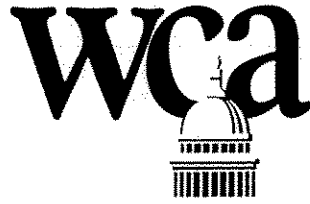


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2001-2003 STATE BUDGET ANALYSIS

PREPARED BY THE
WISCONSIN COUNTIES ASSOCIATION



Wisconsin Counties Association

Thomas A. Lothian
WCA President

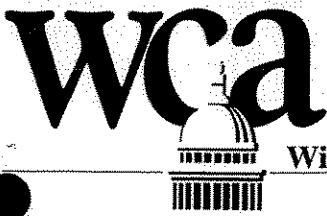
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INTRODUCTION

On February 20th Governor McCallum introduced his biennial budget for state fiscal years 2002 and 2003. The budget has been called the "tightest spending budget in over 30 years". The budget has been introduced in the Assembly as AB 144 and in the Senate as SB 55. The budget will be acted on by the Joint Committee on Finance first and then go to the Senate and then the Assembly.

This budget attempts to address a \$1.1 billion gap between revenues and expenditures over the biennium in several ways. First the Governor proposes "securitizing" the tobacco settlement funds. What this means is selling off the future payments the tobacco industry will pay to Wisconsin over the next 20 years (the state is projected to receive \$5.6 billion over the next 25 years) for a \$1.3 billion lump sum payment now. The budget utilizes \$350 million of that \$1.3 billion to help fund the current shortfall.

In order to make these future payments less risky to possible investors, the Governor's budget attempts to rid the state of the ongoing tobacco litigation involving 32 counties by simply prohibiting counties from suing the state or tobacco industry for these funds. The suits by the counties were filed nearly one year ago.

The budget does not provide any increases for Community Aids or Youth Aids. At the same time the state increases the daily rates it charges counties who have juveniles in one of the state's Juvenile Correctional Institutions (JCI's) by over 14%.

Despite recommendations from the "Kettl" commission for the state to begin assuming the financial responsibility for juvenile justice, human services and the courts during this biennium in return for reducing counties' shared revenue by an equivalent amount - the budget does not implement any of these recommendations but rather proposes further study of the proposal.

Recycling grants to responsible units were reduced by over 40% over the biennium.

Counties receive a 2.7% increase in 2002 and a 3% increase in 2003 for General Transportation Aids and the County Highway Improvement Program.

County nursing homes receive much needed relief in this budget as a result of an expanded Intergovernmental Transfer Program agreed to by WCA, the nursing home industry and the Administration. These new federal funds are contingent upon the federal government approving the state's proposal to expand the program.

The budget did not provide any additional COP slots to address the growing waiting lists for services in the community for the frail elderly and the developmentally disabled. Family Care implementation was also set back by not bringing Kenosha on-line this biennium as scheduled.

These are just several of the main points effecting counties included in the budget. The pages within will provide a much more in depth explanation of the many areas of the 2001-2003 biennial budget that impact counties. This document was put together in just three weeks following the Governor's budget address thanks to the work of Sarah Diederick-Kasdorf, Allison Kujawa, Jennifer Sunstrom and Joshua Fudge. With editing and compiling by Brenda Brown.

Sincerely,



Craig Thompson
Legislative Director

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**WCA County Organization and Administration
Steering Committee**

State Procurement Services

Item #1

GOVERNOR: Under current law, DOA provides procurement services to state agencies and some local governments. These procurement functions are financed with general purpose revenue. The Governor's budget permits DOA to assess any state agency or local government to which it provides procurement services for the cost of the services. In addition, DOA is permitted to identify saving that DOA determines have been realized by any state agency to which it provides procurement services, and to assess the agency for not more than the amount of the saving identified. Saving is not identified and there is no methodology for determinations of these assessments.

DOA is appropriated all of the moneys collected from these assessments to be used for procurement services.

The Governor's budget also permits DOA or any other agency with purchasing authority to make purchases by soliciting sealed bids to be opened at a specified date and time or by solicitation of bids at an auction to be conducted electronically at a specified date and time, or by competitive sealed proposal. If bids are to be solicited at an electronic auction, notice of the auction is required to be posted on an Internet site at least seven days prior to the date that the bids or competitive sealed proposals are to be opened or bids are to be received by auction in lieu of the publication required under current law.

Currently, DOA maintains a subscription service that provides current information of interest to prospective vendors

concerning state procurement opportunities.

The Governor's budget permits DOA to allow prospective vendors to provide product or service information through this service and also permits DOA to prescribe fees or establish fees through a competitive process for the use of the service. Any revenue collected from the fee assessments is deposited in the state VendorNet fund, which is used to pay the costs of the subscription service.

Currently, DOA or other agencies with purchasing power may obtain a bidders list that includes the names and addresses of all persons who request to be notified of bids or competitive sealed proposals that are solicited by DOA or any other agency maintaining such as list.

The Governor budget permits an agency to which DOA delegates purchasing authority to maintain a bidders list only if it is specifically authorized to do so.

RECOMMENDATION: Support with amendment to eliminate authority to charge local governments a fee.

BOARD ACTION: March 23, 2001
Board of Directors:

Federated Public Library Systems

Item #2

GOVERNOR: Under current law, towns, cites, villages, counties, public inland protection and rehabilitation districts, town sanitary districts, metropolitan sewerage districts, joint sewerage systems, school districts, technical college districts, cooperative educational service agencies and a consortia of these

entities may obtain state trust fund loans from the board of commissioners of public lands. Currently, a federated public library system whose territory lies within one county is considered to be an agency of that county and, therefore, may obtain a state trust fund loan through the county.

The Governor's budget permits a federated public library system whose territory lies within two or more counties, which is a separate legal entity from the counties participating in that system, to obtain a state trust fund loan.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Vital Records

Item #3

GOVERNOR: Under current law, the definition of "vital records" means certificates of birth, death, and divorce or annulment, marriage documents, and related data.

The Governor's budget expands the definition of vital records to include worksheets or electronic transmissions that use forms of electronic file formats that are approved by the state registrar and are related to birth, death, or divorce or annulment certificates or marriage documents.

Under current law relating to vital statistics, the state registrar or local registrars (county register of deeds or city registrars) may publish in a public index information from a birth certificate that is not changed or impounded concerning the name, sex, date and place of birth,

and parents' names for a person born of a mother who was unmarried for the period of conception to birth.

The Governor's budget limits the information that may be filed in public use indexes of certificates of birth, death, and divorce, or annulment, or marriage documents that are published by the state registrar or local registrars to the registrant's full name, date of the event, county of occurrence, county of residence and, at the discretion of the state registrar, the file number.

In addition, for births that occur after September 30, 1907, certificate of birth index information may be copied or reproduced for the public only if 100 years have elapsed since the birth. Indexes of certificates of death or of divorce or annulment may be copied or reproduced for the public after 24 months from the year in which the event occurred, but certain information on the certificate of death itself may not be inspected by or disclosed to anyone for 50 years after the date of death, except to a person who has a direct and tangible interest in the death, such as a member of the decedent's immediate family or the decedent's legal custodian or guardian.

Under current law, the state or local registrar must collect specified fees for issuing various documents, including a certified copy of a vital record, an additional certified copy of the same vital record, and uncertified copies of vital records, for searching vital records, and for making alterations administratively and as ordered by a court.

The Governor's budget increases the amounts that the state registrar and local registrar may charge as fees for issuing

an additional certified copy of a vital record and for charging for issuing additional copies of uncertified vital records and for expedited service in issuing a vital record.

The Governor's budget clarifies that fees must be charged for making any change that is court ordered, that is administrative, or that is a recision of a statement acknowledging paternity. A reasonable fee may be charged for providing searches of vital records and copies of vital records to state agencies for program use.

Under current law, after persons apply for a marriage license, a county clerk who receives the sworn statement of either of the applicants must correct erroneous, false, or insufficient statements to the other applicant.

