

1 **2SHB 1566** - H AMDS **634 ADOPTED 4/13/95**

2 By Representative Carlson and others

3 On page 4, after line 14, insert the following:

4 "(8) "Benefits contribution plan" means a plan whereby state  
5 and public employees may agree to a contribution to benefit costs  
6 which will allow the employee to participate in benefits offered  
7 pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal  
8 Revenue Code.

9 (9) "Salary" means a state employee's monthly salary or wages.

10 (10) "Participant" means an individual who fulfills the  
11 eligibility and enrollment requirements under the benefits  
12 contribution plan.

13 (11) "Plan year" means the time period established by the  
14 authority."

15  
16 On page 14, after line 15, insert the following:

17 "NEW SECTION. Sec. 13. A new section is added to chapter  
18 41.05 RCW to read as follows:

19 (1) The state of Washington may enter into benefits  
20 contribution plans with employees of the state pursuant to the  
21 Internal Revenue Code, 26 U.S.C. Sec. 125 for the purpose of making  
22 it possible for employees of the state to select on a "before-tax  
23 basis" certain taxable and nontaxable benefits pursuant to 26  
24 U.S.C. Sec. 125. The purpose of the benefits contribution plan  
25 established in this chapter is to attract and retain individuals in  
26 governmental service by permitting them to enter into agreements  
27 with the state to provide for benefits pursuant to 26 U.S.C. Sec.  
28 125 and other applicable sections of the Internal Revenue Code.

29 (2) Nothing in the benefits contribution plan constitutes an  
30 employment agreement between the participant and the state, and  
31 nothing contained in the participant's benefits contribution

1 agreement, the plan, or RCW 41.05.105 through 41.05.145 gives a  
2 participant any right to be retained in state employment.

3  
4 NEW SECTION. Sec. 14. A new section is added to chapter 41.05  
5 RCW to read as follows:

6 The authority shall have responsibility for the formulation  
7 and adoption of a plan, policies and procedures designed to guide,  
8 direct, and administer the benefits contribution plan.

9 (1) A plan document describing the benefits contribution plan  
10 shall be adopted and administered by the authority. The authority  
11 shall represent the state in all matters concerning the  
12 administration of the plan. The state, through the authority, may  
13 engage the services of a professional consultant or administrator  
14 on a contractual basis to serve as an agent to assist the authority  
15 or perform the administrative functions necessary in carrying out  
16 the purposes of this act.

17 (2) The authority shall formulate and establish policies and  
18 procedures for the administration of the benefits contribution plan  
19 that are consistent with existing state law, the internal revenue  
20 code, and the regulations adopted by the internal revenue service  
21 as they may apply to the benefits offered to participants under the  
22 plan.

23 (3) The funds held by the state for the benefits contribution  
24 program shall be deposited in the benefits contribution account in  
25 the state treasury. Any interest in excess of the amount used to  
26 defray the cost of administering the benefits contribution plan  
27 shall become a part of the general fund. Unclaimed moneys  
28 remaining in the benefits contribution account at the end of a plan  
29 year after all timely submitted claims for that plan year have been  
30 processed shall become a part of the benefits contribution  
31 administrative account. The authority may assess each participant  
32 a fee for administering the salary reduction plan. In addition to  
33 moneys for initial costs, moneys may be appropriated from the

1 general fund or benefits contribution administrative account for  
2 any expense relating to the administration of the benefits  
3 contribution plan.

4 (4) The benefits contribution administrative account is  
5 created in the state treasury. The authority may periodically bill  
6 agencies for employer savings experienced as the result of benefits  
7 contribution program participation by employees. All receipts from  
8 the following shall be deposited in the account: (a) charges to  
9 agencies for all or a portion of the estimated savings due to  
10 reductions in employer contributions under the social security act;  
11 (b) charges for other similar savings; (c) unclaimed moneys in the  
12 benefits contribution account at the end of the plan year after all  
13 timely submitted claims for that plan year have been processed; and  
14 (d) fees charged to participants. Moneys in the account may be  
15 spent only after appropriation. Expenditures from the account may  
16 be used only for any expense related to the administration of the  
17 benefits contribution plan.

