

**E2SHB 1569** - S COMM AMD

By Committee on Health & Long-Term Care

OUT OF ORDER 04/12/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.47A.010 and 2006 c 255 s 1 are each amended to  
4 read as follows:

5 (1) The legislature finds that many small employers struggle with  
6 the cost of providing employer-sponsored health insurance coverage to  
7 their employees, while others are unable to offer employer-sponsored  
8 health insurance due to its high cost. Low-wage workers also struggle  
9 with the burden of paying their share of the costs of  
10 employer-sponsored health insurance, while others turn down their  
11 employer's offer of coverage due to its costs.

12 (2) The legislature intends, through establishment of a ((small  
13 employer)) health insurance partnership program, to remove economic  
14 barriers to health insurance coverage for low-wage employees of small  
15 employers by building on the private sector health benefit plan system  
16 and encouraging employer and employee participation in  
17 employer-sponsored health benefit plan coverage.

18 **Sec. 2.** RCW 70.47A.020 and 2006 c 255 s 2 are each amended to read  
19 as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Administrator" means the administrator of the Washington state  
23 health care authority, established under chapter 41.05 RCW.

24 (2) "Board" means the health insurance partnership board  
25 established in section 4 of this act.

26 (3) "Eligible ((employee)) partnership participant" means an  
27 individual who:

28 (a) Is a resident of the state of Washington;

1 (b) Has family income (~~((less than))~~) that does not exceed two  
2 hundred percent of the federal poverty level, as determined annually by  
3 the federal department of health and human services; and

4 (c) Is employed by a participating small employer or is a former  
5 employee of a participating small employer who chooses to continue  
6 receiving coverage through the partnership following separation from  
7 employment.

8 (~~((3))~~) (4) "Health benefit plan" has the same meaning as defined  
9 in RCW 48.43.005 (~~((or any plan provided by a self-funded multiple~~  
10 ~~employer welfare arrangement as defined in RCW 48.125.010 or by another~~  
11 ~~benefit arrangement defined in the federal employee retirement income~~  
12 ~~security act of 1974, as amended))~~).

13 (~~((4) "Program"))~~) (5) "Participating small employer" means a small  
14 employer that employs at least one eligible partnership participant and  
15 has entered into an agreement with the partnership for the partnership  
16 to offer and administer the small employer's group health benefit plan,  
17 as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for  
18 enrollees in the plan.

19 (6) "Partnership" means the (~~((small employer))~~) health insurance  
20 partnership (~~((program))~~) established in RCW 70.47A.030.

21 (~~((5))~~) (7) "Partnership participant" means an employee of a  
22 participating small employer, or a former employee of a participating  
23 small employer who chooses to continue receiving coverage through the  
24 partnership following separation from employment.

25 (8) "Small employer" has the same meaning as defined in RCW  
26 48.43.005.

27 (~~((6))~~) (9) "Subsidy" or "premium subsidy" means payment or  
28 reimbursement to an eligible (~~((employee))~~) partnership participant  
29 toward the purchase of a health benefit plan, and may include a net  
30 billing arrangement with insurance carriers or a prospective or  
31 retrospective payment for health benefit plan premiums.

32 **Sec. 3.** RCW 70.47A.030 and 2006 c 255 s 3 are each amended to read  
33 as follows:

34 (1) To the extent funding is appropriated in the operating budget  
35 for this purpose, the (~~((small employer))~~) health insurance partnership  
36 (~~((program))~~) is established. The administrator shall be responsible for  
37 the implementation and operation of the (~~((small employer))~~) health

1 insurance partnership (~~program~~), directly or by contract. The  
2 administrator shall offer premium subsidies to eligible (~~employees~~)  
3 partnership participants under RCW 70.47A.040.

4 (2) Consistent with policies adopted by the board under section 4  
5 of this act, the administrator shall, directly or by contract:

6 (a) Establish and administer procedures for enrolling small  
7 employers in the partnership, including publicizing the existence of  
8 the partnership and disseminating information on enrollment, and  
9 establishing rules related to minimum participation of employees in  
10 small groups purchasing health insurance through the partnership. As  
11 a condition of participating in the partnership, a small employer must  
12 agree to establish a cafeteria plan under section 125 of the federal  
13 internal revenue code that will enable employees to use pretax dollars  
14 to pay their share of their health benefit plan premium. The  
15 partnership shall provide technical assistance to small employers for  
16 this purpose;

17 (b) Establish and administer procedures for health benefit plan  
18 enrollment by employees of small employers during open enrollment  
19 periods and outside of open enrollment periods upon the occurrence of  
20 any qualifying event specified in the federal health insurance  
21 portability and accountability act of 1996 or applicable state law.  
22 Neither the employer nor the partnership shall limit an employee's  
23 choice of coverage from among all the health benefit plans offered;

