and individuals, using a
10 standard application form developed by the commissioner under s. 636.46 (2).

11 (i) Establish procedures for collecting premiums and remitting premium
12 payments and providing enrollment information to health carriers.

13 (j) Establish, in consultation with the commissioner, the method for
14 determining the amount of the surcharge under s. 636.4~~4~~⁴⁵ (1) and establish the
15 procedure for imposing and collecting the surcharge. 

16 (k) Establish a plan for publicizing the exchange and the eligibility
17 requirements and enrollment procedures.

18 (L) Establish and operate a service center to provide information to small
19 employers, individuals, enrollees, and insurance intermediaries about the exchange.

20 (m) Establish a mechanism for regular communication and cooperation with
21 insurance intermediaries.

22 (n) Establish an independent and binding appeals process for resolving
23 disputes over eligibility and other determinations made by the authority.

24 (o) In accordance with section 1413 of the federal act, inform individuals of
25 eligibility requirements for Medical Assistance under subch. IV of ch. 49 or any other

1 applicable state or local public program and if, through screening of the application
2 by the authority, the authority determines that any individual is eligible for any such
3 program, enroll that individual in that program.

4 (p) Establish and make available by electronic means a calculator to determine
5 the actual cost of coverage after application of any premium tax credit under section
6 36B of the Internal Revenue Code and any cost-sharing reduction under section
7 1402 of the federal act.

8 (q) Establish a SHOP Exchange through which qualified employers may access
9 health care coverage for their employees and which shall enable any qualified
10 employer to specify a level of coverage so that any of its employees may enroll in any
11 qualified health plan offered through the SHOP Exchange at the specified level of
12 coverage.

13 (r) Perform duties required of the authority by the secretary or the federal
14 secretary of the treasury related to determining eligibility for premium tax credits,
15 reduced cost-sharing, or individual responsibility requirement exemptions.

****NOTE: Should the above provision also be removed for the time being?

16 (s) Select entities, which may include insurance intermediaries, that are
17 qualified to serve as navigators in accordance with section 1311 (i) of the federal act
18 and standards developed by the secretary, and award grants to enable navigators to
19 do all of the following:

20 1. Conduct public education activities to raise awareness of the availability of
21 qualified health plans.

22 2. Distribute fair and impartial information concerning enrollment in qualified
23 health plans and concerning the availability of premium tax credits under section

1 36B of the Internal Revenue Code and cost-sharing reductions under section 1402
2 of the federal act.

3 3. Facilitate enrollment in qualified health plans.

4 4. Provide referrals to any applicable office of health insurance consumer
5 assistance or health insurance ombudsman established under section 2793 of the
6 federal Public Health Service Act (42 USC 300gg-93), or to any other appropriate
7 state agency or agencies, for any enrollee with a grievance, complaint, or question
8 regarding their health benefit plan, coverage, or determination under that plan or
9 coverage.

10 5. Provide information in a manner that is culturally and linguistically
11 appropriate to the needs of the population being served by the exchange.

Section 29-11
Section 29-12

12 ✓ ← (g) Review the rate of premium growth within the exchange and outside the
13 exchange, and consider the information in developing recommendations on whether
14 to continue limiting qualified employer status to small employers.

15 w ← (g) Credit the amount of any free choice voucher to the monthly premium of the
16 plan in which a qualified employee is enrolled, in accordance with section 10108 of
17 the federal act, and collect the amount credited from the offering employer.

18 X ← (g) Consult with stakeholders relevant to carrying out the activities required
19 under this chapter, including any of the following:

- 20 1. Educated health care consumers who are enrollees in qualified health plans.
- 21 2. Individuals and entities with experience in facilitating enrollment in
- 22 qualified health plans.
- 23 3. Representatives of small businesses and self-employed individuals.
- 24 4. The department of health services.
- 25 5. Advocates for enrolling hard-to-reach populations.