Under the Governor's budget, a county clerk who is notified in writing by a marriage applicant that information provided for the license is erroneous must notify the other applicant as soon as reasonably possible and, if the marriage license has not been issued, prepare a new license with the correct information entered. If the marriage license has been issued, the clerk must immediately send a letter of correction to the state registrar. Also, if the clerk discovers that correct information has been entered erroneously on the marriage license, he or she must prepare a new license if the marriage license has not been issued, or must immediately send a letter of correction to the state registrar to amend the erroneous information if the marriage license has been issued.

Under current law, the marriage document must contain the social

security number of each party, as well as any other informational items that DHFS determines are necessary.

The Governor's budget requires that the marriage document consist of the marriage license and the marriage license worksheet, and that the latter contain the social security number and other information items that DHFS determines are necessary. Further, the marriage license worksheet must agree in the main with the standard form recommended by the federal agency responsible for national vital statistics; the county clerk must transmit the marriage license worksheet to the state registrar within five days after the date of issuance of the marriage license.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Uniform Dwelling Code

Item #4

GOVERNOR: Under current law, a city, village, town, or county may by ordinance enforce the uniform on-family and two-family dwelling code to ensure that minimum standards are met for the construction of one-family and two-family dwellings in the municipality. Inspections must be performed to enforce the code. Municipalities are permitted to perform building code inspections and with certain exceptions, requires the department of commerce to perform building code inspections that are not otherwise provided for in the municipality. The department is required to contract, at municipal expense, to perform required building code inspections directly or requires the

building code inspections to be performed by a third party under contract with the department.

Under the Governor's budget, the department of commerce may perform building code inspections in a municipality directly or may contract with a third party for the inspections. In addition, the requirement that a municipality pay for any building code inspections that are provided by the department under contract are removed. However, the department retains the authority to establish a fee, by rule, to defray the cost of performing building code inspections in a municipality.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Manufactured Building Code
Item #5

GOVERNOR: Under current law, the department of commerce administers the manufactured building code to ensure that minimum standards are met for the manufacture and installation of manufactured buildings as dwellings. A city, village, town, or county may, with the approval of the department, enact an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality. A county ordinance applies in any city, village, or town within the county that has not adopted ordinances to enforce the manufactured building code, unless the city, village, or town is exempt from administration of the manufactured building code. Any city, village, or town with a population of 2,500 or less is

exempt from administration of the manufactured building code.

Municipalities are permitted to perform these inspections and, if a particular municipality is exempt, requires the department to perform the inspections that are not otherwise provided for in a municipality. The department is required to contract, at municipal expense, to perform any inspections that a municipality requires. It is unclear, though, whether this contracting requirement permits the department to perform required manufactured building code inspections directly or requires the inspections to be performed by a third party.

The Governor's budget removes the requirement that a municipality obtain department approval before enacting an ordinance to enforce the manufactured building code. In addition, a small municipality must now do one of the following:

- a) Enact an ordinance to enforce the manufactured building code either independently or jointly with another municipality.
- b) Adopt a resolution requesting the appropriate county to enforce the manufactured building code.
- c) Adopt a resolution not to exercise either of the above options, in which case the small municipality is exempt from administering the code.
- d) Take no action, in which case, the department must enforce the code.

In addition, the department now may perform inspections directly or may contract with a third party.

The requirement that a municipality must pay for any inspections that are provided

by the department under contract is removed. However, the department may establish a fee, by rule, to defray the cost of performing inspections in a municipality.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Special Education

Item #6

GOVERNOR: Currently, all state aid for handicapped education is distributed based on costs.

The Governor's budget provides that a portion of the aid paid to school districts and independent charter schools for handicapped education is based on the number of pupils enrolled in the school district or charter school, and a portion is based upon the number of pupils enrolled in the school district or charter school who are eligible for a free or reduced-price lunch under federal law.

The Governor's budget also makes several changes to the statutes pertaining to children with disabilities:

1. Allow state aid for special education to be used by local educational agencies (LEAs) for certain purposes that are specified under federal law for federal aid, including school - based improvement plans.
2. Provide that the individualized education program team, appointed by an LEA to evaluate a child to determine whether the child is disabled and to develop an individualized education program for a child with a disability, is not responsible for determining the

appropriate special education placement for the child.

3. Under current law, the LEA is to ensure that the child's parents participate in the determination of placement. Under the Governor's budget, the LEA will be responsible for determining the child's placement.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Division of Emergency Management

Item #7

GOVERNOR: Under current law, regional emergency response teams have been established to respond to "Level A" releases in their area. A "Level A" release is a release of a hazardous substance that necessitates the highest level of protective equipment for the skin and respiratory systems of emergency personnel. Local emergency response teams are required to respond to "Level B" releases. A "Level B" release is a release of a hazardous substance that necessitates the highest level of protective equipment for the respiratory systems of emergency response personnel but less skin protection than a "Level A" release.

The division of emergency management in DMA oversees the state requirements under the federal laws regarding responses to releases of hazardous substances. As part of that responsibility, the division of emergency management promulgates rules regarding the duties of the local and regional emergency response teams and the governmental

units that employ those teams. The division provides grants to local units for duties related to emergency response teams and reimburses them for unreimbursed costs that are incurred in responding to a release. Included in those duties is the requirement that the emergency response team make a good faith effort to identify the person who is responsible for the hazardous substance release and to determine if that person is financially able to reimburse the team for expenses incurred in responding to the release. A person who is financially able to reimburse the team for expenses incurred in responding to the release is required to reimburse those expenses.

The Governor's budget requires the division of emergency management to promulgate rules requiring the regional and local emergency response teams to establish procedures that the teams will follow to determine if an emergency that requires a team's response exists as the result of a release or potential release of a hazardous substance. In addition, the division of emergency management or a person who is financially able to reimburse the team for incurred costs is required to reimburse regional and local emergency response teams for unreimbursed costs incurred in responding to an emergency resulting from a potential release if the team has established the procedures to determine if an emergency exists.

The Governor's budget also requires the regional emergency response teams to have members that meet the highest standards required under federal law and the National Fire Protection Association and that are trained in each of the appropriate specialty areas under the National Fire Protection Association

Standards. Regional emergency response teams are required to file annual financial reports with the adjutant general.

Finally, the appropriation account for the division of emergency management in DMA that funds administrative support necessary to reimburse governmental agencies for expenses related to regional emergency response teams will be consolidated with the appropriation account that provides funds for the general program operations of the division of emergency management.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Emergency Response Reimbursement

Item #8

GOVERNOR: Under current law, if an employee of a municipal or county emergency management organization is injured while performing emergency management activities, the municipality or county is responsible for the employee's worker compensation benefits. If an emergency management employee is sued in tort for injuries to another as the result of the employee's emergency management activities, the municipality or county pays any damages resulting from the injuries. If the damage or destruction of government-owned equipment results from that equipment being used in an emergency management activity, the owner of that equipment is responsible for that damage or destruction. The Department of Military Affairs (DMA) reimburses the municipality or county for any of the costs incurred in a calendar year for the

employee's worker compensation benefits, injuries to another as the result of the employee's emergency management activities, and the damage or destruction of government-owned equipment if those costs exceed \$1 per capita of the governmental unit's population. The reimbursement is paid out of the general operations appropriation for the division of emergency management.

This bill requires the reimbursement to come from a sum sufficient program supplement appropriation account.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Department of Veterans and Military Affairs

Item #9

GOVERNOR: Under current law, the Department of Veterans Affairs (DVA) administers a grant program to provide grants to state veterans organizations or national veterans organizations that have maintained a full-time regional service office for at least five of the ten years preceding the date of application for a grant. The amount of the grant is equal to 25% of the salaries and travel expenses paid by the organization to its employees or \$20,000 whichever is less.

Currently, DVA operates regional service delivery centers at which veterans may apply for state and federal veterans' benefits. The Governor's budget requires DVA to submit a report on the performance of the regional service delivery centers, including each center's

video conferencing systems, to DOA no later than June 30, 2003.

The Governor's budget increases the maximum amount of a grant to \$30,000. In addition, the number of division administrators for DVA in the unclassified service is increased from two to five.

Currently, Milwaukee County has the authority to establish and maintain a memorial to Wisconsin residents who have lost their lives in the military service.