24 (c) Establish and manage a system for the partnership to be  
25 designated as the sponsor or administrator of a participating small  
26 employer health benefit plan and to undertake the obligations required  
27 of a plan administrator under federal law;

28 (d) Establish and manage a system of collecting and transmitting to  
29 the applicable carriers all premium payments or contributions made by  
30 or on behalf of partnership participants, including employer  
31 contributions, automatic payroll deductions for partnership  
32 participants, premium subsidy payments, and contributions from  
33 philanthropies;

34 (e) Establish and manage a system for determining eligibility for  
35 and making premium subsidy payments under this act;

36 (f) Establish a mechanism to apply a surcharge to all health  
37 benefit plans, which shall be used only to pay for administrative and  
38 operational expenses of the partnership. The surcharge must be applied

1 uniformly to all health benefit plans offered through the partnership  
2 and must be included in the premium for each health benefit plan.  
3 Surcharges may not be used to pay any premium assistance payments under  
4 this chapter;

5 (g) Design a schedule of premium subsidies that is based upon gross  
6 family income, giving appropriate consideration to family size and the  
7 ages of all family members based on a benchmark health benefit plan  
8 designated by the board. The amount of an eligible partnership  
9 participant's premium subsidy shall be determined by applying a sliding  
10 scale subsidy schedule with the percentage of premium similar to that  
11 developed for subsidized basic health plan enrollees under RCW  
12 70.47.060. The subsidy shall be applied to the employee's premium  
13 obligation for his or her health benefit plan, so that employees  
14 benefit financially from any employer contribution to the cost of their  
15 coverage through the partnership.

16 (3) The administrator may enter into interdepartmental agreements  
17 with the office of the insurance commissioner, the department of social  
18 and health services, and any other state agencies necessary to  
19 implement this chapter.

20 NEW SECTION. Sec. 4. A new section is added to chapter 70.47A RCW  
21 to read as follows:

22 (1) The health insurance partnership board is hereby established.  
23 The governor shall appoint a nine-member board composed as follows:

24 (a) Two representatives of small employers;

25 (b) Two representatives of employees of small employers, one of  
26 whom shall represent low-wage employees;

27 (c) Four employee health plan benefits specialists; and

28 (d) The administrator.

29 (2) The governor shall appoint the initial members of the board to  
30 staggered terms not to exceed four years. Initial appointments shall  
31 be made on or before June 1, 2007. Members appointed thereafter shall  
32 serve two-year terms. Members of the board shall be compensated in  
33 accordance with RCW 43.03.250 and shall be reimbursed for their travel  
34 expenses while on official business in accordance with RCW 43.03.050  
35 and 43.03.060. The board shall prescribe rules for the conduct of its  
36 business. The board shall choose a chair from among its members.  
37 Meetings of the board shall be at the call of the chair.

1 (3) The board may establish technical advisory committees or seek  
2 the advice of technical experts when necessary to execute the powers  
3 and duties included in this section.

4 (4) The board and employees of the board shall not be civilly or  
5 criminally liable and shall not have any penalty or cause of action of  
6 any nature arise against them for any action taken or not taken,  
7 including any discretionary decision or failure to make a discretionary  
8 decision, when the action or inaction is done in good faith and in the  
9 performance of the powers and duties under this chapter. Nothing in  
10 this section prohibits legal actions against the board to enforce the  
11 board's statutory or contractual duties or obligations.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.47A RCW  
13 to read as follows:

14 (1) The health insurance partnership board shall:

15 (a) Develop policies for enrollment of small employers in the  
16 partnership, including minimum participation rules for small employer  
17 groups. The small employer shall determine the criteria for  
18 eligibility and enrollment in his or her plan and the terms and amounts  
19 of the employer's contributions to that plan;

20 (b) Designate health benefit plans that are currently offered in  
21 the small group market that will qualify for premium subsidy payments.  
22 At least four health benefit plans shall be chosen, with multiple  
23 deductible and point-of-service cost-sharing options. The health  
24 benefit plans shall range from catastrophic to comprehensive coverage,  
25 and one health benefit plan shall be a high deductible health plan.  
26 Every effort shall be made to include health benefit plans that include  
27 components to maximize the quality of care provided and result in  
28 improved health outcomes, such as preventive care, wellness incentives,  
29 chronic care management services, and provider network development and  
30 payment policies related to quality of care;

31 (c) Approve a mid-range benefit plan from those selected to be used  
32 as a benchmark plan for calculating premium subsidies;

33 (d) Determine whether there should be a minimum employer premium  
34 contribution on behalf of employees, and if so, how much;

35 (e) Determine appropriate health benefit plan rating methodologies.  
36 The methodologies shall be based on the small group adjusted community  
37 rate as defined in Title 48 RCW. The board shall evaluate the impact

1 of applying the small group community rating with the partnership  
2 principle of allowing each employee to choose their health benefit  
3 plan, and consider options to reduce uncertainty for carriers and  
4 provide for efficient risk management of high-cost enrollees through  
5 risk adjustment, reinsurance, or other mechanisms;

6 (f) Conduct analyses and provide recommendations as requested by  
7 the legislature and the governor, with the assistance of staff from the  
8 health care authority and the office of the insurance commissioner.

