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November 30, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Substitute Amendment 1 to Assembly Bill 844 and Senate Substitute Amendment 1 to Senate Bill 451: Health Insurance Risk-Sharing Plan Authority

Assembly Bill 844 and Senate Bill 451 are identical bills, which would create a Health Insurance Risk-Sharing Plan Authority. Both bills were introduced on November 23, 2005.

On November 28, the Senate Committee on Agriculture and Insurance adopted SSA 1 to SB 451 and recommended the bill for passage on a vote of 5 to 2.

On November 29 the Assembly Committee on Insurance adopted ASA 1 to AB 844, as amended by AA 1 to ASA 1, and recommended the bill for passage on a vote of 13 to 2.

INTRODUCTION

Background. The state's health insurance risk-sharing plan (HIRSP) offers health insurance coverage to individuals with adverse medical histories and others who cannot obtain affordable health care coverage from the private sector. Wisconsin residents are eligible to enroll in HIRSP as a result of having health insurance coverage rejected or limited by an insurer, having certain diseases or disabilities, or losing employer-sponsored health care coverage. Under current law, the Department of Health and Family Services (DHFS), a 13-member Board of Governors, and a plan administrator under contract with DHFS administer HIRSP.

As passed by the Legislature, Enrolled Assembly Bill 100 (the 2005-07 biennial budget bill) would have transferred the responsibility for administering HIRSP to a legally distinct, private, nonprofit organization governed by a board of directors, effective January 1, 2006. The nonprofit board of directors would have been authorized to make benefit, eligibility, cost containment, administrative, and other changes to the program. Enrolled AB 100 would have created a HIRSP

fund that would have been outside the state treasury, and from which all operating and administrative expenses of the HIRSP plan would have been paid, beginning January 1, 2006. Enrolled AB 100 provided six months of funding for HIRSP administration and benefits and deleted 4.83 SEG positions in DHFS, effective January 1, 2006 to reflect that, after that date, DHFS would no longer have any responsibilities relating to the administration of HIRSP, and funding for administration and benefits would no longer be included as part of the state budget.

The Governor's partial veto deleted all of these provisions. However, the Governor's partial veto was unable to restore the funding and positions in DHFS that had been deleted in Enrolled AB 100. Consequently, no changes to the program were enacted in Act 25, but the funding for benefits and administration costs authorized under Act 25 are insufficient to support program costs after January 1, 2006.

Summary in Brief. AB 844 and SB 451 are identical bills (hereafter referred to as "the bill") that would create a Health Insurance Risk-Sharing Plan Authority with a 13-member board of directors, and transfer administrative authority for HIRSP from DHFS to the new Authority and its board of directors, effective July 1, 2006. The bill requires that DHFS terminate its plan administrator contract and that the HIRSP Authority enter into an identical contract with the same plan administrator effective July 1, 2006. The bill creates a HIRSP fund that is outside the state treasury, and from which all operating and administrative expenses of the HIRSP plan would be paid, beginning July 1, 2006. The bill increases the authorized positions for DHFS by 4.83 SEG positions for the period ending July 1, 2006, and provides $82,179,300 SEG in 2005-06 to increase funding for program benefits ($78,643,800) and administration ($3,535,500) to support the program through the 2005-06 fiscal year.

Under the bill, the structure of the HIRSP plan, subsidies for premiums and deductibles, and out-of-pocket limits remain as they are under current law through calendar year 2006. Beginning January 1, 2007, the Authority would establish the plan design, after taking into consideration the levels of health insurance coverage provided in the state and medical economic factors, as appropriate. Under the bill, no current law benefits are eliminated, and benefits are specified in statute. The bill directs the Authority to retain the premium subsidies and out-of-pocket maximums provided under current law. The bill requires the Authority to provide deductible subsidies, although it does not mandate that the deductible subsidies equal those under current law. The bill also allows the Authority to provide subsidies for prescription drug copayment amounts.

The bill requires that the Authority design and administer a plan that satisfies the requirements for individuals eligible for a federal health care tax credit, for as long as that credit is available under the federal Trade Adjustment Assistance Reform Act of 2002. Additionally, the bill creates an income and franchise tax credit and a license fee credit for insurers that pay HIRSP assessments.

The substitute amendments (ASA 1 to SSA 1) to AB 844 and SB 451 specify that the Authority would be exempt from the corporate income and franchise tax, and that purchases by the

Authority would be exempt from state and local sales and use taxes. In addition, property owned by the Authority would be exempt from property taxes provided that use of the property is primarily related to the purposes of the authority.

SUMMARY OF BILL

This summary compares the substitute amendments to the bills to current law and to the provisions relating to HIRSP that were included in Enrolled AB 100.

HIRSP Structure and Administration

Current Law. Under current law, HIRSP offers health insurance coverage to individuals with adverse medical histories and others who cannot obtain affordable health care coverage from the private sector. DHFS and a 13-member Board of Governors administer HIRSP. The HIRSP Board of Governors consists of the DHFS Secretary (or a designee from DHFS), who serves as chair, the Commissioner of Insurance (or his or her designee), and the following 11 members appointed by the Secretary of DHFS to staggered, three-year terms: two participating insurers representing nonprofit organizations, two other participating insurers, three health care providers, and four public members. Of the four public members, at least one must have coverage under HIRSP, and one must be a representative of a small business in the state. Further, none of the public members may be professionally affiliated with the practice of medicine, a hospital, or an insurer. Finally, the three health care provider representatives must include one representative of the Wisconsin Medical Society, one representative of the Wisconsin Hospital Association, and one representative of an integrated multi-disciplinary health system.

Current law establishes a separate, non-lapsable HIRSP fund managed by the State of Wisconsin Investment Board and consisting of revenue from insurer assessments and enrollee premiums. Benefits and administrative expenses from the fund are paid from state appropriations to DHFS.

Enrolled AB 100. As passed by the Legislature, Enrolled AB 100 would have transformed HIRSP into a legally distinct, nonprofit organization governed by a board of directors empowered to make benefit, eligibility, cost containment, administrative, and other changes to the program. The Commissioner of Insurance would have nominated 13 individuals to serve as the initial directors of the board of the new organization, including: four representatives of participating insurers; four health care provider representatives, including one representative of the Wisconsin Medical Society, one representative of the Wisconsin Hospital Association, one representative of the Pharmacy Society of Wisconsin, and one representative of a health care provider that provides services to persons with coverage under the plan; and, among the remaining five members, at least one who represents small businesses that provide health insurance, and at least one who has coverage under the plan. Board members would have been confirmed by the Senate.

