

### 2001 DRAFTING REQUEST

#### Bill

Received: 05/24/2001

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Legislative Council - JLC 266-9791

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Addl. Drafters:

Subject: Health - long-term care  
Public Assistance - med. assist.

Extra Copies: ISR

Submit via email: NO

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Family support program; CIP IB, waiting lists for developm4ental disabilities services; respite care; and creating a medical assistance trust fund

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#### Instructions:

Same as 01-3355

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#### Drafting History:

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>               | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|----------------------------|-------------------------------|-----------------|
| /P2          | kenneda<br>11/14/2001 | csicilia<br>11/16/2001 | jfrantze<br>11/19/2001 | _____          | lrb_docadmin<br>11/19/2001 |                               |                 |
| /1           | kenneda<br>11/27/2001 | csicilia<br>11/28/2001 | jfrantze<br>11/29/2001 | _____          | lrb_docadmin<br>11/29/2001 | lrb_docadminS&L<br>11/30/2001 |                 |

FE Sent For:

LIA intro

<END>

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| /P2          | kenneda<br>11/14/2001 | csicilia<br>11/16/2001 | jfrantze<br>11/19/2001 | _____          | lrb_docadmin<br>11/19/2001 |                 |                 |

FE Sent For:

*1 cjs 11/28/01*  
*11/29/01*  
*11/29/01*  
*RES*  
*<END>*

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|    |         |           |       |              |  |  |  |
|----|---------|-----------|-------|--------------|--|--|--|
| 1? | kenneda | 1 9/11/01 | 11/19 | cmk<br>11/19 |  |  |  |
|----|---------|-----------|-------|--------------|--|--|--|

FE Sent For:

<END>

1       **AN ACT** to amend 20.435 (4) (o), 46.985 (7) (a), 46.986 (2) (b) 1. and 46.986 (2) (b)  
2           2. (intro.); and to create 15.197 (11n) (e), 20.435 (4) (w), 25.17 (1) (jr), 25.77,  
3           46.985 (7) (d) and (e), 51.437 (14) (j) and (k) and 51.437 (14p) (g) of the statutes;  
4       **relating to:** increasing funding for the family support program; increasing the daily  
5       reimbursement rate for the community integration program for persons with mental  
6       retardation; providing funding for services for persons with developmental  
7       disabilities who are on waiting lists for services; requiring the department of health  
8       and family services to establish criteria for distribution of this funding and to  
9       develop a plan to eliminate waiting lists for services for persons with developmental  
10      disabilities by the end of state fiscal year 2004–05; requiring the council on  
11      developmental disabilities to evaluate, and report to the legislature, the number of  
12      persons with developmental disabilities on waiting lists for services at the end of  
13      each calendar year; requiring rule-making; and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the joint legislative council's special committee on developmental disabilities. The draft contains the following provisions.

**1. Family Support Program**

Under current law, the department of health and family services is required to distribute not more than \$4,339,800 in each fiscal year for the family support program allocation of community aids funding. The draft increases funding for the family support program by \$700,000 in state fiscal year 2001–02 and by \$2,700,000 in state fiscal year 2002–03. As of December 1, 2000, an estimated 2,500 children were on waiting lists to receive services under this program. Over the 2001–03 biennium, a total of \$3,400,000 additional general purpose revenue could provide

services under the family support program for an estimated 400 children in fiscal year 2001-02 and 1,200 children in fiscal year 2002-03, based on the actual average per client cost of providing services under the program in calendar year 1999 (\$1,705). Counties may use these funds either to provide services to additional families with children on waiting lists or to provide additional services to underserved families.

Further, the draft provides that the increased funds must be used by counties as the nonfederal match for the community supported living arrangements (CSLA) medical assistance waiver, when a child is eligible both for CSLA and for the family support program. The draft also provides that the increased funds may be used by counties as the nonfederal match for the community integration program for persons with mental retardation (CIP-IB), when a child is eligible both for CIP-IB and for the family support program.