The Governor's budget authorizes DVA to provide in the 2001-03 fiscal biennium, one grant of \$100,000 to the Wisconsin Veterans War Memorial/Milwaukee, Inc. for a veteran's education center.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**WCA Environment and Land Use
Steering Committee**

Recycling

Item #10

GOVERNOR: Current law prohibits the disposal of listed recyclable materials in a landfill. The prohibitions do not apply to any city, village, town, county or other governmental unit that is responsible for the region's solid waste management (RU) and that operates an effective recycling program. The RU is also eligible for a state grant to reimburse the unit for some of the costs incurred while operating the program. The grants total roughly \$24.4 million annually, which covers approximately 30% of local government costs.

The 1999-2001 biennial budget established a funding source for the state recycling program through a 3% surcharge on certain businesses that would generate \$16.0 million annually and a \$0.30 per ton tipping fee on all solid waste except high volume industrial waste which would generate \$1.8 million annually. This would provide approximately \$18.7 million in revenue annually plus interest.

However, total expenditures for the program in 2001 equaled approximately \$28.5 million, excluding lapses.

Expenditures for the 1999-2001 budget cycle were partly funded from existing money in the recycling fund, which was \$45.3 million in 1999-00, and \$18.5 million in 2000-01. These existing monies also generated \$4.5 million in interest. However, due to the transfer of \$22 million from the recycling fund to the general fund, there is a projected shortfall of approximately \$18.9 million.

The Department of Natural Resources (DNR) made a budget request to increase the current tipping fee by a \$1.55 which would cover the shortfall in the recycling fund.

The Governor's budget drastically reduces the amount of money allocated for grants to RUs. The Governor allocates \$14 million in SEG in FY02 and \$13.5 million in FY03. This is an approximate \$21.3 million cut.

The Governor also provides \$2 million in SEG in FY03 for a competitive grant program to reward local governmental units that establish regional recycling programs. Recipients will be selected based on the potential for reducing the costs of operating local programs. The grant may be used for planning, acquiring a regional recycling facility and equipment and developing a regional collection system. In addition, DNR will be required to submit to DOA a proposal for changing the current method of determining the amount of financial assistance provided to RUs to encourage regional recycling programs.

All other RUs will receive either 66% of the difference between eligible expenses and avoided disposal costs or \$8 per capita, whichever is less.

The Governor provides \$386,300 SEG in FY02 and \$387,200 in FY03 to continue the computer-recycling program.

Finally, administrative overhead will be reduced by eliminating 11.0 FTE SEG positions annually from the DNR and 4.5 FTE SEG positions annually from the University of Wisconsin-Extension.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Solid Waste

Item #11

GOVERNOR: Under current law, DNR may characterize a solid waste as a special waste available for beneficial use in a public works project. Immunity from liability is granted to any person for his or her acts or omissions occurred while performing a public works project which permitted or required the use of approved special wastes, with the exception of reckless or intentional misconduct.

The Governor's budget permits DNR to grant a research waiver or an exemption from the requirements regarding the disposal or recycling of high-volume industrial wastes and certain other solid wastes as a way to encourage new ways to recycling solid waste. These solid wastes are to be added to the list of special wastes that are granted immunity from liability if used in public works projects.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Comprehensive Planning

Item #12

GOVERNOR: The 1999-2001 biennial budget established statutory language which outlined new requirements for comprehensive planning. This legislation was referred to as "Smart Growth" and included a new framework for planning at the local level and a grant program to local units of government.

To assist with these planning efforts, DOA awards grants to local governmental units (cities, villages, towns, counties, and regional planning commissions). The budget allocated \$1.5 million in the second year of the biennium for the planning elements and \$2.0 million over the biennium from the federal Department of Transportation for planning related to the transportation element. The transportation grants required a 25% match by grant recipients.

The Governor's budget requires DOA to award transportation planning grants to assist local governmental units in the integrated transportation and land-use planning for highway corridors which are areas identified by DOT to need additional capacity for vehicular traffic or to have possible safety or operational problems resulting from pressure for development.

The Governor also requires DOA to award transportation planning grants in the following order of priority: 1) grants that pay for planning activities related to a transportation element and which also assist in highway corridor planning; 2) grants that only pay for planning activities related to a transportation element; and 3) grants that only assist in highway corridor planning.

Finally, the definition of "local governmental unit" is expanded to include a metropolitan planning organization and requires DOA in consultation with DOT, to promulgate the new rules for awarding the transportation planning grants.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Land Information Program
Item #13

GOVERNOR: The Governor's budget makes several significant changes related to the Land Information Program. Currently, the Land Information Board is attached to the Department of Administration (DOA) and consists of the secretaries of five state agencies, the state cartographer and eight other persons appointed by the governor, four of whom are representatives of county or municipal governments and four of whom are representatives of public utilities or private businesses. The board serves as a state clearing house for access to land information and provides technical assistance to state agencies and local governmental units with land information responsibilities, reviews and approves county plans for land records modernization, and provides aids to counties, derived from recording fee revenues collected by counties for land records modernization projects. The board is scheduled to sunset on September 1, 2003.

The Governor's budget abolishes the Land Information Board on the day the budget bill becomes law and transfers its functions and employees to DOA. Essentially, the Land Information Board will be merged with the Wisconsin Land Council (WLC) and will be required to advise DOA on land use and land information issues. Three new members will be added to the WLC: a representative from a public utility, a representative from a professional land information organization, and a representative from a statewide

association whose purposes include support of a network of statewide land information systems. The sunset of the Wisconsin Land Information Program and the Wisconsin Land Council is eliminated. The Wisconsin Land Council will no longer approve comprehensive planning grants but will make recommendations to DOA which is required to promulgate rules for the administration of the grants.

In addition, another subgroup of the WLC will be formed to study and recommend land information standards to the WLC and DOA, to advise on the WI Land Information System, advise on how to coordinate state and local land information, review county land record modernization and recommendations on approval. This group will consist of the state cartographer, a representative of the university system who has expertise in land information issues and other land information experts.

Currently, counties collect a land record fee for recording and filing most documents that are recorded or filed with the register of deeds. The fee is ten dollars for the first page and two dollars for each additional page. Until September 1, 2003, counties are required to remit \$2 to the land information board, which is used to fund its general program operations and to make grants to counties for land records modernization projects. If a county does not have a land information office and uses four dollars of the fee for land records modernization, the county must remit \$6 of the fee to the land information board.

The Governor's budget increases the fee for recording or filing from \$10 to \$11, and requires a county to remit either \$2

or \$7 of the fee to DOA, depending on whether the county has a land information office. Other counties may retain \$5 instead of \$4. From the money remitted to DOA, \$623,500 will be allocated for the Wisconsin Land Information System, and \$500,000 is allocated for comprehensive planning grants for a total of \$3 million annually. The changes to the land information program maintains funding for strategic initiatives, maintains base budget funding to counties, maintains the funding for the soils initiative, provides new money for the land information system, and new money for comprehensive planning.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Stewardship

Item #14

GOVERNOR: Current law grants the state bonding authority to acquire and develop land for various conservation purposes under two stewardship programs. One program, began in 1990, is prohibited from using stewardship bonding to provide money to counties, local units of government, or land that has been acquired by condemnation. The program that began on July 1, 2000, does not include these prohibitions.

The Governor's budget applies these prohibitions to both programs. In addition, the budget increases the cost threshold from \$250,000 to \$500,000, for which DNR must give the Joint Committee on Finance notice of a project under the July 1, 2000 program.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Nonpoint Source Pollution Abatement

Item #15

GOVERNOR: Under current law, DNR, in conjunction with DATCP and local governmental units, administers a program to provide financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources.

DNR primarily handles grants to local governments to provide cost-sharing to landowners in designated priority watersheds, projects approved for Targeted Runoff Management Grants (TRM) and lake and river protection projects. DATCP gives grants to local governments that provide cost-sharing to landowners and grants for the administrative costs of implementing a county land and water resource management plan.

These programs are funded with general purpose revenue (GPR), segregated revenue from the environmental fund (SEG), and general obligation bonds.