Enrolled AB 100 would have directed the board to form a private, nonprofit organization under Chapter 181 of the statutes and take all actions necessary to exempt the organization from federal taxation. Enrolled AB 100 would have exempted the organization from state income taxation. The board would have assumed HIRSP administrative duties exercised under current law by DHFS, the HIRSP board, or the HIRSP plan administrator. The Office of the Commissioner of Insurance (OCI) would have assessed insurers and forward assessment revenue to the board. Policyholder premiums and insurer assessments would have been paid into a fund, which would have been outside the state treasury. The HIRSP board would have controlled the assets of the fund and selected regulated financial institutions in which to establish accounts. The board would have paid the operating expenses of the HIRSP plan from the fund. As a condition for the release of the assessment revenue from OCI, the organization, through the board, would agree to administer the plan in conformance with Chapter 149 of the statutes.

Under Enrolled AB 100, the transfer of HIRSP administration to the new board would have taken effect on January 1, 2006.

Substitute Amendments 1 to AB 844/SB 451. The bill creates the Health Insurance Risk-Sharing Plan Authority, which would administer the HIRSP program beginning on July 1, 2006. An authority is a public body, created by law, with a board of directors but that is not a state agency. The board of directors consists of the Commissioner of Insurance (or the Commissioner's designee) as a nonvoting member, and 13 other members appointed by the Governor, with the advice and consent of the Senate, for staggered, three-year terms. The make-up of the board is the same as that proposed under Enrolled AB 100, with the following exceptions: (a) the Commissioner of Insurance (or designee) is a non-voting member of the Board; and (b) two members, rather than one member, must be persons with coverage under the HIRSP plan. Board members may not be compensated for their services, although they may be reimbursed for actual and necessary expenses, including travel expenses, incurred in performing their duties. Annually, the Governor would appoint a board member--other than the Commissioner of Insurance--as chairperson, and the board may elect other members as officers. Seven voting members of the board constitute a quorum, and the board may take action upon a vote of a majority of the members present, unless bylaws passed by the board require a larger number. The board may appoint an executive director to serve at the pleasure of the board. The executive director, or other person designated by resolution of the board, must keep a record of the proceedings of the Authority and would be the custodian of all books, documents, and papers filed with the Authority, the minute book or journal of the Authority, and its official seal.

The bill empowers the Authority to, among other things: (a) adopt bylaws and policies and procedures to regulate its affairs and conduct its business; (b) hire employees; (c) incur debt (but not issue bonds); (d) appoint any technical or professional advisory committee that the authority finds necessary to assist it in exercising its duties; and (e) contract for any professional services required for the Authority. The Authority sets it own annual budget, but need not go through the state's biennial budget process to do so. Authority employees would not be state employees and would not be subject to the state personnel management system, nor would they participate in the

state's retirement system. In adopting its policies and procedures, the Authority would not be subject to rule-making procedures prescribed in state statutes, but would be required to operate the HIRSP program in accordance with statute. Further, when contracting for professional services, the Authority must solicit competitive sealed bids or proposals. For contracts estimated to exceed $25,000, the Authority may publish a Class 2 notice under Chapter 985 of the statutes, or post notice on an Internet site approved by the Authority. The Authority may award contracts estimated to cost less than $25,000 pursuant to simplified procedures established by the Authority for such transactions.

The bill prohibits employees of the Authority from directly or indirectly soliciting or receiving subscriptions or contributions for any partisan political party or purpose while engaged in their official duties as employees. The bill prohibits any form of political activity by an Authority employee, while engaged in his or her official duties as an employee, which is calculated to favor or improve the chances of any political party or any person seeking political office. Authority employees may not engage in political activity while off duty to such an extent that it impairs the employee's on-the-job efficiency. If an Authority employee declares an intention to run for partisan political office, the employee must be placed on a leave of absence for the duration of the election campaign, and, if elected, must no longer be employed by the Authority upon assuming the duties of the elected office.

The bill limits the state's liability with respect to the Authority's activities by providing that neither the state nor any political subdivision of the state nor any officer, employee or agent of the state or a political subdivision who is acting within the scope of employment or agency is liable for any debt, obligation, act, or omission of the authority.

Unlike the nonprofit organization specified in Enrolled AB 100, the Authority, as a public body corporate and politic created by law, is subject to the open records and open meetings requirements of Chapter 19 of the statutes, triggering public access to Authority records and notice of and access to meetings held by members of the Authority as required by statute. Authority employees are subject to the code of ethics for public officials and employees as detailed in Chapter 19 of the statutes. Additionally, the bill provides that the Authority is treated as a state agency for purposes of the law regulating lobbying.

The bill directs the Authority to adopt policies to administer the HIRSP program according the Chapter 149 of the statutes and to contract with the plan administrator for the program. In April, 2005, following a competitive bid process, WPS Health Insurance (WPS) began a three-year contract term as the HIRSP plan administrator. The contract has a provision allowing DHFS to give 180 days' written notice to the plan administrator terminating the contract if it is in the best interests of DHFS or the HIRSP plan. The bill directs DHFS to, no later than January 1, 2006, give written notice to WPS terminating the plan administrator contract effective July 1, 2006. The bill further directs the Authority to enter into a contract with WPS under the same terms and conditions and with the same respective rights, duties, and obligations of the contract between DHFS and WPS.

The substitute amendments would specify that the new authority would be exempt from the corporate income and franchise tax, and that purchases by the authority would be exempt from state and local sales and use taxes. In addition, property owned by the authority would be exempt from property taxes provided that use of the property is primarily related to the purposes of the authority.

The bill directs the Authority, either on its own or by contract with another entity, to perform all HIRSP eligibility and administrative claims payment functions relating to the HIRSP plan, to establish a billing procedure for collecting premiums from insured persons, and to assure timely payment of benefits to persons covered under the plan.

The bill creates a health insurance risk-sharing plan fund, outside the state treasury, which would consist primarily of assessment and premium revenue and federal high risk grant moneys transferred from OCI. The bill transfers to the fund effective July 1, 2006, the unencumbered balances in the DHFS appropriation accounts for HIRSP administration and program benefits and repeals the DHFS appropriations.

Assembly Amendment 1 to Assembly Substitute Amendment 1 to AB 844. The amendment would specify that of the five authority board members who do not represent insurers or health care providers, one must be a professional consumer advocate who is familiar with the HIRSP plan.

