

**E2SHB 1569** - S COMM AMD  
By Committee on Ways & Means

NOT ADOPTED 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  
11 consistent with participation requirements in Title 48 RCW.  
12 Opportunities to publicize the program for outreach and education of  
13 small employers on the value of insurance shall explore the use of  
14 online employer guides. As a condition of participating in the  
15 partnership, a small employer must agree to establish a cafeteria plan  
16 under section 125 of the federal internal revenue code that will enable  
17 employees to use pretax dollars to pay their share of their health  
18 benefit plan premium. The partnership shall provide technical  
19 assistance to small employers for this purpose;

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

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

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

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

1       (f) Establish a mechanism to apply a surcharge to all health  
2 benefit plans, which shall be used only to pay for administrative and  
3 operational expenses of the partnership. The surcharge must be applied  
4 uniformly to all health benefit plans offered through the partnership  
5 and must be included in the premium for each health benefit plan.  
6 Surcharges may not be used to pay any premium assistance payments under  
7 this chapter;

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

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

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

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

- 27       (a) Two representatives of small employers;  
28       (b) Two representatives of employees of small employers, one of  
29 whom shall represent low-wage employees;  
30       (c) Four employee health plan benefits specialists; and  
31       (d) The administrator.

32       (2) The governor shall appoint the initial members of the board to  
33 staggered terms not to exceed four years. Initial appointments shall  
34 be made on or before June 1, 2007. Members appointed thereafter shall  
35 serve two-year terms. Members of the board shall be compensated in  
36 accordance with RCW 43.03.250 and shall be reimbursed for their travel  
37 expenses while on official business in accordance with RCW 43.03.050

1 and 43.03.060. The board shall prescribe rules for the conduct of its  
2 business. The board shall choose a chair from among its members.  
3 Meetings of the board shall be at the call of the chair.

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

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

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

17 (1) The health insurance partnership board shall:

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

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

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

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

1 (e) Determine appropriate health benefit plan rating methodologies.  
2 The methodologies shall be based on the small group adjusted community  
3 rate as defined in Title 48 RCW. The board shall evaluate the impact  
4 of applying the small group community rating with the partnership  
5 principle of allowing each employee to choose their health benefit  
6 plan, and consider options to reduce uncertainty for carriers and  
7 provide for efficient risk management of high-cost enrollees through  
8 risk adjustment, reinsurance, or other mechanisms;

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

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

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

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

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

27 ~~((2) Premium subsidy payments may be provided to eligible~~  
28 ~~employees if:~~

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

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

36 ~~(c) The small employer will pay at least forty percent of the~~

1 ~~monthly premium cost for health benefit plan coverage of the eligible~~  
2 ~~employee.~~

3 ~~(3) The amount of an eligible employee's premium subsidy shall be~~  
4 ~~determined by applying the sliding scale subsidy schedule developed for~~  
5 ~~subsidized basic health plan enrollees under RCW 70.47.060 to the~~  
6 ~~employee's premium obligation for his or her employer's health benefit~~  
7 ~~plan.~~

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

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

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

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

1 plan under this subsection shall clearly disclose all covered benefits  
2 to the small employer in a brochure filed with the commissioner.

3 (b) A health benefit plan offered under this subsection shall  
4 provide coverage for hospital expenses and services rendered by a  
5 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
6 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
7 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,  
8 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,  
9 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

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

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

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

- 21 (i) Geographic area;
- 22 (ii) Family size;
- 23 (iii) Age; and
- 24 (iv) Wellness activities.

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

29 (c) The insurer shall be permitted to develop separate rates for  
30 individuals age sixty-five or older for coverage for which medicare is  
31 the primary payer and coverage for which medicare is not the primary  
32 payer. Both rates shall be subject to the requirements of this  
33 subsection (3).

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



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

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

7 (i) Changes to the enrollment of the small employer;

8 (ii) Changes to the family composition of the employee;

9 (iii) Changes to the health benefit plan requested by the small  
10 employer; or

11 (iv) Changes in government requirements affecting the health  
12 benefit plan.