1 (1) Meet all of the following financial integrity requirements:

2 1. Keep an accurate accounting of all activities, receipts, and expenditures and
3 annually submit to the secretary, the governor, the commissioner, and the legislature
4 a report concerning such accountings.

5 2. Fully cooperate with any investigation conducted by the secretary under the
6 secretary's authority under the federal act and allow the secretary, in coordination
7 with the inspector general of the federal department of health and human services,
8 to do all of the following:

- 9 a. Investigate the affairs of the authority.
- 10 b. Examine the properties and records of the authority.
- 11 c. Require periodic reports in relation to the activities undertaken by the
12 authority.

13 3. In carrying out its activities under this chapter, not use any funds intended
14 for the administrative and operational expenses of the authority for staff retreats,
15 promotional giveaways, excessive executive compensation, or promotion of federal
16 or state legislative and regulatory modifications.

17 (2) The authority may do all of the following relating to the exchange:

18 (a) Contract with a 3rd-party administrator for the provision of services on
19 behalf of the exchange.

20 (b) Establish risk adjustment mechanisms for the exchange.

21 (c) Enter into agreements with or establish sub-exchanges.

22 (3) The authority shall seek grants or other funding from the federal or state
23 government for which it may be eligible and from private foundations. The authority
24 may begin operating the exchange only if it receives federal grant moneys or other
25 funds for that purpose.

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1 **636.42 Health benefit plan certification.** (1) The authority may certify a
2 health benefit plan as a qualified health plan if all of the following are true:

3 (a) The plan provides the essential health benefits package described in section
4 1302 (a) of the federal act, except that the plan is not required to provide essential
5 benefits that duplicate the minimum benefits of qualified dental plans, as provided
6 in sub. (5), if all of the following are satisfied:

7 1. The authority has determined that at least one qualified dental plan is
8 available to supplement the plan's coverage.

9 2. The carrier makes prominent disclosure at the time it offers the plan, in a
10 form approved by the authority, that the plan does not provide the full range of
11 essential pediatric benefits and that qualified dental plans providing those benefits
12 and other dental benefits not covered by the plan are offered through the exchange.

13 (b) The premium rates and contract language have been filed with and not
14 disapproved by the commissioner.

15 (c) The plan provides at least a bronze level of coverage, as determined under
16 s. 636.30 (1) (e), unless the plan is certified as a qualified catastrophic plan, meets
17 the requirements of the federal act for catastrophic plans, and will only be offered to
18 individuals eligible for catastrophic coverage.

19 (d) The plan's cost-sharing requirements do not exceed the limits established
20 under section 1302 (c) (1) of the federal act and, if the plan is offered through the
21 SHOP Exchange, the plan's deductible does not exceed the limits established under
22 section 1302 (c) (2) of the federal act.

23 (e) The health carrier offering the plan satisfies all of the following:

24 1. Is licensed and in good standing to offer health insurance coverage in this
25 state.

1 2. Offers at least one qualified health plan in the silver level and at least one
2 plan in the gold level through each component of the exchange in which the carrier
3 participates. In this subdivision, "component" refers to the SHOP ^E exchange and the
4 exchange for individual coverage.

5 3. Charges the same premium rate for each qualified health plan without
6 regard to whether the plan is offered through the exchange and without regard to
7 whether the plan is offered directly from the carrier or through an insurance
8 intermediary.

9 4. Does not charge any cancellation fees or penalties in violation of s. 636.25
10 (3).

11 5. Complies with the regulations developed by the secretary under section 1311
12 (d) of the federal act and such other requirements as the authority may establish.

13 (f) The plan meets the requirements of certification as required by any rules
14 promulgated under s. 636.46 (1) and by the secretary under section 1311 (c) of the
15 federal act, including minimum standards in the areas of marketing practices,
16 network adequacy, essential community providers in underserved areas,
17 accreditation, quality improvement, uniform enrollment forms, and descriptions of
18 coverage and information on quality measures for health benefit plan performance.

19 (g) The authority determines that making the plan available through the
20 exchange is in the interest of qualified individuals and qualified employers in this
21 state.