DHFS Oversight

Current Law. The DHFS Secretary, in addition to chairing the HIRSP Board of Governors, has a number of responsibilities relating to the operation of the plan. The statutes require the DHFS Secretary to promulgate a variety of administrative rules governing the operation of HIRSP, including rules to: (a) operate the plan; (b) establish annual HIRSP premium rates, insurers' assessments, and provider payment rates**;** (c) adjust premiums, insurers' assessments, and provider payment rates as necessary to meet the costs of the plan; and (d) permit certain persons who receive government reimbursements or copayments to continue to be eligible for the plan. DHFS may also promulgate rules relating to premium rates, insurer assessments, and provider payment adjustments as emergency rules. DHFS may establish the following limits on covered services by promulgating administrative rules to: (a) apply the same utilization and cost control procedures that apply under rules established for MA, except that DHFS cannot apply the same copayments to HIRSP plan participants as apply to MA recipients; (b) limit the amount of services provided to individuals with chronic mental illness in community support programs; and (c) establish copayments, coinsurance, and out-of pocket limits for prescription drugs, subject to the approval of the Board of Governors. Further, DHFS may limit coverage of prescription drugs to only those claims submitted by pharmacists directly to the plan administrator. Finally, DHFS, in consultation with the Board, is required to establish a program budget for each plan year. DHFS may not implement the budget unless approved by the Board.

Enrolled AB 100. Under Enrolled AB 100, as passed by the Legislature, DHFS would have had no role in administering the HIRSP program. Generally, under the enrolled bill, the board would have assumed any responsibilities DHFS has under current law.

Substitute Amendments 1 to AB 844/SB 451. Same as under Enrolled AB 100, except that the HIRSP Authority assumes any responsibilities DHFS has under current law.

OCI Oversight

Current Law. Under current law, the Commissioner of Insurance or his or her designee serves on the HIRSP Board. Additionally, OCI is required to assess each insurer its proportional share of the HIRSP costs to be paid by insurers, as determined by DHFS. OCI is required to calculate each insurer's portion and to notify DHFS of the insurers that are to share in the costs. OCI may, by rule, exempt as a class, those insurers whose share would be so minimal as to not exceed the estimated cost of levying the assessment. OCI may, by rule, require insurers to submit information that is necessary for OCI, DHFS, and the Board of Governors to carry out their responsibilities related to the administration of HIRSP.

Enrolled AB 100. Under Enrolled AB 100 as passed by the Legislature, the Commissioner of Insurance would have nominated the board of directors for the new organization to administer HIRSP, but would not serve on the board of directors. The Commissioner's duties to assess insurers and enforce assessments would have continued, and an appropriation would have been created in the Chapter 20 schedule under OCI to which the assessments would be deposited, and from which the assessment revenue would be paid to the new organization.

Additionally, policies designed by the board of the new nonprofit organization would have been subject to OCI approval. OCI could have disapproved any policy designed by the board with a benefit design that is not comparable to a typical individual health insurance policy offered in the private sector market in the state.

Substitute Amendments 1 to AB 844/SB 451. Same as under Enrolled AB 100, with the following distinctions and additions: (a) the Commissioner of Insurance does not nominate board members, but serves as a non-voting board member; (b) OCI may disapprove any policy designed by the board that has benefit levels that are not generally reflective of and commensurate with comprehensive health insurance coverage offered in the private individual market in the state; (c) OCI may disapprove any policy designed by the board that requires copayments, deductibles, and coinsurance that are not actuarially equivalent to comprehensive individual plans and would create undue financial hardship; and (d) OCI may disapprove any policy designed by the board that is inconsistent with the purpose of providing health care coverage to those unable to obtain coverage in the private market.

Legislative Audit Bureau

Current Law. Under current law, the Legislative Audit Bureau (LAB) may audit the records of every state department, independent agency or authority at least once every five years. Current law also requires that each state department, board, commission, independent agency or authority file with the LAB a report on all receivables due the state as of the preceding June 30. At DHFS's request, the LAB has performed a financial audit of the HIRSP plan for the past several years.

Enrolled AB 100. Under Enrolled AB 100, the Legislative Audit Bureau would not, by statute, have had access to the records of the nonprofit organization administering HIRSP.

Substitute Amendments 1 to AB 844/SB 451. Under the bill, the HIRSP Authority would be specifically excluded form the statutory section authorizing the LAB to audit the records of state authorities at least once every five years. Additionally, the HIRSP Authority would be exempt from the requirement that state authorities file a report on all receivables due the state. The bill would require that LAB annually conduct a financial audit of the HIRSP plan and file copies of each audit report with the chief clerk of each house of the Legislature, the Governor, the Department of Administration, the Legislative Reference Bureau, the Joint Committee on Finance, and the Legislative Audit Bureau.

HIRSP Eligibility

Current Law. Under current law, Wisconsin residents are eligible to enroll in HIRSP as a result of having health insurance coverage rejected or limited by an insurer, as a result of having certain diseases or disabilities, or as a result of the loss of employer-sponsored health care coverage. Current law defines "resident," in part, as a person who has been legally domiciled in this state for at least 30 days.

Individuals under age 65 may apply for enrollment in HIRSP if, during the nine months prior to the application, they received and submitted with their application, any of the following, based wholly or partially on medical underwriting considerations: (a) notice of rejection or cancellation of coverage from one or more health insurers; (b) notice of reduction or limitation in coverage, including restrictive riders, from an insurer if the effect of the reduction is to substantially reduce coverage compared to the coverage available to a person considered a standard risk for the type of coverage provided by the plan; (c) notice of an increase in premium of 50 percent or more for a current policy, unless the increase is applicable to all of the insurer's health insurance policies then in effect; (d) notice of a premium for a prospective policy from two or more insurers that is 50 percent or more in excess of the premium that would be paid by persons considered a standard risk for similar coverage.

Individuals under the age of 65 may also be eligible for coverage under HIRSP without having received any of the notices described above if they have certain diseases or disabilities. Persons may enroll in HIRSP if they submit evidence of a positive test for the human immunodeficiency virus (HIV) or an antibody to HIV; (b) coverage under Medicare because of a

disability -- defined as a condition which causes the individual to be unable to perform substantial, gainful activity because of a physical or mental impairment which will last at least 12 months.

Additionally, persons may also be eligible for HIRSP under current law if they meet all of the following requirements: (a) the aggregate of the individual's period of creditable health care insurance coverage is 18 months or more; (b) the individual's most recent period of creditable coverage was under a group health plan, governmental plan, federal governmental plan, or church plan, or under any health insurance offered in connection with any of those plans; (c) the individual does not have creditable coverage and is not eligible for coverage under a group health plan, Part A or Part B of Medicare or medical assistance (MA) or any successor program; (d) the individual's most recent period of creditable coverage was not terminated for any reason related to fraud or intentional misrepresentation of material fact or a failure to pay premiums; (e) the individual elected to continue coverage if the individual was offered the option of continuation coverage under a federal continuation provision; and (f) the individual has exhausted the federal continuation coverage. Eligibility under these conditions is structured to meet the "acceptable alternative mechanism" requirements of the federal Health Insurance Portability and Accountability Act (HIPAA).

A person who is eligible for MA is not eligible for coverage under HIRSP.