## **2. CIP-IB**

Under current law, s. 46.278 governs the community integration program (CIP) for persons with mental retardation, commonly referred to as "CIP-IB". Under this program, a person who is diagnosed as developmentally disabled under the definition specified in s. 51.01 (5) and relocated from an institution other than a state center for the developmentally disabled, or who meets the intermediate care facility for the mentally retarded (ICF-MR) level of care requirements for medical assistance (MA) reimbursement in an ICF-MR and is ineligible for services under s. 46.275 or 46.277, may be eligible for this program.

The program authorizes the department of health and family services to serve MA recipients, who meet the level of care requirements for MA reimbursement in an ICF-MR, in their communities by providing home or community-based services as part of MA.

Currently, the state of Wisconsin provides funding at a daily rate of \$48.33 per day to serve these individuals under the CIP-IB program. This is MA funding, which is approximately 60% federal funds and 40% nonfederal funds.

This draft provides \$3,700,000 in fiscal year 2001-02 and \$3,700,000 in fiscal year 2002-03 to increase the CIP-IB daily rate from the current rate of \$48.33 per day.

## **3. Waiting Lists for Developmental Disabilities Services**

The draft creates an appropriation in the department of health and family services (DHFS) to be used to provide services to persons who are on waiting lists for developmental disabilities services. The draft provides \$1,000,000 in fiscal year 2001-02 and \$7,000,000 in fiscal year 2002-03

to fund services for persons with developmental disabilities who are waiting for services. In distributing these funds, the DHFS must use the criteria established by the DHFS by rule. The rules must require that the funds be distributed to maximize the capture of federal funds. In addition, the rules must prohibit counties from supplanting funds allocated to developmental disabilities services with the funds received under this appropriation.

The rules must also require that the DHFS collect data from county departments on the number of persons requesting, but not receiving, developmental disabilities services. The data must indicate the number of these persons placed on waiting lists by the county department, as well as the length of time the person has been on a waiting list and person's severity of need. Further, the rules must provide that the funds appropriated under this draft be distributed by the DHFS utilizing this data. The rules must be submitted to the legislative council staff for review no later than the first day of the 6th month beginning after the effective date of this draft. However, the DHFS must administer this act prior to the promulgation of these rules according to procedures established by the DHFS.

This draft also requires the DHFS to develop a plan to eliminate waiting lists for services for persons with developmental disabilities in Wisconsin by the end of fiscal year 2004-05.

Finally, the draft requires the council on developmental disabilities under s. 15.197 (11n), stats., at the end of each calendar year, to evaluate the number of persons with developmental disabilities on waiting lists for services and report this information to the legislature as provided under s. 15.197 (11n), stats.

#### **4. Lifespan Respite Care**

Under current law, the department of health and family services (DHFS) uses general purpose revenues to contract with a private, nonprofit organization that prescribes criteria for, awards, and oversees grants to conduct respite care projects. ("Respite care" is care that is provided to a person with special needs, or a person at risk of abuse or neglect, in order to provide temporary relief to the caregiver of that person or when the caregiver is unable to provide care.) The organization may award grants to conduct respite care projects to county departments of social services, human services, community programs, or developmental disabilities services; governing bodies of federally recognized American Indian tribes or bands; or nonprofit or for-profit community-based private entities. The grant funds must be equally distributed among five administrative regions of the state, as prescribed by DHFS.

This bill increases an appropriation of general purpose revenues by a total of \$225,000 in fiscal year 2002-03 for the respite care program, including grant funds for one additional respite care project in each of the five administrative regions prescribed by DHFS and two additional respite care projects anywhere in the state.

**5. Medical Assistance Trust Fund**

This draft creates a medical assistance trust fund, consisting of all of the following:

(a) All federal moneys received, including moneys that DHFS may transfer from the appropriation under s. 20.435 (4) (o), stats., that are related to payments under s. 49.45 (6m) and are based on public funds that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.

(b) All public funds that are related to payments under s. 49.45 (6m) and that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share of medical assistance funding.

Moneys from this trust fund are used for providing funding increases for programs as specified in this draft in state fiscal years 2001-02 and 2002-03.