9 (2) The board may authorize one or more limited health care service  
10 plans for dental care services to be offered by limited health care  
11 service contractors under RCW 48.44.035. However, such plan shall not  
12 qualify for subsidy payments.

13 (3) In fulfilling the requirements of this section, the board shall  
14 consult with small employers, the office of the insurance commissioner,  
15 members in good standing of the American academy of actuaries, health  
16 carriers, agents and brokers, and employees of small business.

17 **Sec. 6.** RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read  
18 as follows:

19 ~~((1))~~ Beginning ~~((July 1, 2007))~~ September 1, 2008, the  
20 administrator shall accept applications from eligible ~~((employees))~~  
21 partnership participants, on behalf of themselves, their spouses, and  
22 their dependent children, to receive premium subsidies through the  
23 ~~((small employer))~~ health insurance partnership ~~((program))~~.

24 ~~((2)) Premium subsidy payments may be provided to eligible~~  
25 ~~employees if:~~

26 ~~(a) The eligible employee is employed by a small employer;~~

27 ~~(b) The actuarial value of the health benefit plan offered by the~~  
28 ~~small employer is at least equivalent to that of the basic health plan~~  
29 ~~benefit offered under chapter 70.47 RCW. The office of the insurance~~  
30 ~~commissioner under Title 48 RCW shall certify those small employer~~  
31 ~~health benefit plans that are at least actuarially equivalent to the~~  
32 ~~basic health plan benefit; and~~

33 ~~(c) The small employer will pay at least forty percent of the~~  
34 ~~monthly premium cost for health benefit plan coverage of the eligible~~  
35 ~~employee.~~

36 ~~(3) The amount of an eligible employee's premium subsidy shall be~~  
37 ~~determined by applying the sliding scale subsidy schedule developed for~~

1 ~~subsidized basic health plan enrollees under RCW 70.47.060 to the~~  
2 ~~employee's premium obligation for his or her employer's health benefit~~  
3 ~~plan.~~

4 ~~(4) After an eligible individual has enrolled in the program, the~~  
5 ~~program shall issue subsidies in an amount determined pursuant to~~  
6 ~~subsection (3) of this section to either the eligible employee or to~~  
7 ~~the carrier designated by the eligible employee.~~

8 ~~(5) An eligible employee must agree to provide verification of~~  
9 ~~continued enrollment in his or her small employer's health benefit plan~~  
10 ~~on a semiannual basis or to notify the administrator whenever his or~~  
11 ~~her enrollment status changes, whichever is earlier. Verification or~~  
12 ~~notification may be made directly by the employee, or through his or~~  
13 ~~her employer or the carrier providing the small employer health benefit~~  
14 ~~plan. When necessary, the administrator has the authority to perform~~  
15 ~~retrospective audits on premium subsidy accounts. The administrator~~  
16 ~~may suspend or terminate an employee's participation in the program and~~  
17 ~~seek repayment of any subsidy amounts paid due to the omission or~~  
18 ~~misrepresentation of an applicant or enrolled employee. The~~  
19 ~~administrator shall adopt rules to define the appropriate application~~  
20 ~~of these sanctions and the processes to implement the sanctions~~  
21 ~~provided in this subsection, within available resources.))~~

22 **Sec. 7.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read  
23 as follows:

24 (1)(a) An insurer offering any health benefit plan to a small  
25 employer, either directly or through an association or member-governed  
26 group formed specifically for the purpose of purchasing health care,  
27 may offer and actively market to the small employer a health benefit  
28 plan featuring a limited schedule of covered health care services.  
29 Nothing in this subsection shall preclude an insurer from offering, or  
30 a small employer from purchasing, other health benefit plans that may  
31 have more comprehensive benefits than those included in the product  
32 offered under this subsection. An insurer offering a health benefit  
33 plan under this subsection shall clearly disclose all covered benefits  
34 to the small employer in a brochure filed with the commissioner.

35 (b) A health benefit plan offered under this subsection shall  
36 provide coverage for hospital expenses and services rendered by a  
37 physician licensed under chapter 18.57 or 18.71 RCW but is not subject

1 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
2 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,  
3 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,  
4 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

5 (2) Nothing in this section shall prohibit an insurer from  
6 offering, or a purchaser from seeking, health benefit plans with  
7 benefits in excess of the health benefit plan offered under subsection  
8 (1) of this section. All forms, policies, and contracts shall be  
9 submitted for approval to the commissioner, and the rates of any plan  
10 offered under this section shall be reasonable in relation to the  
11 benefits thereto.