Enrolled AB 100. As passed by the Legislature, Enrolled AB 100 would have continued eligibility for all persons currently eligible for HIRSP. However, to be eligible to enroll in HIRSP as a result of having an application for health insurance coverage rejected, an individual would have been required to submit notices of rejection from two or more insurers (as opposed to one or more under current law). Enrolled AB 100 would have continued the "acceptable alternative mechanism" eligibility conditions that meet HIPAA requirements. Enrolled AB 100 would have allowed the HIRSP board of directors to establish criteria that would enable additional persons to be eligible for coverage under the plan, as long as the board ensured that the expansion of eligibility is consistent with the purpose of the plan to provide health care coverage for those who are unable to obtain health insurance in the private market and would not endanger the solvency of the plan. Finally, Enrolled AB 100 would have defined "resident," in part, as a person who has been legally domiciled in this state for a period of at least six months.

In addition to retaining the provision in Chapter 149 of the statutes specifying that any person eligible for MA is ineligible for HIRSP, Enrolled AB 100 would have provided that persons eligible for specific MA-related programs are not eligible for HIRSP coverage. Those programs include: (a) the community options waiver program; (b) the community integration program for residents of state centers for the developmentally disabled; (c) the community integration program for other persons with developmental disabilities; (d) the brain injury waiver program; (e) MA provided as part of a Family Care benefit; (f) services provided under a pilot program for long-term care of children with disabilities, including an autism spectrum disorder waiver; (g) services provided under the program of all-inclusive care for persons aged 55 or older under federal MA law; (h) services provided under the demonstration program under a federal waiver authorized under 42 U.S.C. 1315; and (i) the BadgerCare program.

Substitute Amendments 1 to AB 844/SB 451. Same as Enrolled AB 100, with the following distinctions and additions. First, the bill defines "resident," in part, as a person who has been legally domiciled in this state for a period of at least three months, rather than six months, as under Enrolled AB 100, or 30 days under current law. Second, the bill provides that persons who are otherwise eligible for HIRSP will not be excluded from HIRSP for being eligible for only any of the following types of limited medical assistance: (a) the family planning demonstration waiver program; (b) care and services for eligible aliens for the treatment of an emergency medical condition; (c) medical assistance provided to tuberculosis patients who are eligible for the federal supplemental security income program; (d) ambulatory prenatal care for pregnant ; and (e) payment of Medicare premiums for individuals who are eligible for both MA and Medicare..

The HIRSP eligibility changes, as they relate to individuals who participate in MA programs, were contained in the Governor's 2005-07 biennial budget proposal. According to DHFS, applicants enrolled in the limited MA programs listed above are not allowed to participate in the HIRSP program.

HIRSP Plans, Coverage, Premiums, and Subsidies

Current Law. Under current law, HIRSP offers two types of plans, both of which provide coverage for major medical expenses. Plan 1 is for individuals who meet specified eligibility criteria but are not eligible for Medicare. Plan 1 offers two deductible options: Plan 1A has a $1,000 deductible for enrollees with annual household income of $20,000 or more; Plan 1B has a $2,500 deductible for all enrollees. Plan 2 is for individuals who meet the specified eligibility criteria and who are eligible for Medicare. The effective deductible for Plan 2 enrollees is $500. Coverage for Plan 2 is limited to those benefits not paid by Medicare Part A or B, regardless of whether the individual is enrolled in Part B. Current law specifies expenses that must be covered and expenses that must be excluded under HIRSP. The HIRSP standard plan features contain a number of cost sharing and benefit limitation provisions referenced in statute, including medical deductibles, medical and prescription drug coinsurance, limits on out-of-pocket costs, waiting periods for preexisting conditions, and a lifetime benefit maximum of $1 million.

Current law requires that 60 percent of the projected operating and administrative costs of the program be funded by premium revenues, and that 20 percent of HIRSP costs be paid from insurer assessments. Reduced reimbursements to providers account for the remaining 20 percent of HIRSP costs. Premium rates for Plan 1 must be set at a level no lower than 140 percent, nor higher than 200 percent, of the rate that would be charged under an individual policy providing substantially the same coverage and deductibles as HIRSP. Current law also prescribes the criteria for setting Plan 2 rates.

Current law provides that individuals with less than $25,000 in annual household income are eligible for a subsidy to cover a portion of their premium if enrolled in Plan 1A or Plan 2. Plan 1B enrollees are not eligible for a premium subsidy. Individuals with annual income less than $20,000 are eligible for a subsidy to cover a portion of their deductible if enrolled in Plan 1A. Enrollees in

Plans 1B and 2 are not eligible for deductible subsidies. Premium and deductible subsidies are funded equally from assessments on health insurers and reduced provider payments.

Table 1 identifies the annual household income eligibility levels for the premium and deductible subsidy program for Plan 1A and the amount of the subsidies at each income level under current law.

TABLE 1

HIRSP Plan 1A Premium and Deductible Subsidies Levels

Annual Household Income Level		Amount of Premium	Prescription Medical Deductible	Drug Deductible
At Least	But Less Than	as % of Standard Risk	Amount	Amount
$0	$10,000	100.0%	$500	$375
10,000	14,000	106.5	600	450
14,000	17,000	115.5	700	525
17,000	20,000	124.5	800	600
20,000	25,000	130.0	1,000	750

Enrolled AB 100. Enrolled AB 100 would have provided that the nonprofit HIRSP board would determine the design of the plan or plans, including the covered expenses, expenses excluded from coverage, deductibles, copayments, coinsurance, out-of-pocket limits, and coverage limitations. Policies designed by the board would have been subject to OCI approval, and OCI could disapprove any policy designed by the board with a benefit design not comparable to a typical individual health insurance policy offered in the private sector market in the state. Enrolled AB 100 would have repealed statutory sections related to coverage exclusions, prescription drug coverage, deductibles, copayments, coinsurance, and out-of-pocket limits, premium rates, and preexisting conditions. Enrolled AB 100 would have directed the board to establish provider payment rates for covered expenses, including pharmacy expenses, that consist of the allowable charges paid under MA for the services plus an enhancement determined by the board. Additionally, Enrolled AB 100 would have repealed a provision directing that DHFS, by rule, apply to HIRSP the same utilization and cost control procedures that apply under MA rules promulgated by DHFS. Under Enrolled AB 100, for HIRSP enrollees eligible for Medicare, coverage would have been limited to those benefits not paid by Medicare Part A, B, or D. Medicare Part D, which goes into effect on January 1, 2006, is the drug benefit added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Enrolled AB 100 would have directed the board to seek to qualify HIRSP under federal regulations as a state pharmacy assistance program (SPAP) -- which is a program that provides senior citizens and individuals with disabilities increased access to prescription drugs. If HIRSP is designated as a SPAP, drug costs paid by HIRSP for Plan 2 enrollees would count toward the enrollees' coinsurance requirement in the Part D benefit "coverage gap" -- that is, the difference

between the initial Part D coverage limit and the catastrophic threshold. Enrolled AB 100 would have retained the $1 million lifetime benefit maximum.