1           **SECTION 1.** 15.197 (11n) (e) of the statutes is created to read:

2           15.197 (11n) (e) *Annual report.* By January 31 of each year, the council shall prepare  
3 a report for the preceding calendar year and shall submit the report to the legislature under s.  
4 13.172 (2). The report shall evaluate waiting lists for services for persons with developmental  
5 disabilities in Wisconsin based on data compiled by the department of health and family  
6 services.

7           **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the  
8 following amounts for the purposes indicated:



| 1 | 2001-02                                  | 2002-03 |
|---|--|---------|
| 2 | <b>20.435 Health and family services</b> |         |
| 3 | (4)                                      |         |
| 4 | (w) Medical assistance trust fund        | SEG C   |
|   | -0-                                      | -0-     |

5           **SECTION 3.** 20.435 (4) (o) of the statutes is amended to read:

6           20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for  
7 meeting costs of medical assistance administered under ss. 46.284 (5), 49.45 and 49.665, to  
8 be used for those purposes and for transfer to the medical assistance trust fund, for those  
9 purposes.

10           **SECTION 4.** 20.435 (4) (w) of the statutes is created to read:

11           20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust fund,  
12 all moneys received for meeting costs of medical assistance administered under 2001  
13 Wisconsin . . . (this act), SECTION 13.

14           **SECTION 5.** 25.17 (1) (jr) of the statutes is created to read:

15           25.17 (1) (jr) *Medical assistance trust fund (s. 25.77).*

16           **SECTION 6.** 25.77 of the statutes is created to read:

17           **25.77 Medical assistance trust fund.** There is created a separate nonlapsible trust fund  
18 designated as the medical assistance trust fund, consisting of all of the following:

19           (1) All federal moneys received, including moneys that the department of health and  
20 family services may transfer from the appropriation under s. 20.435 (4) (o), that are related  
21 to payments under s. 49.45 (6m) and are based on public funds that are transferred or certified  
22 under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.

1           (2) All public funds that are related to payments under s. 49.45 (6m) and that are  
2 transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share  
3 of medical assistance funding.

4           **SECTION 7.** 46.985 (7) (a) of the statutes is amended to read:

5           46.985 (7) (a) From the appropriations under ~~s. ss. 20.435 (4) (w) and~~ 20.435 (7) (b),  
6 (kw) and (o), the department shall allocate to county departments funds for the administration  
7 and implementation of the program.

8           **SECTION 8.** 46.985 (7) (d) and (e) of the statutes are created to read:

9           46.985 (7) (d) Funds from the appropriation under s. 20.435 (4) (w), shall be allocated  
10 under 2001 Wisconsin Act . . . (this act), SECTION 13 (1) (c) in accordance with the following  
11 requirements:

12           1. For disabled children determined for the program, the department shall ensure that  
13 county departments determine whether these children are also eligible for any medical  
14 assistance home and community-based waiver programs.

15           2. If a disabled child is determined to be eligible, under subd. 1., for a medical assistance  
16 home and community-based waiver program for which the child's eligibility ends at age 22,  
17 the department shall require county departments to use the available funds under s. 46.985 (7)  
18 (d) (intro.) as the required nonfederal matching funds under the waiver program.

19           3. If a disabled child is determined to be eligible, under subd. 1., for the program under  
20 s. 46.278, the department shall encourage county departments to use the available funds under  
21 s. 46.985 (7) (d) (intro.) as the required nonfederal matching funds under the waiver program.

22           4. The administering agency may approve funding for all or any part of the cost of any  
23 services or goods that have been identified as necessary in a family's service plan and which  
24 meet the criteria promulgated under sub. (2) (a) 9., and which are not services or goods eligible

1 to be funded under any of the waiver programs for which the child is determined eligible under  
2 subds. 2. and 3.

3 (e) The department shall assist county departments in maximizing the use of the medical  
4 assistance waiver programs described in sub. (7) (d) 2. and 3. for disabled children who are  
5 also eligible for the program.