18 (5) Every action taken by the authority in administering  
19 sections 13 through 19 of this act shall be presumed to be a fair  
20 and reasonable exercise of the authority vested in or the duties  
21 imposed upon it. The authority shall be presumed to have exercised  
22 reasonable care, diligence, and prudence and to have acted  
23 impartially as to all persons interested unless the contrary be  
24 proved by clear and convincing affirmative evidence.

25  
26 NEW SECTION. **Sec. 15.** A new section is added to chapter  
27 41.05 RCW to read as follows:

28 (1) Elected officials and all permanent employees of the  
29 state are eligible to participate in the benefits contribution plan  
30 and contribute amount(s) by agreement with the authority. The  
31 authority may adopt rules to permit participation in the plan by  
32 temporary employees of the state.

1 (2) Persons eligible under subsection (1) of this section may  
2 enter into benefits contribution agreements with the state.

3 (3)(a) In the initial year of the benefits contribution plan,  
4 and eligible person may become a participant after the adoption of  
5 the plan and before its effective date by agreeing to have a  
6 portion of his or her gross salary contributed and deposited into  
7 a health care and other benefits account to be used for  
8 reimbursement of expenses covered by the plan.

9 (b) After the initial year of the benefits contribution plan,  
10 an eligible person may become a participant for a full plan year,  
11 with annual benefit selection for each new plan year made before  
12 the beginning of the plan year, as determined by the authority, or  
13 upon becoming eligible.

14 (c) Once an eligible person elects to participate and the  
15 determination of the amount of gross salary that he or she shall  
16 contribute and the benefit for which the funds are to be used  
17 during the plan year, the agreement shall be irrevocable and may  
18 not be amended during the plan year except as provided in (d) of  
19 this subsection. Prior to making an election to participate in the  
20 benefit contribution plan, the eligible person shall be informed in  
21 writing of all the benefits and contributions that will occur as a  
22 result of such election.

23 (d) The authority shall provide in the benefits contribution  
24 plan that a participant may enroll, terminate, or change his or her  
25 election after the plan year has begun if there is a significant  
26 change in a participant's status, as provided by 26 U.S.C. Sec. 125  
27 and the regulations adopted under that section and defined by the  
28 authority.

29 (4) The authority shall establish as part of the benefits  
30 contribution plan the procedures for and effect of withdrawal from  
31 the plan by reason of retirement, death, leave of absence, or  
32 termination of employment. To the extent possible under federal

1 law, the authority shall protect participants from forfeiture of  
2 rights under the plan.

3 (5) Any contribution under the benefits contribution plan  
4 shall continue to be included as regular compensation for the  
5 purpose of computing the state retirement and pension benefits  
6 earned by the employee.

7  
8 NEW SECTION. **Sec. 16.** A new section is added to chapter  
9 41.05 RCW to read as follows:

10 The benefits contribution account is established in the state  
11 treasury. All fees paid to reimburse participants or service  
12 providers pursuant to the provisions of sections 13 through 19 of  
13 this act shall be paid from the benefit contribution account.

14  
15 NEW SECTION. **Sec. 17.** A new section is added to chapter  
16 41.05 RCW to read as follows:

17 (1) The authority shall keep or cause to be kept full and  
18 adequate accounts and records of the assets, obligations,  
19 transactions, and affairs of a salary reduction plan created under  
20 section 14 of this act.

21 (2) The authority shall file an annual report of the  
22 financial condition, transactions, and affairs of the salary  
23 reduction plan under the authority's jurisdiction. A copy of the  
24 annual report shall be filed with the speaker of the house of  
25 representatives, the president of the senate, the governor, and the  
26 state auditor.

27  
28 NEW SECTION. **Sec. 18.** A new section is added to chapter  
29 41.05 RCW to read as follows:

30 (1) The state may terminate the benefits contribution plan at  
31 the end of the plan year or upon notification of federal action  
32 affecting the status of the plan.

1           (2) The authority may amend the benefits contribution plan at  
2 any time if the amendment does not affect the rights of the  
3 participants to receive eligible reimbursement from the  
4 participants' benefits contribution accounts.