22 (2) The authority shall not exclude a health benefit plan for any of the following
23 reasons or in any of the following ways:

24 (a) On the basis that the plan is a fee-for-service plan.

25 (b) Through the imposition of premium price controls by the authority.

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1 (c) On the basis that the health benefit plan provides treatments necessary to
2 prevent patients' deaths in circumstances the authority determines are
3 inappropriate or too costly.

4 (3) The authority shall require each health carrier seeking certification of a
5 plan as a qualified health plan to do all of the following:

6 (a) Submit a justification for any premium increase before implementation of
7 that increase. The carrier shall prominently post the information on its Internet Web
8 site. The authority shall take this information, along with the information and the
9 recommendations provided to the authority by the commissioner under section 2794
10 (b) of the federal Public Health Service Act (42 USC 300gg-94 (b)), into consideration
11 when determining whether to allow the carrier to make ^{the} plans available through the ✓
12 authority.

13 (b) 1. Make available to the public, in the format described in subd. 2., and
14 submit to the authority, the secretary, and the commissioner, accurate and timely
15 disclosure of all of the following:

- 16 a. Claims payment policies and practices.
- 17 b. Periodic financial disclosures.
- 18 c. Data on enrollment.
- 19 d. Data on disenrollment.
- 20 e. Data on the number of claims that are denied.
- 21 f. Data on rating practices.
- 22 g. Information on cost-sharing and payments with respect to any
23 out-of-network coverage.
- 24 h. Information on enrollee and participant rights under title I of the federal act.
- 25 i. Other information as determined appropriate by the secretary.

1 2. The information required in subd. 1. shall be provided in plain language, as
2 that term is defined in section 1311 (e) (3) (B) of the federal act.

3 (c) Permit individuals to learn, in a timely manner upon the request of the
4 individual, the amount of cost-sharing, including deductibles, copayments, and
5 coinsurance, under the individual's plan or coverage that the individual would be
6 responsible for paying with respect to the furnishing of a specific item or service by
7 a participating provider. At a minimum, this information shall be made available
8 to the individual through an Internet Web site and through other means for
9 individuals without access to the Internet.

10 (4) The authority shall not exempt any health carrier seeking certification of
11 a qualified health plan, regardless of the type or size of the carrier, from state
12 licensure or solvency requirements and shall apply the criteria of this section in a
13 manner that assures a level playing field between or among health carriers
14 participating in the exchange. → equitable treatment of all ✓

15 (5) (a) The provisions of this chapter that are applicable to qualified health
16 plans shall also apply to the extent relevant to qualified dental plans except as
17 modified in accordance with pars. (b), (c), and (d) or by regulations adopted by the
18 authority.

19 (b) The carrier shall be licensed to offer dental coverage, but need not be
20 licensed to offer other health benefits.

21 (c) The plan shall be limited to dental and oral health benefits, without
22 substantially duplicating the benefits typically offered by health benefit plans
23 without dental coverage and shall include, at a minimum, the essential pediatric
24 dental benefits prescribed by the secretary under section 1302 (b) (1) (J) of the federal

1 act, and such other dental benefits as the authority or the secretary may specify by
2 regulation.

3 (d) Carriers may jointly offer a comprehensive plan through the exchange in
4 which the dental benefits are provided by a carrier through a qualified dental plan
5 and the other benefits are provided by a carrier through a qualified health plan,
6 provided that the plans are priced separately and are also made available for
7 purchase separately at the same price.

8 **636.43 Insurer requirements.** (1) After the exchange becomes operational,
9 no health carrier may offer or issue a health benefit plan in this state to an individual
10 or to a small employer except through the exchange.

11 (2) For the purpose of determining premiums, a carrier may pool together all
12 individuals and employees who have coverage under all of the plans issued by the
13 carrier through the exchange.

14 (3) A carrier that offers health benefit plans through the exchange shall
15 establish a toll-free hotline for providing information to enrollees and other
16 individuals and shall furnish such reasonable reports as the authority determines
17 necessary for the administration of the exchange.