6 **SECTION 9.** 46.986 (2) (b) 1. of the statutes is amended to read:

7 46.986 (2) (b) 1. After consulting with the department, county departments, tribes or  
8 bands, providers and caregivers, prescribe criteria for the distribution of grants to conduct  
9 life-span respite care projects. The criteria shall include the requirement that grant funds be  
10 equally distributed among 5 administrative regions of the state, as prescribed by the  
11 department, except that, beginning July 1, 2002, the grant funds shall also be used to conduct  
12 2 respite care projects anywhere in the state.

13 **SECTION 10.** 46.986 (2) (b) 2. (intro.) of the statutes is amended to read:

14 46.986 (2) (b) 2. (intro.) Solicit applications from and, using the criteria under subd. 1.,  
15 award in the 1999-2001 ~~2001-03~~ state fiscal biennium up to ~~one grant~~ 2 grants in each of the  
16 5 administrative regions prescribed by the department and up to 2 additional grants anywhere  
17 in the state to any of the following to conduct a life-span respite care project:

18 **SECTION 11.** 51.437 (14) (j) and (k) of the statutes are created to read:

19 51.437 (14) (j) Promulgate rules establishing criteria for distribution of funds  
20 appropriated under s. 20.435 (4) (w) in the amounts designated in 2001 Wisconsin Act . . . (this  
21 act), SECTION 13 (1) (b), for services for persons with developmental disabilities who are  
22 waiting for services. The rules shall require the following:

23 1. That the department shall collect data from each county department under ss. 46.21,  
24 46.23, 51.42 and 51.437 on the total number of persons with developmental disabilities who

1 have requested services and have not received services from the county department. The data  
2 shall indicate which of these persons have been placed on waiting lists for services by the  
3 county department. The data shall also indicate the length of time the person has been on the  
4 waiting list, and the severity of the person's need for services.

5 2. That the funds appropriated under s. 20.435 (4) (w), in the amounts designated in  
6 2001 Wisconsin Act . . . (this act), SECTION 13 (1) (b), shall be distributed to county  
7 departments to provide services to persons identified utilizing the data collected in subd. 1.  
8 County departments may not use these funds to supplant funds already allocated, as of the  
9 effective date of this act . . . [revisor inserts date], for services for persons with developmental  
10 disabilities.

11 3. That the funds appropriated under s. 20.435 (4) (w), in the amounts designated in  
12 2001 Wisconsin Act . . . (this act), SECTION 13 (1) (b), shall be distributed to maximize the  
13 capture of federal matching funds for federal medical assistance waiver programs, and to  
14 provide service under the family support program under s. 46.985.

15 (k) Ensure that public and private providers of services to persons with developmental  
16 disabilities are provided information about the department's plan under sub. (14p) (g) to  
17 eliminate waiting lists for services for person with developmental disabilities.

**NOTE:** Current law requires the DHFS to perform several functions relating to the implementation of programs for persons with developmental disabilities. This SECTION adds 2 additional duties: (1) to promulgate rules establishing criteria for distribution to county departments funds appropriated under this draft for developmental disabilities waiting lists; and (2) to ensure that public and private providers of services are given information about the DHFS' plans for eliminating waiting lists for services for persons with developmental disabilities.

18 SECTION 12. 51.437 (14p) (g) of the statutes is created to read:

1           51.437 (14p) (g) *Plan to eliminate waiting lists for services.* By July 1, 2002 the  
2 department shall incorporate into the plan under this subsection a plan to eliminate waiting  
3 lists for services for persons with developmental disabilities, by the end of state fiscal year  
4 2004-05. The plan to eliminate waiting lists shall utilize criteria set forth by the department  
5 by rule under sub. (14) (j), and shall include a fiscal estimate of the amount of funds needed  
6 to implement the plan in each state fiscal year.

**NOTE:** Current law requires the department to submit a state plan for developmental disabilities services to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance. The plan was required to be distributed by December 1, 1991 and must be submitted every 5 years thereafter. The plan must be updated biennially. Section 51.437 (14p) (b), sets out the plan objectives; s. 51.437 (14p) (c) sets out the required plan contents. This SECTION adds a requirement that the DHFS incorporate into the state plan for developmental disabilities services a plan to eliminate waiting lists for these services by the end of state fiscal year 2004-05.