12 (3) Premium rates for health benefit plans for small employers as  
13 defined in this section shall be subject to the following provisions:

14 (a) The insurer shall develop its rates based on an adjusted  
15 community rate and may only vary the adjusted community rate for:

- 16 (i) Geographic area;
- 17 (ii) Family size;
- 18 (iii) Age; and
- 19 (iv) Wellness activities.

20 (b) The adjustment for age in (a)(iii) of this subsection may not  
21 use age brackets smaller than five-year increments, which shall begin  
22 with age twenty and end with age sixty-five. Employees under the age  
23 of twenty shall be treated as those age twenty.

24 (c) The insurer shall be permitted to develop separate rates for  
25 individuals age sixty-five or older for coverage for which medicare is  
26 the primary payer and coverage for which medicare is not the primary  
27 payer. Both rates shall be subject to the requirements of this  
28 subsection (3).

29 (d) The permitted rates for any age group shall be no more than  
30 four hundred twenty-five percent of the lowest rate for all age groups  
31 on January 1, 1996, four hundred percent on January 1, 1997, and three  
32 hundred seventy-five percent on January 1, 2000, and thereafter.

33 (e) A discount for wellness activities shall be permitted to  
34 reflect actuarially justified differences in utilization or cost  
35 attributed to such programs.

36 (f) The rate charged for a health benefit plan offered under this  
37 section may not be adjusted more frequently than annually except that  
38 the premium may be changed to reflect:

- 1 (i) Changes to the enrollment of the small employer;  
2 (ii) Changes to the family composition of the employee;  
3 (iii) Changes to the health benefit plan requested by the small  
4 employer; or  
5 (iv) Changes in government requirements affecting the health  
6 benefit plan.

7 (g) Rating factors shall produce premiums for identical groups that  
8 differ only by the amounts attributable to plan design, with the  
9 exception of discounts for health improvement programs.

10 (h) For the purposes of this section, a health benefit plan that  
11 contains a restricted network provision shall not be considered similar  
12 coverage to a health benefit plan that does not contain such a  
13 provision, provided that the restrictions of benefits to network  
14 providers result in substantial differences in claims costs. A carrier  
15 may develop its rates based on claims costs due to network provider  
16 reimbursement schedules or type of network. This subsection does not  
17 restrict or enhance the portability of benefits as provided in RCW  
18 48.43.015.

19 (i) Adjusted community rates established under this section shall  
20 pool the medical experience of all small groups purchasing coverage,  
21 including the small group participants in the health insurance  
22 partnership established in RCW 70.47A.030. However, annual rate  
23 adjustments for each small group health benefit plan may vary by up to  
24 plus or minus four percentage points from the overall adjustment of a  
25 carrier's entire small group pool, such overall adjustment to be  
26 approved by the commissioner, upon a showing by the carrier, certified  
27 by a member of the American academy of actuaries that: (i) The  
28 variation is a result of deductible leverage, benefit design, or  
29 provider network characteristics; and (ii) for a rate renewal period,  
30 the projected weighted average of all small group benefit plans will  
31 have a revenue neutral effect on the carrier's small group pool.  
32 Variations of greater than four percentage points are subject to review  
33 by the commissioner, and must be approved or denied within sixty days  
34 of submittal. A variation that is not denied within sixty days shall  
35 be deemed approved. The commissioner must provide to the carrier a  
36 detailed actuarial justification for any denial within thirty days of  
37 the denial.

1 (4) Nothing in this section shall restrict the right of employees  
2 to collectively bargain for insurance providing benefits in excess of  
3 those provided herein.

4 (5)(a) Except as provided in this subsection, requirements used by  
5 an insurer in determining whether to provide coverage to a small  
6 employer shall be applied uniformly among all small employers applying  
7 for coverage or receiving coverage from the carrier.

8 (b) An insurer shall not require a minimum participation level  
9 greater than:

10 (i) One hundred percent of eligible employees working for groups  
11 with three or less employees; and

12 (ii) Seventy-five percent of eligible employees working for groups  
13 with more than three employees.

14 (c) In applying minimum participation requirements with respect to  
15 a small employer, a small employer shall not consider employees or  
16 dependents who have similar existing coverage in determining whether  
17 the applicable percentage of participation is met.

18 (d) An insurer may not increase any requirement for minimum  
19 employee participation or modify any requirement for minimum employer  
20 contribution applicable to a small employer at any time after the small  
21 employer has been accepted for coverage.