The Governor's budget increases the bonding authority for the nonpoint source program by \$22.4 million and increases the bonding authority for the soil and water resource management program by \$7 million. Bonding dollars can only be used for cost-sharing to landowners for capital improvement projects.

The Governor's budget does not include a replacement of the \$3 million in SEG and GPR funds that were cut from the program during the last budget. These funds are needed to meet the new staff

requirements and the low-cost practices that will be required of landowners under the nonpoint redesign currently taking place.

The Governor's budget also increases the general obligation bonding amount by \$11 million for the municipal flood control and riparian restoration program and the urban nonpoint source water pollution abatement and storm water management program administered by DNR.

Currently, DNR administers a nonpoint program referred to as the targeted runoff management grant program (TRM). Under the program local governments annually apply for cost-sharing grants for new nonpoint projects that are in "targeted areas" that meet strict criteria established by DNR. Currently, agricultural projects are not eligible unless it is an animal feeding operation that has received a notice of discharge by DNR. In addition, a project only qualifies for funding if it cannot be funded with DATCP soil and water resource management grants.

The Governor's budget adds that an area may be a target area under the grant based on the need for compliance with performance standards established by DNR for projects that are related to agriculture. In addition, the determination that a project qualifies for funding because soil and water management grants are insufficient must now be made by DNR in consultation with DATCP.

The Governor's budget also prohibits DNR from extending funding for a priority watershed or priority lake project

beyond the funding termination date that was in effect on January 1, 2001.

RECOMMENDATION: Seek to amend to increase SEG and GPR appropriations by \$6 million.

BOARD ACTION: March 23, 2001
Board of Directors:

Title Transfer Fee
Item #16

GOVERNOR: Under current law, a registrant is required to pay a supplemental title fee of \$7.50 upon registering a new motor vehicle with DOT or, generally, upon applying for a new certificate of title following a transfer of a vehicle. Current law requires the secretary of transportation to certify annually the amount of supplemental fees collected during the previous fiscal year. A GPR appropriation in an amount equal to the amount certified is then transferred from to the environmental fund for the non-point pollution program.

The Governor's budget eliminated this transfer of an amount equal to the total amount of supplemental title fees collected by DOT and eliminates the requirement that the secretary of transportation certify the amount of those fees. The budget also changes several environmental fund appropriations and transfers \$5,100,000 from the environmental fund to the general fund. This will eliminate any SEG appropriations under the non-point program.

The Governor's budget also changes the appropriation to DNR for the urban nonpoint source water pollution

abatement and storm water management program and the municipal flood control and riparian restoration program from annual to biennial.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Environmental Impact Statement Item #17

GOVERNOR: Under current law, a registrant is required to pay an environmental impact fee of \$6 upon registering a new motor vehicle with DOT or upon applying for a new certificate of title following a transfer of a vehicle. The environmental impact fees are credited to the environmental fund and are earmarked for environmental management activities. The fee expires on June 30, 2001.

The Governor's budget extends the expiration date to September 30, 2003. This money will be used to ensure continued funding for brownfields redevelopment programs.

RECOMMENDATION: Seek to amend to make extension retroactive.

BOARD ACTION: March 23, 2001
Board of Directors:

Lake Planning and Protection **Grant Program** Item #18

GOVERNOR: Under current law, DNR administers two grants programs to address water quality problems specifically in lakes. Under the first program, DNR provides grants for

planning projects to provide educational information on the use of lakes and their ecosystems and on the quality of water in lakes. This grant provides for 75% of the project's costs up to \$10,000 per project.

The Governor's budget makes the following changes to the lake planning grant program:

1. Increase the \$10,000 cap to \$25,000 for "premier" lake associations.
2. Allow school districts to be eligible for a planning grant if the district is cooperating in the planning project with another entity that is also eligible.
3. Change the annual membership fee requirements for eligible lake associations, which will be set by DNR.
4. Expand the types of activities that are eligible for planning grants to include program materials that promote water safety activities that protect the lake.

The second program provides grants by DNR for management projects that will improve or protect the quality of water in lakes or in their ecosystems. Grant recipients may use the grant to restore a wetland if the restoration will improve the lake's water quality or ecosystem.

The Governor's budget expands this provision to allow the grant to be used to restore shoreline habitat and requires that DNR give higher priority to "premier" lake associations.

Finally, it is specified that a grant under the nonpoint program to a lake district for a priority lake may be used for plan preparation, technical assistance, educational and training assistance, and ordinance development and administration in addition to the purposes authorized under current law.

RECOMMENDATION: Seek to amend to prohibit preference for "premier lake associations".

BOARD ACTION: March 23, 2001
Board of Directors:

Clean Water Fund

Item #19

GOVERNOR: Under current law, the state provides financial assistance for projects for controlling water pollution including sewage treatment plants. One form of financial assistance is a loan at a subsidized interest rate. During each budget, the value of the subsidies that may be provided during that biennium are established.

The Governor's budget sets the subsidies during the 2001-2003 biennium at \$90,000,000 compared to \$87.4 million in the last biennium. The general obligation bonding authority is increased by \$65,000,000 and an additional \$20,000,000 on July 1, 2003. This budget also increases the revenue bonding authority for the clean water fund program by \$92,000,000.

Currently, funds are allocated to a project as soon as the project is approved. However, if the amount of present value subsidy, general obligation bonding authority, or revenue bonding authority available for a biennium is 85% or less of the amount requested in the biennial finance plan prepared by DOA and DNR, funding is allocated on the basis of a priority list and funding may only be provided in a fiscal year to projects for which an application is submitted by the June 30 preceding that fiscal year.

The Governor's budget reduces that threshold for allocating funds based on a priority list from 85% to 75%.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Safe Drinking Water Loan Program

Item #20

GOVERNOR: Under current law, the safe drinking water loan program provides loans to local governmental units for projects for the construction or modification of public water systems. Before a local government applies for a loan, it is required to submit a notice of intent to apply. If the local government does not apply for the loan by April 30 of the second year following the notice of intent, it must submit a new notice of intent.

The Governor's budget eliminates this requirement.

The Governor's budget sets the value of the safe drinking water loan program subsidies that may be provided during the 2001-03 at \$10,900,000 compared to \$5.2 million provided in the 1997-1999 biennium.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Storm Sewer Systems

Item #21

GOVERNOR: Under current state law, a person is required to obtain a permit from

DNR for certain storm water discharges including a municipal separate storm sewer system which serves an incorporated area with a population of 100,000 or more. However, federal law now requires states to require permits for additional municipal separate storm sewer systems.

The Governor's budget requires permits for additional systems. The operator of a municipal separate storm sewer system must obtain a permit if one of the following applies:

1. The system serves an urbanized area, as determined by the U.S. bureau of the census.
2. The system serves an area with a population of 10,000 or more and a population density of 1,000 or more per square mile and DNR requires the operator to obtain a permit based on an evaluation of the system's impact on water quality.
3. DNR requires the operator to obtain a permit because the system contributes pollutants to an interconnected system that is required to obtain a permit.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Drainage Districts

Item #22

GOVERNOR: Under current law, drainage boards operate one or more drainage districts. A drainage district drains property owned by two or more persons. DATCP assists drainage boards and oversees their activities, and promulgates rules that apply to drainage boards. DNR regulates construction in navigable waters, including construction

related to the drainage of land and determines whether a body of water is navigable.

Currently, there are several exemptions from permitting requirements for drainage districts located in the Duck Creek Drainage District. First, a drain is not considered navigable unless a U.S. geological survey map or other scientific evidence shows that the drain is navigable before it became a drainage district. Second, they may place a structure or deposit in a drain if DATCP, after consulting with DNR, specifically approves it. Third, they may remove material from a drain if it is required by DATCP in order to conform to specifications imposed by DATCP in consultation with DNR. Fourth, they may place a structure or deposit in navigable waters to remove material from the bed of a lake or stream to clean out, widen, deepen, or straighten a navigable stream.