7           **SECTION 13. Nonstatutory provisions; health and family services.**

8           (1) From the appropriation under section 20.435 (4) (w) of the statutes, as created by  
9 this act, the department of health and family services shall expend the following amounts for  
10 the following purposes:

11           (a) In each year of the 2001-03 biennium, \$3,700,000 to increase the daily rate paid  
12 under the community integration program for persons with mental retardation under section  
13 46.278 of the statutes.

14           (b) In state fiscal year 2001-02, \$1,000,000, and in state fiscal year 2002-03,  
15 \$7,000,000, to fund medical assistance home and community-based waiver services for  
16 persons with developmental disabilities who are waiting for services and are identified as  
17 provided under section 51.437 (14) (j) of the statutes.

1 (c) In state fiscal year 2001-02, \$700,000, and in state fiscal year 2002-03, \$2,700,000  
2 to allocate additional funding for the family support program as provided under section 46.985  
3 (7) (d) of the statutes, as created by this act.

4 (d) In state fiscal year 2002-03, \$225,000 to increase funding for additional grants for  
5 life-span respite care projects as provided in section 46.986 (2) (b) 2. (intro.) of the statutes,  
6 as affected by this act.

7 (2) The department of health and family services shall submit in proposed form the rules  
8 required under section 51.437 (14) (j) of the statutes, as created by this act, to the legislative  
9 council staff no later than the first day of the 6th month beginning after the effective date of  
10 this act. Before the date on which the proposed rules are finally promulgated, the department  
11 of health and family services shall administer section 51.437 (14) (j) of the statutes, as created  
12 by this act, according to procedures established by that department, notwithstanding the  
13 absence of rules to administer that section.

14 **SECTION 14. Effective dates.** This act takes effect the 2nd day after publication of the  
15 2001-03 biennial budget act.

16 (END)

From Laura Rose 7/23/01

She knows that the family support program + life-span respite care projects are not MA programs; agrees that 20.435(4)(wg) language will have to be modified.

The Doustat. programs are not meant to be time-limited — ∴ they should be incorporated into the stats → (reference to funding from 20.435(4)(wg))

Wait on this until budget bill has passed + been signed — course of these programs are funded in it

46.985 = Family support program

9/24/01 Mtg w/ Laura Rose + Rachel Letzing 3355 + 3358

Provide appropriation increases for B increases  
in nonstats; also, amend stats. to provide  
these moneys in each year hereafter



**Kennedy, Debora**

**From:** Rose, Laura  
**Sent:** Wednesday, October 24, 2001 12:24 PM  
**To:** Kennedy, Debora  
**Cc:** Letzing, Rachel  
**Subject:** LRB 3358/P1

Hi Debora,

Just tried to call you and got the unfortunate message on your voice mail that you are out all week due to a family death - I am so sorry to hear this, and will call you when you get back.

I called to discuss 3358/P1 with you. I have several questions/comments that I want to run by you, while it is still fresh in my mind:

1. What is the reference to 20.435 (4)(wg) on page 4, line 12 and thereafter? Do we need to do anything to create a new appropriation since the MA trust fund was created in the budget?  
*Yes, we do. The MA trust fund (20.435(4)(w)) Amend (4)(w)*

2. On page 6, l. 9-12, I think the language should be restored. The committee didn't want to require county departments to use family support funds as the required nonfederal match for kids eligible for CIP IB - they wanted to keep that optional. This is different from the program referred to on page 6, l. 4-8. This is the community supported living arrangements program and the committee wanted to require family support money to be used as the required nonfederal match for this program. ?