5  
6           NEW SECTION.   **Sec. 19.** A new section is added to chapter  
7 41.05 RCW to read as follows:

8           The authority shall adopt rules necessary to implement  
9 sections 13 through 18 of this act.

10  
11           NEW SECTION.   **Sec. 20.** A new section is added to chapter  
12 41.05 RCW to read as follows:

13           Health care and other benefits--Benefits contribution plan--  
14 Construction of statutes. Sections 13 through 19 of this act shall  
15 be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and  
16 other applicable sections of the Internal Revenue Code as required.

17  
18           **Sec. 21.** RCW 28A.400.350 and 1993 c 492 and s 226 are each  
19 amended as follows:

20           (1) The board of directors of any of the state's school dis-  
21 tricts may make available liability, life, health, health care,  
22 accident, disability and salary protection or insurance or any one  
23 of, or a combination of the enumerated types of insurance, or any  
24 other type of insurance or protection, for the members of the  
25 boards of directors, the students, and employees of the school  
26 district, and their dependents. Such coverage may be provided by  
27 contracts with private carriers, with the state health care  
28 authority after July 1, 1990, pursuant to the approval of the  
29 authority administrator, or through self-insurance or self-funding  
30 pursuant to chapter 48.62 RCW, or in any other manner authorized by  
31 law. (~~Except for health benefits purchased with nonstate funds as~~  
32 ~~provided in RCW 28A.400.200, effective on and after October 1,~~  
33 ~~1995, health care coverage, life insurance, liability insurance,~~

1 ~~accidental death and dismemberment insurance, and disability income~~  
2 ~~insurance shall be provided only by contracts with the state health~~  
3 ~~care authority.))~~

4 (2) Whenever funds are available for these purposes the board  
5 of directors of the school district may contribute all or a part of  
6 the cost of such protection or insurance for the employees of their  
7 respective school districts and their dependents. The premiums on  
8 such liability insurance shall be borne by the school district.

9 After October 1, 1990, school districts may not contribute to  
10 any employee protection or insurance other than liability insurance  
11 unless the district's employee benefit plan conforms to RCW  
12 28A.400.275 and 28A.400.280.

13 (3) For school board members and students, the premiums due on  
14 such protection or insurance shall be borne by the assenting school  
15 board member or student. The school district may contribute all or  
16 part of the costs, including the premiums, of life, health, health  
17 care, accident or disability insurance which shall be offered to  
18 all students participating in interschool activities on the behalf  
19 of or as representative of their school or school district. The  
20 school district board of directors may require any student  
21 participating in extracurricular interschool activities to, as a  
22 condition of participation, document evidence of insurance or  
23 purchase insurance that will provide adequate coverage, as  
24 determined by the school district board of directors, for medical  
25 expenses incurred as a result of injury sustained while partici-  
26 pating in the extracurricular activity. In establishing such a  
27 requirement, the district shall adopt regulations for waiving or  
28 reducing the premiums of such coverage as may be offered through  
29 the school district to students participating in extracurricular  
30 activities, for those students whose families, by reason of their  
31 low income, would have difficulty paying the entire amount of such  
32 insurance premiums. The district board shall adopt regulations for  
33 waiving or reducing the insurance coverage requirements for low-

1 income students in order to assure such students are not prohibited  
2 from participating in extracurricular interschool activities.

3 (4) All contracts for insurance or protection written to take  
4 advantage of the provisions of this section shall provide that the  
5 beneficiaries of such contracts may utilize on an equal  
6 participation basis the services of those practitioners licensed  
7 pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW."

8

9 Renumber remaining section consecutively and correct title and  
10 internal references accordingly.

**EFFECT:** Authorizes the Health Care Authority to establish a plan to provide health care benefits on a pre-tax basis to employees who receive benefits through a cost sharing arrangement. State and higher education employees who participate will make any premium co-payments and/or managed competition premium payments for health benefits on a pre-tax basis. Eliminates the requirement that school districts purchase benefits through the Health Care Authority.