The Governor's budget gives the first three exemptions to all other drainage districts if it is primarily for agricultural purposes and gives the fourth exemption to all other drainage districts operated by drainage boards.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Fox River Navigational System

Item #23

GOVERNOR: Under current law, the Fox River Management Commission is authorized to enter into agreements with the federal government to operate and manage the Fox River navigational

system which includes locks, harbors, and other facilities related to the Fox River. A second commission, the Fox-Winnebago Regional Management Commission is scheduled to replace the Fox River commission when the state receives federal funding for the restoration and repair of the navigation system. The two commissions are similar except that the Fox River commission is a state agency attached to DNR and the Fox-Winnebago commission is regional with 10 of 13 members representing the five counties within the system and the remaining 3 members being appointed by the Governor.

The Governor's budget replaces both the commissions with the Fox River Navigational System Authority with a board of directors that is established by state law but is not a state agency. The board of directors consists of six members appointed by the Governor for three-year terms and the secretary of natural resources, the secretary of transportation, and the director of the state historical society. The Fox River Authority is required to take over the rehabilitation, repair, replacement, operation, and maintenance of the system after the transfer from the federal government to the state. After the transfer, the state will enter into a lease with the Fox River Authority to transfer the system to the Fox River Authority.

In addition, the federal government will provide funding in an amount that matches the amount provided by the state to the Fox River Authority. The state match will come from the recreational boating aids program administered by DNR.

To receive the funding the Fox River Authority must contract with one or more nonprofit corporations to provide marketing and fund raising services. The corporations must be based in one or more of the affected counties. The funds raised by these corporations will provide the matching amounts for the state match and will also be used for the rehabilitation and repair of the system. The corporations shall invest the funding for the Fox River Authority.

DNR is required to set aside from the recreational boating aids program, \$400,000 each year for seven fiscal years for the navigational system and requires DNR to release the set-aside funding on an annual basis in amounts to match the amounts raised by the nonprofit corporations.

Although it is not a state agency, the Fox River Authority must comply with open records laws, follow lobbying regulations, follow the code of ethics, is exempt from sales, use and property taxes, must provide employees state health and retirement benefits, and employees are prohibited from political activities while engaged in official duties.

However, the Fox River Commission is not subject to budget approval, hires its own staff, is not subject to rule-making procedures, accounts are outside the state treasury, and must retain its own legal council.

The Authority must submit a management plan to DOA that addresses the cost and funding for the rehabilitation, repair, replacement, operation, and maintenance for the system and describe how the Authority will manage its funds to insure there are

sufficient funds available to abandon the system if operation is no longer feasible.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Navigable Waters

Item #24

GOVERNOR: Under current law, a person who wants to conduct an activity that would create, enlarge, or otherwise affect certain waterways or divert water from a stream must have a permit issued by DNR. Certain activities including state highway construction and the agricultural use of land are exempt from this permit requirement.

The Governor's budget includes aquaculture as an agricultural use for purposes of this exemption.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Brownfields

Item #25

GOVERNOR: Under current law regarding brownfields, the department of commerce (COMM) makes grants to person, municipalities, and local development corporations for development of brownfields and remediation activities associated with the redevelopment. Brownfields are abandoned, idle, or underused industrial or commercial facilities or sites that are adversely affected for expansion or redevelopment by actual or perceived environmental contamination.

Redevelopment includes reconstruction, renovation, and rehabilitation activities. Remediation includes investigation, analysis, and monitoring of the site, removing or containing any environmental pollution, and restoring soil or groundwater.

The Governor's budget provides that a grant recipient may not use the grant proceeds to pay lien claims of DNR or the federal environmental protection agency (EPA) based on investigation or remediation activities of either of those two agencies or to pay delinquent real estate taxes or interest or penalties related to those taxes.

In addition, the Governor's budget eliminates the statutory requirement that the COMM award certain total amounts in grants of certain sizes during FY 1999-00 and FY 2000-01.

Also under current law, DNR administers a program under which provides brownfield site assessment grants to local governments which may be used for activities such as investigating environmental contamination, asbestos abatement, and removing abandoned underground storage tanks.

The Governor's budget transfers the brownfield site assessment grant program to the department of Commerce (COMM) and will be funded from the same appropriation as the brownfields grant program already administered by COMM. The department is required to allocate \$1 million for the brownfield site assessment grant program in FY 2001-02 which is approximately \$250,000 less than appropriated under DNR.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

PECFA
Item #26

GOVERNOR: Under current law, the petroleum storage environmental cleanup council advises DNR and the Department of Commerce (COMM) about the petroleum storage remedial action program or PECFA.

The Governor's budget eliminates this council.

Under current law COMM administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks.

Farm petroleum product storage tanks of 1,100 gallons or less are covered under PECFA only if the farmer of the tank owns at least 35 acres of land devoted primarily to agricultural use that produced gross farm profits of at least \$6,000 in the year before the owner applies for PECFA reimbursement, or gross farm profits of at least \$18,000 during the three years before application, and if the owner received a letter from DNR or COMM indicating that the owner must conduct a cleanup.

The Governor's budget expands PECFA coverage of farm tanks so that a farm tank owner who formerly owned at least 35 acres of land devoted primarily to agricultural use is eligible if the owner submits a PECFA claim within one year after he or she transferred ownership of the land, if the land produced gross farm profits previously outlined before the land transfer, and if the owner received a

letter indicating that the owner must conduct a cleanup. In addition, PECFA coverage is only available to farm tanks that lie on land that meets the gross profit test.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Hazardous Substances and Environmental Cleanup
Item #27

GOVERNOR: Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. A person who applies to DNR for an exemption from this liability is called a voluntary party. A voluntary party is exempt from absolute requirements to restore the environment and minimize harmful effects and other requirements if an environmental investigation is conducted, the property is cleaned up, DNR certifies the environment is restored, and the voluntary party maintains and monitors the property.

Also under current law, a voluntary party is exempt from liability and certain requirements if the existence of a hazardous substance is discovered through the course of cleanup. The Governor's budget eliminates this exemption from liability.

The Governor's budget also specifies that the voluntary liability exemption continues to apply to a voluntary party

who does not own or control the property if the owner fails to maintain and monitor the property as required by DNR.

Finally, the bill expands the voluntary party exemption from liability related to groundwater contamination by an off-site discharge so that it also applies to property on which the soil or hazardous substances in sediments is contaminated by an off-site discharge.

Current law generally exempts local governments from these clean-up requirements on land acquired in special ways; such as through tax delinquency proceedings and condemnation.

The Governor's budget expands the exemption to land acquisition programs so that it applies to land acquired with funds from the Warren Knowles-Gaylord Nelson Stewardship program.

The Governor's budget also provides that a local government is exempt from solid waste management standards and other legal requirements relating to solid waste for a property that was acquired in a way that would qualify for the exemption from clean-up requirements, except that the exemption from solid waste requirements does not apply to solid waste facilities or landfills that were operated by the local government or owned by the local government while in operation.

The Governor's budget makes changes to the local government cost recovery process. Current law authorizes a local government that owns property that is contaminated to initiate a process for negotiating about how the contamination will be remedied and how much the various responsible parties will contribute

toward the investigation and remediation costs. An umpire conducts the negotiations. If a negotiation is reached, it is binding on all parties. If an agreement is not reached, the umpire makes a recommendation that may be accepted or rejected by any party. If the local government accepts the recommendation and another party rejects it, the local government may sue to attempt to recover a portion of the investigation and remediation costs. If the local government recovers an amount equal to or exceeding the umpire's recommendation, the local government may recover interest and litigation costs.

The Governor's budget expands the applicability of the process so that it may be used by a local government that does not own a contaminated property if the local is responsible for some of the contamination at the site or facility and commits itself to paying more than 50% of the investigation and remedial action costs, less state financial assistance.

The DNR must determine how the contamination will be remediated after considering the local governments' proposal. A public hearing will be conducted during the negotiation and cost-recovery process.