Enrolled AB 100 would have retained the requirements that plan costs be paid 60 percent from enrollee premiums, but would have repealed the requirements that premiums be set no lower than 140 percent of the amount that would be charged under an individual policy providing substantially the same coverage. Enrolled AB 100 would have retained the provision that premiums be set at an amount no higher than 200 percent of the amount that would be charged under an individual policy providing substantially the same coverage. Enrolled AB 100 would have repealed the criteria for setting Plan 2 rates. Enrolled AB 100 would have retained the current law requirements that 20 percent of plan costs be paid through insurer assessments, and 20 percent from adjustments to provider payment rates. Additionally, AB 100 would have required the board to provide for subsidies for premiums, deductibles, and copayments for eligible persons with household incomes below a level established by the board. However, Enrolled AB 100 would have provided that any premium and deductible subsidy costs be split among policy holders, insurers, and providers according to the same 60/20/20 percentage allocation of other HIRSP plan costs.

Substitute Amendments 1 to AB 844/SB 451. The bill retains the HIRSP benefits, deductibles, copayments, out-of-pocket limits, subsidies, and pre-existing condition exclusions provided under current law through December 31, 2006. Beginning January 1, 2007, the Authority is to establish the plan design, after taking into consideration the levels of health insurance coverage provided in the state and medical economic factors, as appropriate. The bill directs the Authority to provide plan benefit levels, deductibles, copayment and coinsurance requirements, exclusions, and limitations under the plan that the Authority determines generally reflect and are commensurate with comprehensive health insurance coverage offered in the private individual market in the state. Although no benefits are eliminated, after January 1, 2006, certain benefits may be limited to the minimum levels that commercial insurers are required to provide under state statutes. The bill specifies coverage for the services of a home health agency in statute. Additionally, the bill allows the Authority to develop additional benefit designs that are responsive to market conditions.

As with Enrolled AB 100, under the bill,, HIRSP plans designed by the Authority would be subject to OCI approval, and OCI may disapprove any policy designed by the board that has a benefit design that is not comparable to a typical individual health insurance policy offered in the private sector market in the state. However, under the bill, OCI may also disapprove any policy designed by the board that: (a) has benefit levels that are not generally reflective of and commensurate with comprehensive health insurance coverage offered in the private individual market in the state; (b) requires copayment, deductible, and coinsurance amounts that are not actuarially equivalent to comprehensive individual plans and would create undue financial hardship; and (c) is inconsistent with the purpose of providing health care coverage to those unable to obtain coverage in the private market.

Under the bill,, beginning on January 1, 2007, the Authority must establish and provide subsidies for deductibles paid by eligible persons under the same income guidelines specified in

current law, and may provide subsidies for prescription drug copayment amounts. The bill retains premium subsidies provided under current law. The bill also requires that the Authority may provide subsidies for prescription drug copayment amounts. The bill retains the current law out-of-pocket limits for HIRSP enrollees. Those calendar year out-of-pocket limits are: $500 for enrollees receiving Medicare; $2,000 for any other enrollee; or $4,000 for all eligible persons in a family. Consequently, although the Authority, as of January 1, 2007, could change the deductible and prescription drug subsidies provided under current law, the out-of-pocket maximums remain the same.

The bill retains the requirement that 60 percent of the projected operating and administrative costs of the program be funded by premium revenues, 20 percent of HIRSP costs be paid from insurer assessments, and reduced reimbursements to providers account for the remaining 20 percent of HIRSP costs. With respect to subsidy costs, the bill provides that, beginning in state fiscal year 2006-07, subsidy costs are to be paid first from any federal high risk pool grant funds received by OCI, and the remainder of the subsidy costs be split equally between insurers and providers as under current law. As an example, total premium and deductible subsidies for state fiscal year 2005-06 are expected to exceed $5.8 million. In October, 2005, the federal Department of Health and Human Services awarded DHFS a high risk pool grant totaling $2,500,578 for the period September, 2006 through March, 2007.

The bill contains the Enrolled AB 100 provisions regarding HIRSP enrollees eligible for Medicare. Specifically, for those enrollees, effective January 1, 2006, in addition to limiting coverage to those benefits not part by Medicare Part A or B, as under current law, coverage would be limited to those benefits not paid by Medicare Part D. Additionally, the bill directs the Authority to seek to qualify HIRSP under federal regulations as a state pharmacy assistance program (SPAP). If the federal government approved HIRSP as an SPAP, drug costs paid by HIRSP for Plan 2 enrollees will count toward the enrollees' coinsurance requirement in the Part D benefit "coverage gap" -- that is, the difference between the initial Part D coverage limit and the catastrophic threshold. The actuary for the HIRSP program tentatively estimated the savings to HIRSP as a result of qualifying as an SPAP to be in excess of $12 million, although the actuary cautions that the estimate may be high, given recent information showing that prescription drug prices for HIRSP have not increased as much as expected, and the overall level of prescription claims is less than expected. Additionally, DHFS has recently been advised that it is doubtful that a state program receiving a federal high risk pool grant could qualify as an SPAP. If, in fact, HIRSP would not qualify as an SPAP if it accepts federal high risk grant funds, the Authority would have to forgo accepting a federal grant in order to maintain eligibility for SPAP status. Consequently, there would be no federal funding available to offset subsidy costs, which are borne equally by insurers and providers.

The substitute amendments specify that provisions limiting coverage to those benefits not paid by Medicare Part D apply to current HIRSP plan enrollees beginning May 15, 2006 -- the last date by which most individuals must enroll or apply for Medicare Part D without penalty.

However, as of January 1, 2006, HIRSP applicants attempting to enroll on the basis of participation in Medicare must be enrolled in Medicare Part D to be eligible for HIRSP.

Plan Administration

Current Law. Current law provides that a HIRSP plan administrator may be selected by DHFS in a competitive bidding process. The HIRSP plan administrator is to: (1) perform all eligibility and administrative claims payment functions relating to the plan; (2) establish premium billing procedures for collection of premiums from insured persons; (3) perform all necessary functions to assure timely payment of benefits to persons covered under the plan, including making information available relating to the proper manner of submitting a claim and distribution of claim submission forms, evaluating the eligibility of each claim for payment under the plan, and notifying each claimant within 30 days after receiving a properly completed and executed proof of loss whether the claim is accepted, rejected, or compromised; (4) under the direction of DHFS, pay claims expenses from the premium payments received from or on behalf of persons covered under the plan. If the plan administrator's payments for claims expenses exceed premium payments, the Board of Governors must forward to DHFS, and DHFS must provide to the plan administrator, additional funds for payment of claims expenses. The plan administrator is paid for its direct and indirect costs from the HIRSP fund. Allowable expenses include that portion of the administrator's costs for printing, claims administration, customer service, financial and operational reporting, building overhead costs, and other actual operating and administrative expenses. In addition to contracting with the plan administrator for administrative services, DHFS contracts with the Legislative Audit Bureau to conduct annual financial audits of HIRSP.