22 (6) An insurer must offer coverage to all eligible employees of a  
23 small employer and their dependents. An insurer may not offer coverage  
24 to only certain individuals or dependents in a small employer group or  
25 to only part of the group. An insurer may not modify a health plan  
26 with respect to a small employer or any eligible employee or dependent,  
27 through riders, endorsements or otherwise, to restrict or exclude  
28 coverage or benefits for specific diseases, medical conditions, or  
29 services otherwise covered by the plan.

30 (7) As used in this section, "health benefit plan," "small  
31 employer," "adjusted community rate," and "wellness activities" mean  
32 the same as defined in RCW 48.43.005.

33 **Sec. 8.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read  
34 as follows:

35 (1)(a) A health care services contractor offering any health  
36 benefit plan to a small employer, either directly or through an  
37 association or member-governed group formed specifically for the

1 purpose of purchasing health care, may offer and actively market to the  
2 small employer a health benefit plan featuring a limited schedule of  
3 covered health care services. Nothing in this subsection shall  
4 preclude a contractor from offering, or a small employer from  
5 purchasing, other health benefit plans that may have more comprehensive  
6 benefits than those included in the product offered under this  
7 subsection. A contractor offering a health benefit plan under this  
8 subsection shall clearly disclose all covered benefits to the small  
9 employer in a brochure filed with the commissioner.

10 (b) A health benefit plan offered under this subsection shall  
11 provide coverage for hospital expenses and services rendered by a  
12 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
13 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,  
14 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,  
15 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and  
16 48.44.460.

17 (2) Nothing in this section shall prohibit a health care service  
18 contractor from offering, or a purchaser from seeking, health benefit  
19 plans with benefits in excess of the health benefit plan offered under  
20 subsection (1) of this section. All forms, policies, and contracts  
21 shall be submitted for approval to the commissioner, and the rates of  
22 any plan offered under this section shall be reasonable in relation to  
23 the benefits thereto.

24 (3) Premium rates for health benefit plans for small employers as  
25 defined in this section shall be subject to the following provisions:

26 (a) The contractor shall develop its rates based on an adjusted  
27 community rate and may only vary the adjusted community rate for:

- 28 (i) Geographic area;
- 29 (ii) Family size;
- 30 (iii) Age; and
- 31 (iv) Wellness activities.

32 (b) The adjustment for age in (a)(iii) of this subsection may not  
33 use age brackets smaller than five-year increments, which shall begin  
34 with age twenty and end with age sixty-five. Employees under the age  
35 of twenty shall be treated as those age twenty.

36 (c) The contractor shall be permitted to develop separate rates for  
37 individuals age sixty-five or older for coverage for which medicare is

1 the primary payer and coverage for which medicare is not the primary  
2 payer. Both rates shall be subject to the requirements of this  
3 subsection (3).

4 (d) The permitted rates for any age group shall be no more than  
5 four hundred twenty-five percent of the lowest rate for all age groups  
6 on January 1, 1996, four hundred percent on January 1, 1997, and three  
7 hundred seventy-five percent on January 1, 2000, and thereafter.

8 (e) A discount for wellness activities shall be permitted to  
9 reflect actuarially justified differences in utilization or cost  
10 attributed to such programs.

11 (f) The rate charged for a health benefit plan offered under this  
12 section may not be adjusted more frequently than annually except that  
13 the premium may be changed to reflect:

- 14 (i) Changes to the enrollment of the small employer;
- 15 (ii) Changes to the family composition of the employee;
- 16 (iii) Changes to the health benefit plan requested by the small  
17 employer; or
- 18 (iv) Changes in government requirements affecting the health  
19 benefit plan.

20 (g) Rating factors shall produce premiums for identical groups that  
21 differ only by the amounts attributable to plan design, with the  
22 exception of discounts for health improvement programs.

23 (h) For the purposes of this section, a health benefit plan that  
24 contains a restricted network provision shall not be considered similar  
25 coverage to a health benefit plan that does not contain such a  
26 provision, provided that the restrictions of benefits to network  
27 providers result in substantial differences in claims costs. A carrier  
28 may develop its rates based on claims costs due to network provider  
29 reimbursement schedules or type of network. This subsection does not  
30 restrict or enhance the portability of benefits as provided in RCW  
31 48.43.015.

32 (i) Adjusted community rates established under this section shall  
33 pool the medical experience of all groups purchasing coverage,  
34 including the small group participants in the health insurance  
35 partnership established in RCW 70.47A.030. However, annual rate  
36 adjustments for each small group health benefit plan may vary by up to  
37 plus or minus four percentage points from the overall adjustment of a  
38 carrier's entire small group pool, such overall adjustment to be

1 approved by the commissioner, upon a showing by the carrier, certified  
2 by a member of the American academy of actuaries that: (i) The  
3 variation is a result of deductible leverage, benefit design, or  
4 provider network characteristics; and (ii) for a rate renewal period,  
5 the projected weighted average of all small group benefit plans will  
6 have a revenue neutral effect on the carrier's small group pool.  
7 Variations of greater than four percentage points are subject to review  
8 by the commissioner, and must be approved or denied within sixty days  
9 of submittal. A variation that is not denied within sixty days shall  
10 be deemed approved. The commissioner must provide to the carrier a  
11 detailed actuarial justification for any denial within thirty days of  
12 the denial.