A person who transported hazardous substances to the property must provide records about the transport and disposal and if no records are available, they must cooperate in providing information that will aid in the process of allocating costs. If the transporter does not cooperate, the amount of costs allocated to the transporter may be increased.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Land Recycling Loan Program
Item #28

GOVERNOR: Under current law, the state provides loans to cities, villages, towns and counties for projects to remedy environmental contamination at sites owned by local governments where the contamination has affected or threatens to affect groundwater or surface water. The loans are subsidized so that recipients are not required to pay interest.

The Governor's budget sets the value of the land recycling loan program subsidies that may be provided during the 2001-02 biennium at \$9,110,00 compared to \$9.4 million in the last biennium.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Tree Management
Item #29

GOVERNOR: Under current law, DNR awards grants to cities and villages for up to 50% of the cost of various tree projects, including tree disease evaluations and public education concerning trees in urban areas.

The Governor's budget expands the grant program to authorize DNR to also award grants to counties, towns, and nonprofit organizations.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Venison Processing Program
Item #30

GOVERNOR: Under current law, DNR administers a program in which counties receive reimbursement for accepting deer carcasses, having them processed into venison, and then donating the venison to charitable organizations. To participate, counties must participate in the wildlife damage abatement and claim programs. The venison program is funded from the wildlife damage surcharge that DNR collects with each hunting license fee. DNR is required to make the required payments under the venison processing program after it has made the payments required under the wildlife damage abatement and claim programs.

The Governor's budget expands the venison processing program by establishing a voluntary contribution of at least \$1 that a person may pay when being issued a hunting license. DNR will make payments under the processing program from the contributed moneys. If the contributed moneys are not adequate, DNR will also use wildlife damage surcharge moneys for payments for processing venison from deer killed in special seasons established to control the deer population.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

State Trails
Item #31

GOVERNOR: The Governor's budget requires DNR to submit to the governor, no later than July 1, 2002, a plan to accomplish the objective of connecting

all state trails. The plan must require DNR to work cooperatively with other state agencies, political subdivisions, federal agencies and nongovernmental organizations to accomplish the plan's objective and must contain a method of obtaining this cooperation. The plan must also include an implementation schedule, a completion date, a description of the costs involved in accomplishing the plan's objective, and a description of how the costs will be funded.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Farmland Preservation

Item #32

GOVERNOR: Under current law, one of the eligibility requirements to claim the farmland preservation tax credit is that the land to which the claim relates be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance that is certified by the land and water conservation board. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although the law allows DATCP to release land from an agreement under certain circumstances. In some instances under certain circumstances under which DATCP may release land from a farmland preservation agreement, or rezone from exclusive agriculture, DATCP is required to file a lien against the land in the amount of the farmland preservation credit received by the owner during the preceding ten years.

The Governor's budget eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. DATCP may not release land from a farmland preservation agreement until the owner pays \$50 per acre to the state, except in certain cases such as the death or disability of the owner.

In addition, rezoning of land from exclusive agricultural zoning must be conditioned on payment of \$60 per acre of land that is rezoned. Payment is made to the local governmental unit that grants the rezoning and the local governmental unit forwards the payment to the state.

Finally, the Governor's budget eliminates the segregated farms for the future fund that was established to receive funds from the federal government for the preservation of farmland for agricultural purposes.

RECOMMENDATION: Seek to amend to provide administrative fee for local units of government.

BOARD ACTION: March 23, 2001
Board of Directors:

Snowmobile Enforcement

Item #33

GOVERNOR: Under current law, DNR may provide from the conservation fund enforcement aids to counties for the purpose of enforcing laws relating to snowmobiling.

The Governor's budget creates a program revenue service appropriation from the general fund that is funded by certain moneys received by the state pursuant to

Indian gaming compacts. Funding is expected to be increased by \$300,000 annually - \$200,000 SEG and \$100,000 PR-S.

In addition, DNR is permitted to provide to counties these enforcement aid amounts from this program revenue service appropriation.

RECOMMENDATION: Support

BOARD ACTION: March 23, 2001
Board of Directors:

Snowmobile Registration

Item #34

GOVERNOR: Under current law, DNR administers a registration program for snowmobiles.

The Governor's budget increases the fee for trail use stickers from \$12.25 to \$17.25 and requires that \$15 of each fee collected for a snowmobile trail use sticker be credited to an appropriation to provide supplemental funding for the maintenance of snowmobile trails. A trail use sticker issued by DNR is required on all snowmobiles that are operated but not registered in this state. Supplemental funding is available for maintenance of trails if the actual cost of maintenance exceeds the amount determined under the trail aids formula which sets a maximum amount per square mile. Funding is expected to be increased by \$1,740,600 SEG in FY02 and \$2,049,100 SEG in FY03.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

All-Terrain Vehicle, Boat and Snowmobile Registration

Item #35

GOVERNOR: Under current law, DNR administers the registration system for all-terrain vehicles, boats, and snowmobiles. DNR is authorized to appoint agents who are not DNR employees to issue the registration certificates. DNR may establish an expedited service for renewals of the registration documents which may be provided by the agents or DNR directly. Issuing fees are imposed when the documents are issued by agents and authorize an expedited service fee when the expedited service is provided by DNR or agents. Currently, agents may keep a portion of the fees.

The Governor's budget changes the expedited service system by authorizing the establishment of a noncomputerized procedure and computerized procedure for issuing original and duplicate registration documents and for transferring and renewing these documents.

Under either procedure, DNR or its agents issue adequate documentation so that the registrant is able to immediately operate the ATV, boat, or snowmobile in compliance with the applicable registration laws. Under both systems, DNR and the agents collect an expedited service fee of \$3 from the registrant. Agents using the noncomputerized system retain the entire fee while agents using the computerized system send \$1 of each \$3 fee to DNR. Also, DNR may continue to provide a registration service that does not use any expedited service procedure and for which no expedited service or issuing fee is charged.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**Voluntary Environmental
Improvement**

Item #36

GOVERNOR: The Governor's budget creates the Green Tier Program, administered by DNR. The program is designed to improve the environmental performance of public and private entities through the provision of incentives. There are three tiers to the Green Tier Program of which a participant may participate in more than one tier. A public or private entity that is subject to environmental laws may participate. To participate, the entity must conduct an environmental performance evaluation or have an environmental management system. An environmental performance evaluation is a systematic review of the effect of a facility on the environment, including an evaluation of compliance with one or more environmental laws. An environmental management system is a set of procedures designed to evaluate the effects of a facility on the environment and to achieve improvements in those effects.

The bill also establishes a grant program under which the department of commerce makes grants to nongovernmental organizations to help develop the capacity to participate as interested third parties and makes grants to assist in the devilmnt of environmental management systems.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Forestry
Item #37

GOVERNOR: The Governor's budget has several fiscal provisions related to forestry programs.

Funding for forestry general operations and information technology is increased by \$777,800 SEG in FY02 and \$719,800 SEG in FY03. \$211,800 SEG in FY02 and \$223,800 SEG in FY03 is provided to further strengthen gypsy moth suppression and response efforts throughout the state.

\$200,000 SEG is provided annually to assist counties with sustainable forestry practices.

Grants to local fire departments for forest fire equipment and training is increased by \$250,000 SEG annually.

\$74,000 SEG is provided to meet critical Department of Natural Resources forest fire fighting equipment needs.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

**WCA Health and Human Services
Steering Committee**

Community Aids

Item #38

GOVERNOR: The Governor's budget sets the basic county allocation for fiscal years 2001-02 and 2002-03. Funding for the Basic County Allocation is set at \$245,706,500 in each fiscal year.

Funding for the Alzheimer's Family and Caregiver Support Program is set at \$2,342,800 in each fiscal year. Funding for the Substance Abuse Block Grant is set at \$9,735,700 in each fiscal year. Funding for the Mental Health Block Grant is set at \$2,513,400 in each fiscal year. Funding for Family Support is set at \$4,339,800 in each fiscal year. Funding for Tribal Daycare is set at \$412,800 in each fiscal year.