DHFS has contracted with a new plan administrator that began its duties in April, 2005.

Enrolled AB 100. Enrolled AB 100 would have repealed the plan administrator provision and directed that the nonprofit HIRSP board adopt policies to administer the HIRSP statute, including the authority to delegate any part of its powers or procedures. This would have included the authority to contract for plan administration. Enrolled AB 100 would have required that DHFS terminate the existing plan administrator contract and that the nonprofit organization assuming the responsibility for administering HIRSP contract with the same plan administrator under the same terms and conditions.

Under Enrolled AB 100, the board would have been required to annually report to the Legislature and the Governor on the operation of the plan. The board would have: (a) performed all eligibility and administrative claims payment functions; (b) established a premium billing procedure for collecting premiums from insured persons; and (c) performed all necessary functions to assure timely payment of benefits to covered persons under the plan.

Substitute Amendments 1 to AB 844/SB 451. Same as Enrolled AB 100, with the exception that the HIRSP Authority is given the duties that the nonprofit organization was given under Enrolled AB 100.

Case Management Pilot Program

Current Law. 2001 Wisconsin Act 16 directed DHFS to establish a community-based case management services demonstration pilot. The pilot program would last three years and may include up to 300 enrollees. Participation in the program is voluntary and each enrollee must satisfy any of the following criteria: (a) the enrollee was diagnosed with a chronic disease; (b) the enrollee takes two or more prescribed medications on a regular basis; and (c) the enrollee was treated at least twice in a hospital emergency room, or admitted at least twice to a hospital as an inpatient, within six months of applying for the pilot. A team would provide the community-based case management services. The team consists of a nurse case manager, a pharmacist, a social worker, and the primary care physician. Case management services provided would include initial intake assessment, development of a treatment plan, coordination of health care services, patient education, family support, and monitoring and reporting of patient outcomes and costs.

DHFS issued a request for proposals for the case management pilot program and received proposals from two service providers. According to DHFS, at the time the HIRSP Board was evaluating the proposals, it was also considering a much more comprehensive disease management program and began working to include disease management in its next plan administrator contract. DHFS has included case management services in its new plan administrator contract and requested in its 2005-07 biennial budget request that it no longer be required to establish a separate case management pilot program.

Enrolled AB 100. Enrolled AB 100 would have deleted the statutory provisions relating to the case management pilot program upon passage of the bill.

Substitute Amendments 1 to AB 844/SB 451. Same as Enrolled AB 100.

HIRSP Staffing

Current Law. Under current law, 4.83 DHFS SEG positions are paid from the appropriation for HIRSP administrative services. These positions include 1.0 health care rate analyst position, 1.0 contracts specialist position, 1.0 program and planning analyst position, 1.0 health care financing supervisor position, 0.50 program assistant position, and small fractions of health care financing manager, budget and policy analyst, and program assistant positions. Pursuant to 2005 Act 25, authority for these positions expires on January 1, 2006.

Enrolled AB 100. Enrolled AB 100 would have eliminated the DHFS appropriation for HIRSP administrative services and deleted the 4.83 SEG positions paid from the appropriation effective January, 1, 2006. The private, nonprofit organization would have had the authority to hire staff to administer the HIRSP program. Although the Governor's veto deleted all provisions in Enrolled AB 100 relating to transferring the responsibility for administering HIRSP to a legally distinct, private, nonprofit organization, the Governor was unable to restore position authority for the DHFS positions that were deleted in Enrolled AB 100.

AB 844/SB 451. The bill increases the authorized positions for DHFS by 4.83 FTE for the period ending July 1, 2006, and increases the expenditure authority in the DHFS appropriations for program administration and benefits through fiscal year 2005-06. The HIRSP Authority would have authority to hire employees to help administer the HIRSP program.

Health Care Tax Credit Program

Current Law. No provision.

Enrolled AB 100. No provision.

Substitute Amendments 1 to AB 844/SB 451 The Trade Adjustment Assistance Reform Act of 2002 (TAA) created a federal tax credit which subsidizes private health insurance coverage for displaced workers certified to *receive* certain trade adjustment assistance (TAA) benefits, for older workers receiving alternative trade adjustment assistance (ATAA) benefits, and for individuals receiving benefits from the Pension Benefit Guaranty Corporation (PBGC). The tax credit is 65 percent of the premium amount paid by eligible individuals for qualified health insurance coverage. This credit is referred to as the Health Coverage Tax Credit (HCTC) and is administered by the Internal Revenue Service (IRS). To be eligible for the tax credit, individuals must be covered by a qualified health plan.

The bill directs the Authority, beginning July 1, 2006, to design and administer a federally qualified program of health care coverage under which an individual may receive a federal income tax deduction under the federal HCTC program. This requirement applies only as long as federal law provides for income tax credits for premiums paid for coverage that satisfies the federal requirements. The program designed by the Authority will be separate from the HIRSP program; and program enrollees will not be HIRSP enrollees. The program will not require state funding.

HIRSP Assessment Tax Credits

Current Law -- HIRSP Assessment Tax Credits. Under current law, Wisconsin's taxation of insurance companies is administered by two separate agencies. OCI administers and collects the premiums tax on certain domestic and most foreign insurance companies, as well as a gross investment income tax on certain domestic life insurers. The Department of Revenue (DOR) administers and collects the corporate franchise tax on certain domestic insurers. (Prior to 1972, these companies were exempt from the franchise tax, but subject to the premiums tax.) A company that writes multiple lines of insurance is subject to the tax that applies to each line.

The Wisconsin franchise tax is imposed on most domestic nonlife insurance companies, including domestic health insurance companies, and the nonlife insurance business of domestic life insurers, including health insurance. The corporate franchise tax is imposed at a flat rate of 7.9% on taxable income. However, an insurer's franchise tax liability may not exceed the liability calculated under the 2% gross premiums tax.

Foreign accident and health insurance companies are subject to the state premiums tax at the rate of 2%. The tax base (taxable premiums) for companies subject to the premiums tax is equal to gross Wisconsin premiums for direct insurance minus return premiums, and cancellations and returns from savings and gains on all insurance other than reinsurance by the insurer during the previous year. Under current law, insurers are not allowed a tax credit for HIRSP assessments.