18 (4) The authority may audit any carrier that provides coverage under a health
19 benefit plan through the exchange for the purpose of ensuring that the carrier is
20 providing covered individuals with the benefits provided for under this subchapter
21 in a manner that does all of the following:

22 (a) Complies with the provisions of this chapter.

23 (b) Promotes positive health outcomes.

24 (c) Advances value-based and evidence-based medical practices.

Insert 36-4

1 (d) Avoids unnecessary operating and capital costs arising from inappropriate
2 utilization or inefficient delivery of health care services, unwarranted duplication of
3 services and infrastructure, or creation of excess care delivery capacity.

4 (e) Holds down the growth of health care costs.

5 **636.44 Funding; publication of costs.** (1) For payment of administrative
6 expenses, the authority may impose a surcharge on each health carrier offering
7 health benefit plans through the exchange. The surcharge shall be based on the
8 carrier's total premium collected through the exchange.

9 (2) The authority shall publish the average costs of licensing, regulatory fees,
10 and any other payments required by the authority, and the administrative costs of
11 the authority, on an Internet Web site to educate consumers on such costs. This
12 information shall include information on moneys lost to waste, fraud, and abuse.

13 **636.46 Rules; application form.** (1) The commissioner may promulgate
14 rules to implement the provisions of this chapter. Rules promulgated under this
15 section shall not conflict with or prevent the application of regulations promulgated
16 by the secretary under the federal act.

17 (2) The commissioner shall develop a standard application form for use in the
18 exchange.

19 **636.48 Relation to other laws.** Nothing in this chapter, and no action taken
20 by the authority under this chapter, shall be construed to preempt or supersede the
21 authority of the commissioner to regulate the business of insurance within this state.
22 Except as expressly provided to the contrary in this chapter, all health carriers
23 offering qualified health plans in this state shall comply fully with all applicable
24 health insurance laws of this state and rules promulgated and orders issued by the
25 commissioner.

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SUBCHAPTER III

HEALTH BENEFIT PLAN AUTHORITY

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636.70 Creation and organization of authority. (1) There is created a

public body corporate and politic to be known as the "Health Benefit Plan Authority."

The board of directors of the authority shall consist of the commissioner, or his or her designee; the secretary of employee trust funds, or his or her designee; the person who is appointed by the secretary of health services to be the director of the Medical Assistance program, or his or her designee; the executive director of the Health Insurance Risk-Sharing Plan Authority, or his or her designee; the executive director, or his or her designee, of the Wisconsin Collaborative for Healthcare Quality, if that organization exists; the executive director, or his or her designee, of the the Wisconsin Health Information Organization, if that organization exists; and all of the following members, who shall be nominated by the governor, and with the advice and consent of the senate appointed for 3-year terms except as provided in sub. (2):

- (a) A member in good standing of the American Academy of Actuaries.
- (b) A health economist.
- (c) An employee benefits specialist.
- (d) A representative of small employers.
- (e) A representative of an organization that represents consumer interests.
- (f) A representative of organized labor.
- (g) An individual with experience in health care administration.

(2) No member of the board appointed under sub. (1) (a) to (g) may be a health care provider, as defined in s. 146.81 (1) (a) to (hp); an employee of a health care

1 provider, as defined in s. 146.81 (1) (i) to (p); an employee of an insurer that is
2 authorized to do business in the state; or an insurance intermediary.

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

5 (4) A member of the board shall receive no compensation for services under this
6 chapter but shall be reimbursed for actual and necessary expenses, including travel
7 expenses, incurred in the discharge of the member's duties under this chapter.

8 (5) The commissioner or the commissioner's designee shall be the chairperson
9 of the board. Seven members of the board constitute a quorum for the purpose of
10 conducting the business and exercising the powers of the authority, notwithstanding
11 the existence of any vacancy. The board may take action upon a vote of a majority
12 of the members present, unless the bylaws of the authority require a larger number.