The Governor's budget also does the following:

1. Changes Milwaukee County Contribution to Child Welfare
2. Provides funding for cost to continue foster care rates from Act 9: \$58,200 GPR and \$21,500 FED in each year
3. Provides GPR for cost to continue Alzheimer's: \$116,500 in each year
4. SSBG/TANF conversion: 1st year \$22,657,500 TANF converted to SSBG, 2nd year \$13,514,900 TANF converted to SSBG / \$4,571,300 GPR added SSBG Grant award reduced \$1,169,100 in each year

In total, counties lose approximately \$1.2 million each year in community aids.

RECOMMENDATION: Seek to amend to 1) provide GPR to offset the SSBG cut; 2) change the name of community aids to elderly, developmentally and mentally disabled aids; 3) provide a 3% increase in the community aids

appropriation in each year of the biennium.

BOARD ACTION: March 23, 2001
Board of Directors:

MA Eligibility Changes

Item #39

GOVERNOR: Under current law, DHFS is required to provide medical assistance (MA) to individuals who meet the requirements under one of the following MA eligibility categories:

- (1) AFDC-MA. Under this category, individuals who meet the income, asset, and non-financial requirements for the federal aid to families with dependent children (AFDC) program that were in effect on July 16, 1996, are eligible to receive MA. The AFDC program was replaced with the federal temporary assistance for needy families (TANF) program on July 16, 1996. Generally, individuals who may qualify under the AFDC-MA category are certain children under 19 years of age, their caretaker relatives, and pregnant women in the eighth or ninth month of pregnancy.
- (2) AFDC-related MA. This category includes certain children under 19 years of age, their caretaker relatives, and pregnant women throughout the entire pregnancy who meet the income and asset requirements of the AFDC program that were in effect on July 16, 1996, but who would not have received an AFDC payment. Also eligible under this category are children under the age of 18 and pregnant

women whose incomes do not exceed 133.33% of the maximum payment under the AFDC program, and whose assets do not exceed certain asset limits.

The Governor's budget eliminates the asset requirements for the AFDC-MA and AFDC-related MA categories.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

MA Estate Recovery

Item #40

GOVERNOR: Under current law, DHFS is required to recover from the estate of a medical assistance (MA) recipient who is not survived by a spouse or a child who is under 21 or disabled the following:

- (1) The amount of MA paid on behalf of the recipient while the recipient resided in a hospital and was required to contribute to the cost of care or resided in a nursing home.
- (2) The amount of MA paid on behalf of a recipient after the recipient reached age 55 for home-based or community-based services, community-supported living, personal care services, and hospital and prescription drug services as defined by DHFS by rule.

The Governor's budget expands the types of services that are subject to the estate recovery program to include all health care services for which MA was paid on behalf of the recipient after the recipient reached age 55. The Governor's budget requires that, if the health care services were provided by a managed care

organization, under a program of all-inclusive care for the elderly (PACE) that provides health and social services to low-income elderly individuals at home, or under the Wisconsin partnership program which provides health care and long-term care services to low-income elderly and disabled individuals, DHFS must calculate the amount of MA as the capitation rate that was paid on behalf of the recipient. If the health care services were provided under family care, DHFS must calculate the amount of MA as the cost of the actual health care services that were paid for with MA. For all other services provided, DHFS is required to calculate the amount of MA on a fee-for-service basis.

RECOMMENDATION: Monitor to ensure counties receive their portion of the 15%.

BOARD ACTION: March 23, 2001
Board of Directors:

Liens on All Real Property for MA Estate Recovery

Item #41

GOVERNOR: Under current law, DHFS is required to recover from the estate of certain medical assistance (MA) recipients the amount of MA paid on behalf of the recipient for certain MA services. To recover these amounts, DHFS is authorized to place a lien on the home of a recipient if the recipient resides in a nursing home or in a hospital and is required to contribute to the cost of care, the recipient is not reasonably expected to return home, and one of the following individuals does not reside in the home:

- (1) The spouse of the recipient.

- (2) A child of the recipient, who is under 21 years of age or disabled.
- (3) A sibling of the recipient, who has an ownership interest in the home and has lived in the home continuously for at least 12 months before the recipient was admitted to the nursing home or hospital.

Current law also prohibits DHFS from enforcing a lien while the recipient is living unless the recipient sells the home and the recipient's spouse or the recipient's child who is under 21 or disabled is no longer living. DHFS may enforce the lien upon the death of the recipient if the following individuals do not survive the recipient:

- (1) The spouse of the recipient.
- (2) A child of the recipient, who is under 21 years of age or disabled.
- (3) A child of the recipient, who is of any age, who currently resides in the home, who has resided in the home for at least 24 months before the recipient was admitted to the nursing home or hospital, and who provided care to the recipient that delayed the recipient's admission into a nursing home or hospital.
- (4) A sibling of the recipient who currently resides in the home and who has resided in the home at least 12 months before the recipient was admitted to the nursing home or hospital.

Current law requires DHFS to notify the recipient in writing of its intent to impose a lien on the recipient's home, and, if the recipient requests, provide the recipient with a hearing. If the recipient returns to live at home, DHFS must file a release of the lien.

Under the Governor's budget, DHFS may, in addition to placing a lien on a recipient's home, place a lien on any other real property in which a MA recipient has an interest, if the recipient resides in a nursing home, or in a hospital and is required to contribute to the cost of care, and the recipient is not reasonably expected to return home. DHFS may place a lien on any real property, other than a recipient's home, regardless of who resides in the real property, but DHFS may not enforce the lien while the recipient's spouse, or child who is under 21 years of age or disabled, survives the recipient.

Also under the Governor's budget, the requirements that DHFS notify the recipient in writing of its intent to place a lien on the recipient's home, provide the recipient with an opportunity for a hearing, and file a release of the lien if the recipient returns to live at home also apply if DHFS imposes a lien on the recipient's other real property.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Immunizations

Item #42

GOVERNOR: Under current law, DHFS must carry out a statewide program, using state general purpose revenues and federal moneys, to immunize children against mumps, measles, diphtheria, poliomyelitis, and other diseases. The appropriation of general purpose revenues for the provision of vaccine to immunize children is limited in expenditure to the difference between

\$9,000,000 and the sum of federal moneys received for this purpose.

The Governor's budget extends to fiscal years 2001-02 and 2002-03 the appropriation of general purpose revenue for providing immunizing vaccine.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

HIV/AIDS Appropriation

Item #43

GOVERNOR: Under current law, DHFS distributes general purpose revenues to provide, for persons with or at risk of contracting AIDS, partner referral and notification services; grants to provide AIDS prevention information, counseling support groups, and direct care; a statewide public education campaign; an information network for local health officers, seroprevalence studies for the virus that causes AIDS; grants to provide AIDS information and intervention services; contracts for counseling and laboratory testing services; life care and early intervention services; and grants for services to prevent the AIDS virus.

The Governor's budget, with respect to providing funds for various services on behalf of persons with or at risk of contracting AIDS, changes to human immunodeficiency virus (HIV) the references to AIDS and requires that DHFS provide funds for testing for and prevention of related infections, including hepatitis C virus infection, on behalf of the persons who receive those services.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Environmental Sanitation Licensing Fees

Item #44

GOVERNOR: Under current law, DHFS, or a local health department that acts as an agent of DHFS, issues permits for operation of hotels, restaurants, temporary restaurants, tourist rooming houses, bed and breakfast establishments, vending machine commissaries, vending machines, campgrounds, camping resorts, recreational and educational camps, and public swimming pools. DHFS must promulgate rules establishing permit fees, preinspection fees, and late fees for untimely permit renewal for those establishments that DHFS directly regulates. For establishments that are directly regulated by a local health department that is granted agency status by DHFS, however, the local health department must establish its own fees and must impose both its own fees and fees (entitled "state fees"), which may be no more than 20% of the DHFS fees and which must be reimbursed to DHFS.

The Governor's budget requires that DHFS promulgate rules establishing reinspection fees, fees for operating without a permit, fees for comparable compliance or variance requests, and fees for pre-permit review of restaurant plans.

Also under current law, a permit to operate a restaurant that operates at a fixed location in conjunction with an event such as a fair (temporary restaurant) may be applied to a premises other than that for which it was issued if DHFS or a local health department so approves. A person who operates a bed

and breakfast establishment for more than ten nights in a calendar year must obtain a biennial permit from DHFS. DHFS or a local health department that acts as an agent of DHFS may not without a preinspection provide a permit for operation of a new, or newly operated, hotel, tourist rooming house, bed and breakfast establishment, restaurant, or vending machine commissary.