Enrolled AB 100. Enrolled AB 100 would have created a nonrefundable credit under the insurance premiums tax, the corporate and individual income and franchise taxes, and the tax on investment income paid by life insurance companies equal to a percentage of the amount of assessments paid by an insurer during the taxable year under HIRSP. DOR, in consultation with OCI, would have been required to determine the credit percentage for each year so that the annual cost of the credit was as close as practicable to $2,000,000 in the 2006-07 fiscal year, and $5,000,000 in each fiscal year thereafter. Unused credits could have been carried forward fifteen years to offset future tax liabilities. The credit would have first applied to tax years beginning on January 1, 2006. The Governor's partial veto deleted this provision.

Substitute Amendments 1 to AB 844/SB 451. The bill would create a HIRSP tax credit under the state individual and corporate income and franchise taxes equal to a percentage of the amount of HIRSP assessments paid by an insurer in the calendar year in which the claimant's tax year begins. DOR, in consultation with OCI, would be required to determine the credit percentage for each tax year so that the amount of income, franchise, and premiums tax credits awarded to all insurers would be as close as practicable to $5.0 million in each state fiscal year. Unused tax credits could be carried forward up to 15 years to offset future income and franchise tax liabilities.

The tax credit could first be claimed for tax years beginning on or after December 31, 2005. However, the amount of tax credits that a claimant was awarded for tax years beginning after December 31, 2005, and before January 1, 2008, could first be claimed against income and franchise taxes imposed for tax years beginning on or after December 31, 2007, in a manner determined by DOR.

Partnerships, tax-option corporations (S corporation) and limited liability companies (LLCs) could not claim the tax credit, but eligibility for, and the amount of credit that could be claimed would be based on the assessment paid by the entity. A partnership, LLC, or tax-option corporation would be required to compute the amount of tax credit that each of its partners, members, or shareholders could claim and to provide that information to them. Partners, members of LLCs, and shareholders of tax-option corporations could claim the tax credit in proportion to their ownership interest.

"Claimant" would mean an insurance company, or a partner, LLC member, or tax-option corporation shareholder who filed a claim for a tax credit and who was a partner, member, or shareholder of an entity that was an insurer.

DOR would administer the HIRSP tax credit and current law provisions related to change of business or ownership and timely claims would apply to the credit.

The bill would also create a tax credit under the state insurance premiums tax and the tax on investment income paid by life insurance companies equal to a percentage of the amount of HIRSP assessments paid by an insurer in the calendar year in which the claimant's tax year begins. DOR, in consultation with OCI, would be required to determine the credit percentage for each tax year so that the amount of income, franchise, and premiums tax credits awarded to all insurers would be as close as practicable to $5.0 million in each fiscal year. Unused tax credits could be carried forward up to 15 years to offset future premiums tax liabilities.

The tax credit could first be claimed for tax years beginning on or after December 31, 2005. However, the amount of tax credits that a claimant was awarded for tax years beginning after December 31, 2005, and before January 1, 2008, could first be claimed against premiums taxes imposed for tax years beginning on or after December 31, 2007, in a manner determined by DOR.

Fiscal Effect

The bill provides DHFS $3,535,500 SEG in 2005-06 to reflect the estimated costs DHFS will incur to administer HIRSP for the remainder of the 2005-06 fiscal year. Act 25 provided $3,535,500 SEG for HIRSP administration, based largely on an actuarial estimate of DHFS's estimated costs to administer the program for half of fiscal year 2005-06. An actuarial report revised as of October 27, 2005, estimated the total HIRSP administration costs for 2005-06 to be approximately $6,866,800-- or $204,200 less than the combined total of the amount appropriated in Act 25 and the amount that would be provided in the bill. However, the transition of the HIRSP program administration from DHFS to the HIRSP Authority effective July 1, 2006, is likely to generate additional expenses not included in the recent actuarial estimate. For example, DHFS will incur transition costs related to providing written notice to enrollees and providers of the HIRSP changes resulting from the bill. The most recent estimate of HIRSP administration costs does not factor in additional actuarial estimates that will be required as a result of the changes in the bill. Finally, the formation of new HIRSP Authority takes effect on January 1, 2006. Although the Authority will not assume its responsibilities for administering the HIRSP plan until July 1, 2006, the Authority will incur start-up expenses in the interim from January 1, 2006 to July 1, 2006 that could be funded from the DHFS appropriation.

The bill would provide an additional $78,643,800 SEG in 2005-06 to reflect estimates of program benefits costs that HIRSP will incur for the remainder of the 2005-06 fiscal year, based on actuarial estimates revised as of October 27, 2005. DHFS is authorized to spend all funds it receives for the purpose of providing benefits to HIRSP enrollees. Therefore, the appropriation amounts represent estimates of the costs for HIRSP benefits and do not limit the amount of funding that DHFS may expend for this purpose. However, DHFS spending on administrative services is limited to the amounts appropriated by the Legislature.

The bill would create a nonrefundable tax credit under the state insurance premiums tax, the individual and corporate income and franchise taxes, and the tax on investment income paid by life insurance companies, equal to a percentage of the amount of assessments paid by the insurer under HIRSP. The total amount of tax credits that could be claimed would be $5.0 million in each fiscal

year. Tax credit claims for tax years 2006 and 2007 could not be claimed until at least January 1, 2008. As a result, there would be no fiscal effect during the 2005-07 biennium. However, state income and franchise tax, and insurance premiums tax revenues would be decreased by an estimated $10.0 million in 2007-08, and by $5.0 million annually thereafter.

The attachment compares selected aspects of Substitute Amendments 1 to AB 844/SB 451 to Enrolled AB 100 and current law in chart format.

Prepared by: Eric Ebersberger and Ron Shanovich
Attachment

ATTACHMENT

Comparison of AB 844/SB 451 to Enrolled AB 100 and Current Law

HIRSP Structure and Administration		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
DHFS and a 13-member board of governors appointed by the DHFS Secretary administer HIRSP. • DHFS Secretary (or Secretary's Designee) serves as chairperson. • Commissioner of Insurance (or Commissioner's designee) a voting committee member. • Four public committee members, at least one of whom must be a HIRSP enrollee. Statutorily designated segregated non-lapsable HIRSP trust fund managed by State of Wisconsin Investment Board.	Nonprofit Organization governed by a 13-member board of directors appointed by the OCI Commissioner administers HIRSP. • At least one board member must be a HIRSP enrollee. • Senate to confirm board appointees. • Nonprofit organization and board not subject by statute to state laws regarding open meetings, open records, audits, competitive bidding, and code of ethics for public officials. Fund for payment of HIRSP operating and administrative expenses is controlled by the nonprofit organization and is outside the state treasury.	Statutorily created HIRSP Authority governed by a board of directors appointed by the Governor administers HIRSP. • Commissioner of Insurance (or Commissioner's designee) serves as a non-voting board member. • Senate to confirm board appointees. • Governor annually appoints a chairperson (other than the Commissioner of Insurance). • Of the 13 voting members, at least two must be HIRSP enrollees. • HIRSP Authority and board subject by statute to state laws regarding open meetings, open records, audits, competitive bidding, and code of ethics for public officials. Fund for payment of HIRSP operating and administrative expenses is controlled by the Authority and is outside the state treasury.