13 (6) The chairperson shall appoint an executive director who shall not be a
14 member of the board and who shall serve at the pleasure of the board. The executive
15 director shall receive compensation commensurate with the duties of the office, as
16 determined by the board. The executive director shall serve as secretary of the
17 authority and shall keep a record of the proceedings of the authority and shall be
18 custodian of all books, documents, and papers filed with the authority, the minute
19 book or journal of the authority, and its official seal. The executive director or other
20 person may cause copies to be made of all minutes and other records and documents
21 of the authority and may give certificates under the official seal of the authority to
22 the effect that such copies are true copies, and all persons dealing with the authority
23 may rely upon such certificates. The executive director shall have all of the following
24 duties:

1 (a) Supervising the administrative affairs and the general management and
2 operation of the authority.

3 (b) Planning, directing, coordinating, and executing administrative functions
4 in conformity with the policies and directives of the board.

5 (c) Employing professional and clerical staff, as necessary.

6 (d) Reporting to the board on all operations under his or her control and
7 supervision.

8 (e) Preparing an annual budget and managing the administrative expenses of
9 the authority.

10 (f) Undertaking any activities necessary to implement the powers and duties
11 set forth in this chapter.

12 **636.72 Authority duties.** In addition to all other duties imposed under this
13 chapter, the authority shall do all of the following:

14 (1) Establish its annual budget and monitor its fiscal management.

15 (2) No later than two years after an exchange under subch. II begins operation,
16 and annually thereafter, submit a report to the legislature under s. 13.172 (2) and
17 to the governor on the operation of any exchange under subch. II, including a review
18 of all of the following:

19 (a) Progress toward the goals of the exchange.

20 (b) The operations and administration of the exchange.

21 (c) The types of health insurance plans available to eligible individuals and
22 groups and the percentage of the total exchange enrollees served by each plan.

23 (d) Surveys and reports on the insurers' experiences with different plans,
24 including aggregated data on enrollees, claims, statistics, complaint data, and
25 enrollee satisfaction data.

1 (e) Significant observations regarding utilization and adoption of the
2 exchange.

3 (3) Annually submit to the governor and the legislative audit bureau a
4 statement of its activities and financial condition.

5 (4) Approve the use of any trademarks, seals, or logos by participating insurers
6 and small employers.

7 (5) Comply with the requirements of s. 16.413 as if the authority is a state
8 agency.

9 **636.74 Authority powers.** The authority has all of the powers necessary or
10 convenient to carry out its duties under this chapter, except that it may not acquire
11 or hold title to real estate or issue bonds. In addition, the authority may do any of
12 the following:

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

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

17 (3) Hire employees, define their duties, and fix their rate of compensation.

18 (4) Delegate by resolution to one or more of its members any powers and duties
19 that it considers proper.

20 (5) Incur debt.

21 (6) Appoint any technical or professional advisory committee that the
22 authority finds necessary to assist the authority in exercising its duties and powers.

23 If the authority appoints a committee, the authority shall define the duties of the
24 committee and provide reimbursement for the expenses of the committee.

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

3 (8) Procure liability insurance.

4 (9) Sue and be sued in its own name and plead and be impleaded.

5 (10) Execute contracts and other instruments, including contracts for
6 professional or technical services required for the authority or the operation of an
7 exchange under subch. II.

8 **636.76 Contracting for professional services.** (1) Whenever contracting
9 for professional services, the authority shall solicit competitive sealed bids or
10 competitive sealed proposals, whichever is appropriate. Each request for
11 competitive sealed proposals shall state the relative importance of price and other
12 evaluation factors.

13 (2) (a) When the estimated cost exceeds \$25,000, the authority may invite
14 competitive sealed bids or proposals by publishing a class 2 notice under ch. 985 or
15 by posting notice on the Internet at a site determined or approved by the authority.
16 The notice shall describe the contractual services to be purchased, the intent to make
17 the procurement by solicitation of bids or proposals, any requirement for surety, and
18 the date the bids or proposals will be opened, which shall be at least 7 days after the
19 date of the last insertion of the notice or at least 7 days after the date of posting on
20 the Internet.