3. Page 9:

a. I think these are supposed to be expenditures that apply in the future, not just in this biennium. Therefore, should we do appropriation changes instead of nonstatutory provisions? I think the Committee's intent was that the rate increase for CIP IB and the waiting list expenditures and increased funding for lifespan would be ongoing.  
*Approp. changes are for this fiscal biennium; need also stat. changes to apply past biennium*

b. I think the language for family support and lifespan on page 9, l. 12-17 should be restored. I know they are not MA-funded programs, but Richard Megna told us that they could be funded with the MA trust fund money nonetheless. See #1

c. If you need statutory citations for the "medical assistance home and community-based waiver services for persons with developmental disabilities" that are referred to on p. 9, l. 9-10, the programs that should be referred to are CIP IB and the brain injury waiver. Both of these are found in s. 46.278, Stats. COP waiver does not serve persons with developmental disabilities. The community supported living arrangements waiver (CSLA) should also be included, but there is no statutory cite for this on the state level. It is referenced in federal law at 42 USC s. 1396u, does that help???

I think that's it. Please give me a call when you get back, I hope you are okay.

Laura

Laura Rose, Deputy Director  
Wisconsin Legislative Council Staff  
One East Main St., Suite 401  
PO Box 2536  
Madison, WI 53701-2536  
608-266-9791

-3358

Q for Laura Rose:

① Nowstate SEC 13 (1)(b); I need to know the specific programs to which these funds are to go, ~~the amounts, for each~~ - then I need to amend each program to provide for receipt

② why are rules necessary for 51.437(14)(j)? Would seem that could require it + be done  
Are these all ma programs? If so, should be under MA - ch. 49

③ What wd. be effective date? July 1, 2002?

ON PARAGRAPH

④ For SEC 13 (1)(a), need to know what the increase in the CIP/IB rate is to: the rate in existence on ~~July June 30, 2002~~  
Day after pub. of budget bill

⑤ Does language of 46.985(7)(b) compl./w  
S. 46.985(7)(b) in bill? No; bill has new money

CIP IB

~~community supported living arrangement~~  
~~warrior~~

brain injury warrior \$46.278

not COPW

family support

11/8/01

- 3358

### Questions for Laura Rose

1. p. 6, ll 4-8 - This refers to "program for which child's eligibility ends at age 22", but the community supported living arrangements program under 42 USC 1396u does not indicate an age limitation - are they the same?

Just refer to CSLA program under 42 USC 1396u

2. SEC 13 (1)(a) increases the daily rate of reimbursement for CIP IB under 46.278 (from 20.435 (4)(w) 3,700,000 annually) - but see 46.278 (6)(b) - is it a problem? Or does "relocation" just mean moving + not services? (a) +

not a problem

3. of the amounts specified in SEC 13 (1)(b), Laura needs to tell me how much should go to CIP IB + the brain injury waiver + how much should go to the CSLA program under 42 USC 1396u.

none to CSLA

X Other option: combine all waiver programs under 46.278 + have rules go there

X Note: has a waiver been approved ~~under~~ for CSLA under 42 USC 1396u?

4. Further problem: p. 8, l. 6 refers to family support program (for which funding is already specified), but SEC 13 (1)(b) does not.

Reference on p. 8, l. 6

to fam. support program should be deleted



MONDAY  
(By Friday 11/19 if possible)

State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3358/P#2

DAK:/:ch

D-NOTE

js

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to amend 20.435 (4) (o), 46.985 (7) (a), 46.986 (2) (b) 1. and 46.986 (2) (b)

2 2. (intro.); and to create 15.197 (11n) (e), 20.435 (4) (w), 25.17 (1) (jr), 25.77,

3 46.985 (7) (d) and (e), 51.437 (14) (j) and (k) and 51.437 (14p) (g) of the statutes;

4 relating to: increasing funding for the family support program; increasing the

5 daily reimbursement rate for the community integration program for persons

6 with mental retardation; providing funding for services for persons with

7 developmental disabilities who are on waiting lists for services; requiring the

8 department of health and family services to establish criteria for distribution

9 of this funding and to develop a plan to eliminate waiting lists for services for

10 persons with developmental disabilities by the end of state fiscal year 2004-05;

11 requiring the council on developmental disabilities to evaluate, and report to

12 the legislature, the number of persons with developmental disabilities on

regenerate

and the respite care program

services under

medical assistance home and community-based

the exercise of

CS 2-

bill is explained in the NOTES provided by the joint legislative council in the bill

1  
2

waiting lists for services at the end of each calendar year; requiring rule-making; and making <sup>authority</sup> appropriation<sup>s</sup>

FF-SIL

**Analysis by the Legislative Reference Bureau**

This ~~is a preliminary draft. An analysis will be provided in a later version.~~

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on developmental disabilities. The draft contains the following provisions.