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

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

25 (i) Adjusted community rates established under this section shall  
26 pool the medical experience of all small groups purchasing coverage,  
27 including the small group participants in the health insurance  
28 partnership established in RCW 70.47A.030. However, annual rate  
29 adjustments for each small group health benefit plan may vary by up to  
30 plus or minus four percentage points from the overall adjustment of a  
31 carrier's entire small group pool, such overall adjustment to be  
32 approved by the commissioner, upon a showing by the carrier, certified  
33 by a member of the American academy of actuaries that: (i) The  
34 variation is a result of deductible leverage, benefit design, or  
35 provider network characteristics; and (ii) for a rate renewal period,  
36 the projected weighted average of all small group benefit plans will  
37 have a revenue neutral effect on the carrier's small group pool.  
38 Variations of greater than four percentage points are subject to review

1 by the commissioner, and must be approved or denied within sixty days  
2 of submittal. A variation that is not denied within sixty days shall  
3 be deemed approved. The commissioner must provide to the carrier a  
4 detailed actuarial justification for any denial within thirty days of  
5 the denial.

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

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

13 (b) An insurer shall not require a minimum participation level  
14 greater than:

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

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

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

23 (d) An insurer may not increase any requirement for minimum  
24 employee participation or modify any requirement for minimum employer  
25 contribution applicable to a small employer at any time after the small  
26 employer has been accepted for coverage.

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

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

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

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

15       (b) A health benefit plan offered under this subsection shall  
16 provide coverage for hospital expenses and services rendered by a  
17 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
18 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,  
19 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,  
20 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and  
21 48.44.460.

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

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

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

- 33       (i) Geographic area;
- 34       (ii) Family size;
- 35       (iii) Age; and
- 36       (iv) Wellness activities.

37       (b) The adjustment for age in (a)(iii) of this subsection may not

1 use age brackets smaller than five-year increments, which shall begin  
2 with age twenty and end with age sixty-five. Employees under the age  
3 of twenty shall be treated as those age twenty.

4 (c) The contractor shall be permitted to develop separate rates for  
5 individuals age sixty-five or older for coverage for which medicare is  
6 the primary payer and coverage for which medicare is not the primary  
7 payer. Both rates shall be subject to the requirements of this  
8 subsection (3).

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

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

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

19 (i) Changes to the enrollment of the small employer;

20 (ii) Changes to the family composition of the employee;

21 (iii) Changes to the health benefit plan requested by the small  
22 employer; or

23 (iv) Changes in government requirements affecting the health  
24 benefit plan.

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

28 (h) For the purposes of this section, a health benefit plan that  
29 contains a restricted network provision shall not be considered similar  
30 coverage to a health benefit plan that does not contain such a  
31 provision, provided that the restrictions of benefits to network  
32 providers result in substantial differences in claims costs. A carrier  
33 may develop its rates based on claims costs due to network provider  
34 reimbursement schedules or type of network. This subsection does not  
35 restrict or enhance the portability of benefits as provided in RCW  
36 48.43.015.

37 (i) Adjusted community rates established under this section shall  
38 pool the medical experience of all groups purchasing coverage.

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

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

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

25 (b) A contractor shall not require a minimum participation level  
26 greater than:

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

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

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

35 (d) A contractor may not increase any requirement for minimum  
36 employee participation or modify any requirement for minimum employer  
37 contribution applicable to a small employer at any time after the small  
38 employer has been accepted for coverage.

1 (6) A contractor must offer coverage to all eligible employees of  
2 a small employer and their dependents. A contractor may not offer  
3 coverage to only certain individuals or dependents in a small employer  
4 group or to only part of the group. A contractor may not modify a  
5 health plan with respect to a small employer or any eligible employee  
6 or dependent, through riders, endorsements or otherwise, to restrict or  
7 exclude coverage or benefits for specific diseases, medical conditions,  
8 or services otherwise covered by the plan.

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

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

24 (b) A health benefit plan offered under this subsection shall  
25 provide coverage for hospital expenses and services rendered by a  
26 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
27 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,  
28 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,  
29 48.46.520, and 48.46.530.

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

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

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

- 6 (i) Geographic area;
- 7 (ii) Family size;
- 8 (iii) Age; and
- 9 (iv) Wellness activities.

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

14 (c) The health maintenance organization shall be permitted to  
15 develop separate rates for individuals age sixty-five or older for  
16 coverage for which medicare is the primary payer and coverage for which  
17 medicare is not the primary payer. Both rates shall be subject to the  
18 requirements of this subsection (3).

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

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

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

- 29 (i) Changes to the enrollment of the small employer;
- 30 (ii) Changes to the family composition of the employee;
- 31 (iii) Changes to the health benefit plan requested by the small  
32 employer; or
- 33 (iv) Changes in government requirements affecting the health  
34 benefit plan.