21 (b) When the estimated cost is \$25,000 or less, the authority may award the
22 contract in accordance with simplified procedures established by the authority for
23 such transactions.

24 (c) For purposes of clarification, the authority may discuss the requirements
25 of the proposed contract with any person who submits a bid or proposal and shall

1 permit any offerer to revise his or her bid or proposal to ensure its responsiveness to
2 those requirements.

3 (3) (a) The authority shall determine which bids or proposals are reasonably
4 likely to be awarded the contract and shall provide each offerer of such a bid or
5 proposal a fair and equal opportunity to discuss the bid or proposal. The authority
6 may negotiate with each offerer in order to obtain terms that are advantageous to
7 the authority. Prior to the award of the contract, any offerer may revise his or her
8 bid or proposal. The authority shall keep a written record of all meetings,
9 conferences, oral presentations, discussions, negotiations, and evaluations of bids or
10 proposals under this section.

11 (b) In opening, discussing, and negotiating bids or proposals, the authority may
12 not disclose any information that would reveal the terms of a competing bid or
13 proposal.

14 (4) (a) After receiving each offerer's best and final offer, the authority shall
15 determine which proposal is most advantageous and shall award the contract to the
16 person who offered it. The authority's determination shall be based only on price and
17 the other evaluation factors specified in the request for bids or proposals. The
18 authority shall state in writing the reason for the award and shall place the
19 statement in the contract file.

20 (b) Following the award of the contract, the authority shall prepare a register
21 of all bids or proposals.

22 **636.78 Political activities.** (1) No employee of the authority may directly
23 or indirectly solicit or receive subscriptions or contributions for any partisan political
24 party or any political purpose while engaged in his or her official duties as an
25 employee. No employee of the authority may engage in any form of political activity

1 calculated to favor or improve the chances of any political party or any person seeking
2 or attempting to hold partisan political office while engaged in his or her official
3 duties as an employee or engage in any political activity while not engaged in his or
4 her official duties as an employee to such an extent that the person's efficiency during
5 working hours will be impaired or that he or she will be tardy or absent from work.
6 Any violation of this section is adequate grounds for dismissal.

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

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

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

16 **636.80 Liability; expenses; limitations.** (1) Neither the state, nor any
17 political subdivision of the state, nor any officer, employee, or agent of the state or
18 a political subdivision who is acting within the scope of employment or agency is
19 liable for any debt, obligation, act, or omission of the authority.

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

22 (3) A cause of action may arise against and civil liability may be imposed on
23 the authority for its acts or omissions or for any act or omission of a member of the
24 board, the executive director, or an employee of the authority in the performance of
25 his or her powers and duties under this chapter.

Insert
43-16
B
636.84

X

1 (4) A cause of action may not arise against and civil liability may not be imposed
 2 on a member of the board, the executive director, or an employee of the authority for
 3 any act or omission in the performance of his or her powers and duties under this
 4 chapter, unless the person asserting liability proves that the act or omission
 5 constitutes willful misconduct or intentional violation of the law. The member of the
 6 board, executive director, or employee who performed the act or omission that formed
 7 the basis of liability shall be jointly liable with the authority if that board member,
 8 executive director, or employee fails to cooperate with the authority in defense of the
 9 claim and if the failure to cooperate affects the defense of the action.

10 (5) The amount recoverable by any person for any damages, injuries, or death
 11 in any civil action or civil proceeding against the authority, including any such action
 12 or proceeding based on contribution or indemnification, shall not exceed \$100,000.

13 **SECTION 48. Effective dates.** This act takes effect on the day after publication,
 14 except as follows:

15 (1) The repeal and recreation of section 16.417 (1) (a) of the statutes takes effect
 16 on January 1, 2012, or on the day after publication, whichever is later.

17

(END)

Insert 44-17

D-note

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/P3insTD
TJD:.....