DHFS Oversight of HIRSP		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
DHFS operates and administers the plan, including establishing HIRSP premium rates and provider payments.	None.	None.
OCI Oversight of HIRSP		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
Commissioner of Insurance (or Commissioner's Designee) a HIRSP board member. OCI assesses each insurer its proportional share of the HIRSP costs and enforces assessment.	Commissioner of Insurance nominates board members for the nonprofit organization, but does not serve on board. OCI assesses each insurer its proportional share of the HIRSP costs and enforces assessment. HIRSP policies designed by nonprofit are subject to OCI approval. OCI may disapprove any policy with a benefit design that is not comparable to a typical individual health insurance policy offered in the state's private market.	Commissioner of Insurance does not nominate board members for the HIRSP Authority, but does serve as a non-voting board member. OCI assesses each insurer its proportional share of the HIRSP costs and enforces assessment. HIRSP policies designed by nonprofit are subject to OCI approval. OCI may disapprove any policy with a benefit design that is not comparable to a typical individual health insurance policy offered in the state's private market. In addition, OCI may disapprove any HIRSP policy designed by the Authority when: • benefit levels are not generally reflective of and commensurate with comprehensive health insurance coverage offered in the state's private market; • copayments, deductibles and coinsurance are not actuarially equivalent to comprehensive individual plans and would create undue financial hardship. • the policy is inconsistent with the purpose of providing health care coverage to those unable to obtain it in the private market.

HIRSP Eligibility		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
Persons must be domiciled in Wisconsin for at least 30 days to be eligible for HIRSP. To be eligible for HIRSP on the basis of having an application for health insurance rejected, an applicant must submit a notice of rejection from one insurer. Persons eligible for MA are not eligible for HIRSP.	Persons must be domiciled in Wisconsin for at least six months to be eligible for HIRSP. To be eligible for HIRSP on the basis of having an application for health insurance rejected, an applicant must submit a notice of rejection from at least two insurers. Persons eligible for MA are not eligible for HIRSP. In addition, clarify that persons eligible for specified MA-funded programs are not eligible for HIRSP.	Persons must be domiciled in Wisconsin for at least three months to be eligible for HIRSP. To be eligible for HIRSP on the basis of having an application for health insurance rejected, an applicant must submit a notice of rejection from at least two insurers. In general, persons eligible for MA are not eligible for HIRSP. However, persons eligible for certain types of limited MA assistance are not excluded from HIRSP.
HIRSP Plans, Coverage, Premiums, and Subsidies		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
Major medical expenses that must be covered and those that must be excluded are listed in statute. HIRSP Premiums must be between 140% and 200% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles. Lifetime limit of $1,000,000 per covered individual. HIRSP provides premium, deductible, and copayment subsidies in accordance with statutory schedule. Out-of-pocket limits specified in statute. Medicare Part D—the prescription drug benefit—not part of the definition of MA for purposes of HIRSP.	Major medical expense covererage must be offered, but the board of the nonprofit organization would determine covered expenses and expenses excluded from coverage. All benefit designs must be comparable to typical individual health insurance policies offered in the private sector market. OCI oversight as listed above. The 140% “floor” on HIRSP premiums is removed, but the 200% “ceiling” remains. Lifetime limit of $1,000,000 per covered individual. Board directed to provide subsidies for premiums, deductibles, and copayments for eligible persons with household incomes below a level established by the board. The board determines the levels of deductibles, copayments, coinsurance, and out-of-pocket limits.	Major medical expenses that must be covered and those excluded from coverage are specified in statute, but are modified to comport with NAIC model language and statutory insurance mandates. OCI oversight as listed above. The 140% "floor" on HIRSP premiums is removed, but the 200% "ceiling" remains. Lifetime limit of $1,000,000 per covered individual. Current law benefits, deductibles, copayments, and out-of-pocket limits retained thru calendar year 2006. Effective January 1, 2007, the Authority would establish and provide subsidies for deductibles paid by eligible persons under the current law guidelines, and may provide subsidies for prescription drug copayments. Current law out-of-pocket limits remain in effect after January 1, 2007.

	Medicare Part D added to the definition of Medicare for purposes of HIRSP.	Medicare Part D added to the definition of Medicare for purposes of HIRSP for those who enroll after the effective date of the bill. Current HIRSP enrollees have until May 15, 2006, to enroll in part D before HIRSP will refuse to pay drug expenses covered by Part D.
Legislative Audit Bureau		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
LAB may audit the records of every state department, independent agency or authority at least once every five years. Each state department, board, commission, independent agency or authority must file with the LAB a report on all receivables due the state as of the preceding June 30. At DHFS's request, LAB audits HIRSP annually.	LAB would not, by statute, have had access to the records of the nonprofit organization administering HIRSP.	HIRSP Authority specifically excluded from the statutory section authorizing the LAB to audit the records of state authorities as least once every five years. HIRSP Authority exempt from the requirement that state authorities file a report on all receivables due the state. LAB to annually conduct a financial audit of the HIRSP plan.
HIRSP Assessments Tax Credit		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
None.	Would have created a nonrefundable credit under the insurance premiums tax, the corporate and individual income and franchise taxes, and the tax on investment income paid by life insurance companies equal to a percentage of the amount of assessments paid by an insurer during the taxable year under the health insurance risk sharing plan (HIRSP). Would have required DOR, in consultation with OCI, to determine the credit percentage for each year so that the cost of the credit was as close as practicable to $2 million in 2006-07 and $5 million in 2007-08 and	Same as Enrolled AB 100 except that: (a) the credit percentage would have to be set each tax year so that the amount of credits awarded to all claimants is as close as practicable to $5 million in each fiscal year; and (b) the credits for tax years 2006 and 2007 could not be claimed until tax year 2008, in a manner determined by DOR.

	thereafter. Unused credits could have been carried forward for 15 years to offset future tax liabilities. The credit would have first applied in tax year 2006.	
Health Care Tax Credit Program		
Current Law	**Enrolled AB 100**	**Substitute Amendments 1 to AB 844/SB 451**
None.	None.	AB 844/SB 451 also requires that the HIRSP Authority design and administer a plan that satisfies the requirements for individuals eligible for a health care tax credit, for as long as that credit is available under the federal Trade Adjustment Assistance Reform Act of 2002.