13 (4) Nothing in this section shall restrict the right of employees  
14 to collectively bargain for insurance providing benefits in excess of  
15 those provided herein.

16 (5)(a) Except as provided in this subsection, requirements used by  
17 a contractor in determining whether to provide coverage to a small  
18 employer shall be applied uniformly among all small employers applying  
19 for coverage or receiving coverage from the carrier.

20 (b) A contractor shall not require a minimum participation level  
21 greater than:

22 (i) One hundred percent of eligible employees working for groups  
23 with three or less employees; and

24 (ii) Seventy-five percent of eligible employees working for groups  
25 with more than three employees.

26 (c) In applying minimum participation requirements with respect to  
27 a small employer, a small employer shall not consider employees or  
28 dependents who have similar existing coverage in determining whether  
29 the applicable percentage of participation is met.

30 (d) A contractor may not increase any requirement for minimum  
31 employee participation or modify any requirement for minimum employer  
32 contribution applicable to a small employer at any time after the small  
33 employer has been accepted for coverage.

34 (6) A contractor must offer coverage to all eligible employees of  
35 a small employer and their dependents. A contractor may not offer  
36 coverage to only certain individuals or dependents in a small employer  
37 group or to only part of the group. A contractor may not modify a  
38 health plan with respect to a small employer or any eligible employee

1 or dependent, through riders, endorsements or otherwise, to restrict or  
2 exclude coverage or benefits for specific diseases, medical conditions,  
3 or services otherwise covered by the plan.

4 **Sec. 9.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read  
5 as follows:

6 (1)(a) A health maintenance organization offering any health  
7 benefit plan to a small employer, either directly or through an  
8 association or member-governed group formed specifically for the  
9 purpose of purchasing health care, may offer and actively market to the  
10 small employer a health benefit plan featuring a limited schedule of  
11 covered health care services. Nothing in this subsection shall  
12 preclude a health maintenance organization from offering, or a small  
13 employer from purchasing, other health benefit plans that may have more  
14 comprehensive benefits than those included in the product offered under  
15 this subsection. A health maintenance organization offering a health  
16 benefit plan under this subsection shall clearly disclose all the  
17 covered benefits to the small employer in a brochure filed with the  
18 commissioner.

19 (b) A health benefit plan offered under this subsection shall  
20 provide coverage for hospital expenses and services rendered by a  
21 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
22 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,  
23 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,  
24 48.46.520, and 48.46.530.

25 (2) Nothing in this section shall prohibit a health maintenance  
26 organization from offering, or a purchaser from seeking, health benefit  
27 plans with benefits in excess of the health benefit plan offered under  
28 subsection (1) of this section. All forms, policies, and contracts  
29 shall be submitted for approval to the commissioner, and the rates of  
30 any plan offered under this section shall be reasonable in relation to  
31 the benefits thereto.

32 (3) Premium rates for health benefit plans for small employers as  
33 defined in this section shall be subject to the following provisions:

34 (a) The health maintenance organization shall develop its rates  
35 based on an adjusted community rate and may only vary the adjusted  
36 community rate for:

37 (i) Geographic area;

- 1 (ii) Family size;
- 2 (iii) Age; and
- 3 (iv) Wellness activities.

4 (b) The adjustment for age in (a)(iii) of this subsection may not  
5 use age brackets smaller than five-year increments, which shall begin  
6 with age twenty and end with age sixty-five. Employees under the age  
7 of twenty shall be treated as those age twenty.

8 (c) The health maintenance organization shall be permitted to  
9 develop separate rates for individuals age sixty-five or older for  
10 coverage for which medicare is the primary payer and coverage for which  
11 medicare is not the primary payer. Both rates shall be subject to the  
12 requirements of this subsection (3).

13 (d) The permitted rates for any age group shall be no more than  
14 four hundred twenty-five percent of the lowest rate for all age groups  
15 on January 1, 1996, four hundred percent on January 1, 1997, and three  
16 hundred seventy-five percent on January 1, 2000, and thereafter.

17 (e) A discount for wellness activities shall be permitted to  
18 reflect actuarially justified differences in utilization or cost  
19 attributed to such programs.