1 INSERT 20-24

2 SECTION 1. 635.18 (1) of the statutes is amended to read:

3 635.18 (1) ~~Every~~ Any small employer insurer shall may actively market health
4 benefit plan coverage to small employers in the state.

History: 1991 a. 250, 315; 1997 a. 27.

(END INSERT 20-24)

5 INSERT 29-12

whose alcohol or other drug abuse or mental health treatment

6 (u) For those persons not covered by a federally administered program,
7 coordinate the relationship between the exchange and the county departments
8 under s. 51.42 or 51.437 to provide outpatient and inpatient mental health and
9 alcohol or other drug abuse treatment with all of the following goals for the
10 coordination:

***NOTE: I am unsure whether the county systems under s. 51.42 and 51.437 were
the state-mandated, county-administered systems the draft language was referring to.
You may want to check with whomever drafted that language if my references are correct,
and if they are not, to get a statutory citation or a more exact name of the program or
facility. *they*

- 11 1. Maximizing coverage and improving access through the exchange for
12 outpatient and inpatient treatment of mental illness and alcohol or other drug abuse.
- 13 2. Improving the quality of treatment for persons with alcohol or other drug
14 dependence or a mental illness.
- 15 3. Fully integrating the treatment for physical conditions, alcohol or other drug
16 abuse, and mental illness.
- 17 4. Reducing the cost of the county departments under *(s.)* 51.42 and 51.437 to
18 taxpayers by avoiding unnecessary overlap between the improved coverage of
19 alcohol or other drug abuse treatment or mental illness treatment by health plans

1 offered through the exchange and the services provided by county departments
2 under s. 51.42 or 51.437. ✓

(END INSERT 29-12)

3 INSERT 43-16 (10/3) ✓

4 **636.80 Financial disclosure.** (1) In this section, "individual required to file"
5 means a person who is a member of the board of the authority or the executive
6 director of the authority.

****NOTE: Did you want all employees of the authority to be required to file financial disclosure forms?

7 (2) Each individual who in January of any year is an individual required to file
8 shall file with the government accountability board no later than April 30 of that year
9 a statement of economic interests meeting each of the requirements of s. 19.44 (1). ✓
10 The information contained on the statement shall be current as of December 31 of
11 the preceding year.

12 (3) An individual required to file shall file with the government accountability
13 board a statement of economic interests meeting each of the requirements of s. 19.44
14 (1) no later than 21 days following the date he or she assumes a position on the board
15 or the position of executive director if the individual required to file has not
16 previously filed a statement of economic interests with the government
17 accountability board during that year. The information on the statement shall be
18 current as per the date he or she assumes the position.

19 (4) If an individual required to file fails to make a timely filing, the government
20 accountability board shall promptly provide notice of the delinquency to the
1 secretary of administration, and to the executive director of the authority, or the
22 chairperson of the board if the executive director's filing is untimely. Upon such

Law 43-16 cont'd (2 of 3)

1 notification, both the secretary of administration and the executive director, or
2 chairperson, shall withhold all payments for compensation, reimbursement of
3 expenses, and other obligations to the individual until the government
4 accountability board notifies those to whom notice of the delinquency was provided
5 that the individual *pe* has complied with this section. ✓

6 (5) On its own motion or at the request of any individual required to file a
7 statement of economic interests, the government accountability board may extend
8 the time for filing or waive any filing requirement if the government accountability
9 board determines that the literal application of the filing requirements of this
10 subchapter would work an unreasonable hardship on that individual or that the
11 extension of the time for filing or waiver is in the public interest. The government
12 accountability board shall set forth in writing as a matter of public record its reason
13 for the extension or waiver.

14 **636.82 Conflict of interest prohibited; exception.** (1) Except in
15 accordance with the government accountability board's advice under s. 5.05 (6a) and
16 except as otherwise provided in sub. (2), a member of the board and the executive
17 director may not do any of the following:

18 (a) Take any official action substantially affecting a matter in which the board
19 member or executive director, a member of his or her immediate family, or an
20 organization with which the board member or director is associated has a substantial
21 financial interest.