The Governor's budget eliminates the authority for DHFS or a local health department to approve applying the permit for a temporary restaurant to a location other than that for which it was originally issued. The Governor's budget requires that a person operating a bed and breakfast establishment for more than ten nights in a calendar year obtain an annual, rather than a biennial, permit from DHFS. Lastly, the Governor's budget prohibits DHFS or a local health department acting as a DHFS agent from providing, without a preinspection, a permit for operation for a new, or newly operated, public swimming pool, campground, or recreational or educational camp.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Inpatient Competency Evaluation Charge-Back

Item #45

GOVERNOR: Under current law, if a court during a trial for violation of a crime has reason to doubt the defendant's competency to proceed, the court must order the defendant to be examined, on an inpatient or outpatient basis, as determined by DHFS. For an inpatient

examination, the court must arrange for the defendant's transportation to the examining facility within a reasonable time and for return of the defendant to the jail within a reasonable time after receiving notice from the facility that the examination has been completed. Also under current law, a county department of community programs may not reimburse a state institution for care provided by the institution to certain persons, including criminal defendants who are ordered to be examined by mental health institutes for competency to undergo trial.

The Governor's budget requires that, for a defendant in a criminal trial who has been ordered to receive an examination for mental competency to undergo trial, the sheriff of the defendant's county of residence transport the defendant to the examining facility. Further, the Governor's budget requires that the sheriff transport the defendant to jail within a reasonable time after the sheriff and the county department of community programs receive notice from the facility that the examination has been completed. The Governor's budget requires that a county department of community programs reimburse a mental health institute at the institute's daily rate for all days of custody of a county resident who is examined for competency to proceed in a criminal trial, beginning 48 hours after the sheriff and county department receive notice that the examination has been completed. The 48-hour period may not include Saturdays, Sundays and legal holidays.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Alternate Services at
Developmentally Disabled
Centers

Item #46

GOVERNOR: Under current law, DHFS may authorize the Mendota Mental Health Institute and the Winnebago Mental Health Institute to provide services other than inpatient mental health services, under contracts with public or private entities, when DHFS determines that there is a need for community services to be supplemented. Payments for these services are credited to a program revenue appropriation and are used to provide the services. Also under current law, the Northern Center for the Developmentally Disabled, Southern Center for the Developmentally Disabled and Central Center for the Developmentally Disabled are operated by DHFS to provide various services to persons with developmental disability and to return those persons to the community when their needs can be met at the local level.

The Governor's budget authorizes DHFS to allow a center for the developmentally disabled to offer, when DHFS determines that community services need to be supplemented, short-term residential services, dental and mental health services, physical therapy, psychiatric and psychological services, general medical services, pharmacy services, and orthotics. These services may be provided only under a contract between DHFS and specified entities, to persons who are referred by the entity. Further, the services are governed by the terms of the contract or by statutes or administrative rules that regulate facilities, govern certain mental health services, and provide mental health

patient rights. In the event of a conflict between contract provisions and these statutes or rules, the services must comply with the contractual, statutory, or rules provision that is most protective of the health, safety, welfare, or rights of the recipient of the services, as determined by the center for the developmentally disabled. Specified mental health statutes, including emergency detention and commitment laws, and zoning and other county, city, town or village ordinances, do not apply to provision of the services.

The Governor's budget creates an annual appropriation of program revenue, to which payments for outpatient services provided by mental health institutes and payments for alternative services provided by centers for the developmentally disabled must be credited, and which is used for provision of the services.

Currently, the state centers for the developmentally disabled must provide services for up to 36 persons with developmental disability who are also diagnosed as mentally ill or who exhibit extremely aggressive and challenging behaviors.

The Governor's budget increases to up to 50 the number of persons with developmental disability and mental illness or extreme behaviors that the state centers for the developmentally disabled must serve.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

CIP 1A Reduction Rate

Item #47

GOVERNOR: Currently, the Community Integration Program (also known as the CIP 1A program) provides funding, under a waiver of federal medicaid laws, for home and community-based services, for persons eligible for medical assistance (MA) who are relocated to the community from a state center for the developmentally disabled. After such a relocation, DHFS reduces reimbursement to that center. Currently, the reimbursement reduction rate is \$190 per day.

The Governor's budget increases to \$200, beginning in fiscal year 2001-02, and to \$225, beginning in fiscal year 2002-03, the daily rate for reduction of reimbursement to state centers for the developmentally disabled for center residents who are MA-eligible and are relocated to the community under the CIP-1A program.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Community Services Deficit Reduction Benefit

Item #48

GOVERNOR: Under current law, MA is a program of medical services, for persons with low income and resources, that is jointly funded by federal medicaid moneys and state GPR. However, under agreements with DHFS, the following MA services are provided, and the state portion of the costs is funded, by local health departments and county departments of social services, human

services, and community programs: home health; medical day treatment and mental health and alcohol and other drug abuse services; personal care; alcohol and other drug abuse day treatment; mental health and psychosocial rehabilitation provided by community support programs; case management; mental health crisis intervention; care coordination for women with high-risk pregnancies; and mental health day treatment for minors. DHFS must in each fiscal year allocate up to \$4,500,000 of federal medicaid moneys to those departments to reduce any operating deficits of those departments that are incurred in providing services for which the costs exceed the reimbursement.

The Governor's budget eliminates the specific dollar amount of federal medicaid moneys that DHFS must allocate to reduce operating deficits of counties, cities, towns, and villages that are incurred in providing and funding certain MA services, but retains the requirement that DHFS allocate the moneys for this purpose. The Governor's budget also authorizes the following additional services to be provided by local health departments and county departments of social services, human services, and community programs on this basis: mental health services and alcohol and other drug abuse services to persons aged at least 21 in the person's home or in the community; psychosocial services, including case management services, provided by a community based psychosocial service program; and, before July 1, 2003, alcohol or other drug abuse residential treatment services of no more than 45 days per treatment episode.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001

Board of Directors:

Mental Health Changes

Item #49

GOVERNOR: Under current law, DHFS must distribute not more than \$350,000 in federal funds in each fiscal year as five-year system change grants to counties to assist in relocating individuals with mental illness from institutional or residential care to less restrictive and more cost-effective community settings and services. DHFS must require that the community services that are developed under a grant are continued following grant termination, by use of funding made available from reduced institutional and residential care utilization.

The Governor's budget changes system change grants so as to eliminate the limitation on federal funding; reduce from five years to three years the maximum grant period; permit the grants to be made to entities other than counties; and require that the grant funds be made to permit recovery-oriented mental health system changes, prevention and early intervention strategies, and consumer and family involvement. Lastly, the Governor's budget requires that community services developed under a grant be continued following grant termination, by use of savings made available from incorporating recovery, prevention and early intervention strategies, and consumer and family involvement in the services.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001

Board of Directors:

**Family Care: Children's Pilot:
Children's Home and
Community-Based Waiver**

Item #50

GOVERNOR: Under current law, individuals who are physically or developmentally disabled, elderly, chronically mentally ill, or chemically dependent may be eligible to receive certain health care services under one or more programs administered by DHFS. Several of these programs are operated under the medical assistance (MA) program. The long-term support community options waiver program (COP-W), which provides home and community-based care to elderly and disabled individuals who meet certain eligibility criteria, and three community integration programs (CIPs), which provide home and community-based services to individuals who are relocated from institutions, such as state centers for the developmentally disabled and nursing homes, or who meet the criteria for reimbursement under MA for nursing home care, are operated as part of the MA program. The family support program, which provides assistance, including home and community-based services, to families with a disabled child, and a program that provides early intervention services to certain eligible children, are not part of the MA program and are funded with general purpose revenue (GPR).

The Governor's budget requires DHFS to request a waiver of the federal medical assistance laws from the federal department of health and human services to provide disabled individuals who are under 24 years of age, under one program, with unified administration and service delivery, the services offered