20 (f) The rate charged for a health benefit plan offered under this  
21 section may not be adjusted more frequently than annually except that  
22 the premium may be changed to reflect:

- 23 (i) Changes to the enrollment of the small employer;
- 24 (ii) Changes to the family composition of the employee;
- 25 (iii) Changes to the health benefit plan requested by the small  
26 employer; or
- 27 (iv) Changes in government requirements affecting the health  
28 benefit plan.

29 (g) Rating factors shall produce premiums for identical groups that  
30 differ only by the amounts attributable to plan design, with the  
31 exception of discounts for health improvement programs.

32 (h) For the purposes of this section, a health benefit plan that  
33 contains a restricted network provision shall not be considered similar  
34 coverage to a health benefit plan that does not contain such a  
35 provision, provided that the restrictions of benefits to network  
36 providers result in substantial differences in claims costs. A carrier  
37 may develop its rates based on claims costs due to network provider

1 reimbursement schedules or type of network. This subsection does not  
2 restrict or enhance the portability of benefits as provided in RCW  
3 48.43.015.

4 (i) Adjusted community rates established under this section shall  
5 pool the medical experience of all groups purchasing coverage,  
6 including the small group participants in the health insurance  
7 partnership established in RCW 70.47A.030. However, annual rate  
8 adjustments for each small group health benefit plan may vary by up to  
9 plus or minus four percentage points from the overall adjustment of a  
10 carrier's entire small group pool, such overall adjustment to be  
11 approved by the commissioner, upon a showing by the carrier, certified  
12 by a member of the American academy of actuaries that: (i) The  
13 variation is a result of deductible leverage, benefit design, or  
14 provider network characteristics; and (ii) for a rate renewal period,  
15 the projected weighted average of all small group benefit plans will  
16 have a revenue neutral effect on the carrier's small group pool.  
17 Variations of greater than four percentage points are subject to review  
18 by the commissioner, and must be approved or denied within sixty days  
19 of submittal. A variation that is not denied within sixty days shall  
20 be deemed approved. The commissioner must provide to the carrier a  
21 detailed actuarial justification for any denial within thirty days of  
22 the denial.

23 (4) Nothing in this section shall restrict the right of employees  
24 to collectively bargain for insurance providing benefits in excess of  
25 those provided herein.

26 (5)(a) Except as provided in this subsection, requirements used by  
27 a health maintenance organization in determining whether to provide  
28 coverage to a small employer shall be applied uniformly among all small  
29 employers applying for coverage or receiving coverage from the carrier.

30 (b) A health maintenance organization shall not require a minimum  
31 participation level greater than:

32 (i) One hundred percent of eligible employees working for groups  
33 with three or less employees; and

34 (ii) Seventy-five percent of eligible employees working for groups  
35 with more than three employees.

36 (c) In applying minimum participation requirements with respect to  
37 a small employer, a small employer shall not consider employees or

1 dependents who have similar existing coverage in determining whether  
2 the applicable percentage of participation is met.

3 (d) A health maintenance organization may not increase any  
4 requirement for minimum employee participation or modify any  
5 requirement for minimum employer contribution applicable to a small  
6 employer at any time after the small employer has been accepted for  
7 coverage.

8 (6) A health maintenance organization must offer coverage to all  
9 eligible employees of a small employer and their dependents. A health  
10 maintenance organization may not offer coverage to only certain  
11 individuals or dependents in a small employer group or to only part of  
12 the group. A health maintenance organization may not modify a health  
13 plan with respect to a small employer or any eligible employee or  
14 dependent, through riders, endorsements or otherwise, to restrict or  
15 exclude coverage or benefits for specific diseases, medical conditions,  
16 or services otherwise covered by the plan.

17 NEW SECTION. **Sec. 10.** On or before December 1, 2008, the health  
18 insurance partnership board shall submit a report to the governor and  
19 the legislature regarding the risks and benefits of the individual and  
20 small group markets being incorporated into the partnership program.  
21 The report shall examine at least the following issues:

22 (1) The impact of these markets being incorporated into the  
23 partnership, with respect to the utilization of services and cost of  
24 health plans offered through the partnership;

25 (2) The impact of applying small group health benefit plan  
26 regulations on access to health services and the cost of coverage for  
27 these markets; and

28 (3) How the composition of the board should be modified to reflect  
29 the incorporation of the individual and small group markets in the  
30 partnership.