22 (b) Use his or her office or position in a way that produces or assists in the
23 production of a substantial benefit, direct or indirect, for the board member or
24 executive director, one or more members of *the* his or her immediate family either

the

*Ins 43-16 cont'd
(303)*

*board member or the
Executive director*

1 separately or together, or an organization with which the board member or executive
2 director is associated.

3 (2) This section does not prohibit a state public official from taking any action
4 concerning the lawful payment of salaries or employee benefits or reimbursement of
5 actual and necessary expenses.

LPS: (END INSERT 43-16)

use autonumber not hard number

6 INSERT 44-17

#

7 (2) The treatment of section 635.18 (1) of the statutes takes effect on January
8 1, 2014.

(END INSERT 44-17)

Ⓟ ~~xxx~~ Note: Do you want any penalties to apply for
violating ~~this~~ the conflict of interest or financial disclosure
provisions?

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/P3ins
PJK:.....

INSERT 29-11

1 ^G (t) Assist in the coordination of any necessary administrative operations
2 between the department of corrections and the department of health services to
3 ensure all of the following:

4 1. That an individual, upon placement in a correctional facility, is disenrolled
5 for the duration of his or her incarceration from any health care coverage in which
6 he or she is enrolled.

7 2. That an individual who is incarcerated in a correctional facility is enrolled
8 in some form of minimum essential coverage on the date of his or her release from
9 the facility.

10 (u)

(END OF INSERT 29-11)

INSERT 30-21

11 ^G (d) Create any other exchange, or component of the exchange, that is provided
12 for under federal law.

(END OF INSERT 30-21)

INSERT 35-8

13 ^{not} Any health carrier that is authorized to do business in this state in one or more
14 lines of insurance that includes health insurance may offer health benefit plan
15 coverage through the exchange.

(END OF INSERT 35-8)

SENATE BILL 707

Insert 36-4

SECTION 51

1 (b) Promotes positive health outcomes.

2 (c) Advances value-based and evidence-based medical practices.

3 (d) Avoids unnecessary operating and capital costs arising from inappropriate
4 utilization or inefficient delivery of health care services, unwarranted duplication of
5 services and infrastructure, or creation of excess care delivery capacity.

6 (e) Holds down the growth of health care costs.

7 **635.40 Intermediaries.** An insurance intermediary that enrolls ^{an} ~~an~~

8 individual under s. 635.35 (1) (b) or (c) in a health benefit plan through the exchange

9 shall be paid a commission by the insurer ^{carrier} offering the health benefit plan. An

10 insurance intermediary that enrolls the employees of a small employer under s.

11 635.35 (1) (a) in one or more health benefit plans through the exchange shall be paid

12 a commission by each insurer ^{carrier} offering a health benefit plan selected by an employee

13 of the small employer. The authority shall determine the commission amounts that

14 must be paid to intermediaries under this section after considering information

15 provided to the commissioner under s. 628.81 with respect to health insurance.

16 **635.45 Administration; rules.** (1) For payment of administrative expenses,

17 the authority may impose a surcharge on each insurer offering health benefit plans

18 through the exchange. The surcharge shall be based on an insurer's total premium

19 collected through the exchange.

20 (2) For administering the exchange the authority shall do all of the following:

21 (a) In consultation with the commissioner, establish procedures for approving

22 plans that may be offered through the exchange, for ranking plans into the tiers

23 under s. 635.30 (3), and for determining whether a plan should continue to be offered

24 or should be eliminated from the exchange.

636.47

qualifies

(end of ins 36-4)

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

LRB-0760/P3dn

TJD:/.....

g's

Date



This draft does not include changes to chapter 635, except those to s. 635.18, because you decided not to make those changes at this time.

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

LRB-0760/P3dn
TJD:cjs:rs

September 19, 2011

This draft does not include changes to chapter 635, except those to s. 635.18, because you decided not to make those changes at this time.

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