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

1 (h) For the purposes of this section, a health benefit plan that  
2 contains a restricted network provision shall not be considered similar  
3 coverage to a health benefit plan that does not contain such a  
4 provision, provided that the restrictions of benefits to network  
5 providers result in substantial differences in claims costs. A carrier  
6 may develop its rates based on claims costs due to network provider  
7 reimbursement schedules or type of network. This subsection does not  
8 restrict or enhance the portability of benefits as provided in RCW  
9 48.43.015.

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

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

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

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



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

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

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

9 (d) A health maintenance organization may not increase any  
10 requirement for minimum employee participation or modify any  
11 requirement for minimum employer contribution applicable to a small  
12 employer at any time after the small employer has been accepted for  
13 coverage.

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

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

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

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

34 (3) How the composition of the board should be modified to reflect  
35 the incorporation of the individual and small group markets in the  
36 partnership.

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

4        (1) The risks and benefits of additional markets participating in  
5 the partnership:

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

7            (i) Washington state health insurance pool under chapter 48.41 RCW;

8            (ii) Basic health plan under chapter 70.47 RCW;

9            (iii) Public employees' benefits board enrollees under chapter  
10 41.05 RCW; and

11           (iv) Public school employees; and

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

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

16           (ii) Whether any distinction should be made in participation  
17 between active and retired employees enrolled in public employees'  
18 benefits board plans, giving consideration to the implicit subsidy that  
19 nonmedicare-eligible retirees currently benefit from by being pooled  
20 with active employees, and how medicare-eligible retirees would be  
21 affected;

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

25           (iv) If the board recommends the inclusion of additional markets,  
26 how the composition of the board should be modified to reflect the  
27 participation of these markets; and

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

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

37        Enrollment in the ((small-employer)) health insurance partnership

1 ((program)) is not an entitlement and shall not result in expenditures  
2 that exceed the amount that has been appropriated for the program in  
3 the operating budget. If it appears that continued enrollment will  
4 result in expenditures exceeding the appropriated level for a  
5 particular fiscal year, the administrator may freeze new enrollment in  
6 the program and establish a waiting list of eligible employees who  
7 shall receive subsidies only when sufficient funds are available.

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

10 The administrator shall adopt all rules necessary for the  
11 implementation and operation of the ((small-employer)) health insurance  
12 partnership ((program)). As part of the rule development process, the  
13 administrator shall consult with small employers, carriers, employee  
14 organizations, and the office of the insurance commissioner under Title  
15 48 RCW to determine an effective and efficient method for the payment  
16 of subsidies under this chapter. All rules shall be adopted in  
17 accordance with chapter 34.05 RCW.

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

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

34 NEW SECTION. **Sec. 15.** (1) The office of the insurance  
35 commissioner shall contract for an independent study of health benefit

1 mandates, rating requirements, and insurance statutes and rules to  
2 determine the impact on premiums and individuals' health if those  
3 statutes or rules were amended or repealed.

4 (2) The office of the insurance commissioner shall submit an  
5 interim report to the governor and appropriate committees of the  
6 legislature by December 1, 2007, and a final report by December 1,  
7 2008.

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

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

13 NEW SECTION. **Sec. 18.** If specific funding for the purposes of the  
14 following sections of this act, referencing the section of this act by  
15 bill or chapter number and section number, is not provided by June 30,  
16 2007, in the omnibus appropriations act, the section is null and void:

- 17 (1) Section 5 (health insurance partnership board);  
18 (2) Section 15 (office of insurance commissioner independent  
19 study)."

**E2SHB 1569** - S COMM AMD  
By Committee on Ways & Means

**NOT ADOPTED 04/12/2007**

20 On page 1, line 1 of the title, after "Relating to" strike the  
21 remainder of the title and insert "modifying the small employer health  
22 insurance partnership program by defining a limited number of health  
23 plans currently offered in the small group market eligible for a  
24 premium subsidy payment and adding health insurance exchange functions  
25 to the program; amending RCW 70.47A.010, 70.47A.020, 70.47A.030,  
26 70.47A.040, 48.21.045, 48.44.023, 48.46.066, 70.47A.050, 70.47A.060,  
27 and 70.47A.080; adding new sections to chapter 70.47A RCW; creating new

1 sections; repealing 2006 c 255 s 10 (uncodified); providing an  
2 effective date; and declaring an emergency."

--- END ---