31 NEW SECTION. **Sec. 11.** On or before December 1, 2009, the health  
32 insurance partnership board shall submit a report and recommendations  
33 to the governor and the legislature regarding:

34 (1) The risks and benefits of additional markets participating in  
35 the partnership:

36 (a) The report shall examine the following markets:

1 (i) Washington state health insurance pool under chapter 48.41 RCW;  
2 (ii) Basic health plan under chapter 70.47 RCW;  
3 (iii) Public employees' benefits board enrollees under chapter  
4 41.05 RCW; and

5 (iv) Public school employees; and

6 (b) The report shall examine at least the following issues:

7 (i) The impact of these markets participating in the partnership,  
8 with respect to the utilization of services and cost of health plans  
9 offered through the partnership;

10 (ii) Whether any distinction should be made in participation  
11 between active and retired employees enrolled in public employees'  
12 benefits board plans, giving consideration to the implicit subsidy that  
13 nonmedicare-eligible retirees currently benefit from by being pooled  
14 with active employees, and how medicare-eligible retirees would be  
15 affected;

16 (iii) The impact of applying small group health benefit plan  
17 regulations on access to health services and the cost of coverage for  
18 these markets; and

19 (iv) If the board recommends the inclusion of additional markets,  
20 how the composition of the board should be modified to reflect the  
21 participation of these markets; and

22 (2) The risks and benefits of establishing a requirement that  
23 residents of the state of Washington age eighteen and over obtain and  
24 maintain affordable creditable coverage, as defined in the federal  
25 health insurance portability and accountability act of 1996 (42 U.S.C.  
26 Sec. 300gg(c)). The report shall address the question of how a  
27 requirement that residents maintain coverage could be enforced in the  
28 state of Washington.

29 **Sec. 12.** RCW 70.47A.050 and 2006 c 255 s 5 are each amended to  
30 read as follows:

31 Enrollment in the ((small-employer)) health insurance partnership  
32 ((program)) is not an entitlement and shall not result in expenditures  
33 that exceed the amount that has been appropriated for the program in  
34 the operating budget. If it appears that continued enrollment will  
35 result in expenditures exceeding the appropriated level for a  
36 particular fiscal year, the administrator may freeze new enrollment in

1 the program and establish a waiting list of eligible employees who  
2 shall receive subsidies only when sufficient funds are available.

3 **Sec. 13.** RCW 70.47A.060 and 2006 c 255 s 6 are each amended to  
4 read as follows:

5 The administrator shall adopt all rules necessary for the  
6 implementation and operation of the ((small-employer)) health insurance  
7 partnership ((program)). As part of the rule development process, the  
8 administrator shall consult with small employers, carriers, employee  
9 organizations, and the office of the insurance commissioner under Title  
10 48 RCW to determine an effective and efficient method for the payment  
11 of subsidies under this chapter. All rules shall be adopted in  
12 accordance with chapter 34.05 RCW.

13 **Sec. 14.** RCW 70.47A.080 and 2006 c 255 s 8 are each amended to  
14 read as follows:

15 The ((small-employer)) health insurance partnership ((program))  
16 account is hereby established in the custody of the state treasurer.  
17 Any nongeneral fund--state funds collected for the ((small-employer))  
18 health insurance partnership ((program)) shall be deposited in the  
19 ((small-employer)) health insurance partnership ((program)) account.  
20 Moneys in the account shall be used exclusively for the purposes of  
21 administering the ((small-employer)) health insurance partnership  
22 ((program)), including payments to ((participating managed health care  
23 systems)) insurance carriers on behalf of ((small-employer)) health  
24 insurance partnership enrollees. Only the administrator of the health  
25 care authority or his or her designee may authorize expenditures from  
26 the account. The account is subject to allotment procedures under  
27 chapter 43.88 RCW, but an appropriation is not required for  
28 expenditures.

29 NEW SECTION. **Sec. 15.** (1) The office of the insurance  
30 commissioner shall contract for an independent study of health benefit  
31 mandates, rating requirements, and insurance statutes and rules to  
32 determine the impact on premiums and individuals' health if those  
33 statutes or rules were amended or repealed.

34 (2) The office of the insurance commissioner shall submit an

1 interim report to the governor and appropriate committees of the  
2 legislature by December 1, 2007, and a final report by December 1,  
3 2008.

4 NEW SECTION. **Sec. 16.** 2006 c 255 s 10 (uncodified) is repealed.

5 NEW SECTION. **Sec. 17.** Sections 1 through 6 of this act are  
6 necessary for the immediate preservation of the public peace, health,  
7 or safety, or support of the state government and its existing public  
8 institutions, and take effect July 1, 2007."

**E2SHB 1569** - S COMM AMD

By Committee on Health & Long-Term Care

**OUT OF ORDER 04/12/2007**

9 On page 1, line 2 of the title, after "state;" strike the remainder  
10 of the title and insert "amending RCW 70.47A.010, 70.47A.020,  
11 70.47A.030, 70.47A.040, 48.21.045, 48.44.023, 48.46.066, 70.47A.050,  
12 70.47A.060, and 70.47A.080; adding new sections to chapter 70.47A RCW;  
13 creating new sections; repealing 2006 c 255 s 10 (uncodified);  
14 providing an effective date; and declaring an emergency."

--- END ---