1. Family Support Program

Under current law, the department of health and family services is required to distribute not more than \$4,339,800 in each fiscal year for the family support program allocation of community aids funding. The draft increases funding for the family support program by \$700,000 in state fiscal year 2001-02 and by \$2,700,000 in state fiscal year 2002-03. As of December 1, 2000, an estimated 2,500 children were on waiting lists to receive services under this program. Over the 2001-03 biennium, a total of \$3,400,000 additional general purpose revenue could provide services under the family support program for an estimated 400 children in fiscal year 2001-02 and 1,200 children in fiscal year 2002-03, based on the actual average per client cost of providing services under the program in calendar year 1999 (\$1,705). Counties may use these funds either to provide services to additional families with children on waiting lists or to provide additional services to underserved families.

Further, the draft provides that the increased funds must be used by counties as the nonfederal match for the community supported living arrangements (CSLA) medical assistance waiver, when a child is eligible both for CSLA and for the family support program. The draft also provides that the increased funds may be used by counties as the nonfederal match for the community integration program for persons with mental retardation (CIP-IB), when a child is eligible both for CIP-IB and for the family support program.

2. CIP-IB

Under current law, s. 46.278 governs the community integration program (CIP) for persons with mental retardation, commonly referred to as "CIP-IB". Under this program, a person who is diagnosed as developmentally disabled under the definition specified in s. 51.01 (5) and relocated from an institution other than a state center for the developmentally disabled, or who meets the intermediate care facility for the mentally retarded (ICF-MR) level of care requirements for medical assistance (MA) reimbursement in an ICF-MR and is ineligible for services under s. 46.275 or 46.277, may be eligible for this program.

The program authorizes the department of health and family services to serve MA recipients, who meet the level of care requirements for MA reimbursement in an ICF-MR, in their communities by providing home or community-based services as part of MA.

Currently, the state of Wisconsin provides funding at a daily rate of \$48.33 per day to serve these individuals under the CIP-IB program. This is MA funding, which is approximately 60% federal funds and 40% nonfederal funds.

bill

bill

bill

This draft provides \$3,700,000 in fiscal year 2001-02 and \$3,700,000 in fiscal year 2002-03 to increase the CIP-IB daily rate from the current rate of \$48.33 per day.

### 3. Waiting Lists for Developmental Disabilities Services

The draft creates an appropriation in the department of health and family services (DHFS) to be used to provide services to persons who are on waiting lists for developmental disabilities services. The draft provides \$1,000,000 in fiscal year 2001-02 and \$7,000,000 in fiscal year 2002-03 to fund services for persons with developmental disabilities who are waiting for services. In distributing these funds, the DHFS must use the criteria established by the DHFS by rule. The rules must require that the funds be distributed to maximize the capture of federal funds. In addition, the rules must prohibit counties from supplanting funds allocated to developmental disabilities services with the funds received under this appropriation.

The rules must also require that the DHFS collect data from county departments on the number of persons requesting, but not receiving, developmental disabilities services. The data must indicate the number of these persons placed on waiting lists by the county department, as well as the length of time the person has been on a waiting list and person's severity of need. Further, the rules must provide that the funds appropriated under this draft be distributed by the DHFS utilizing this data. The rules must be submitted to the legislative council staff for review no later than the first day of the 6th month beginning after the effective date of this draft. However, the DHFS must administer this act prior to the promulgation of these rules according to procedures established by the DHFS.

This draft also requires the DHFS to develop a plan to eliminate waiting lists for services for persons with developmental disabilities in Wisconsin by the end of fiscal year 2004-05.

Finally, the draft requires the council on developmental disabilities under s. 15.197 (11n), stats., at the end of each calendar year, to evaluate the number of persons with developmental disabilities on waiting lists for services and report this information to the legislature as provided under s. 15.197 (11n), stats.

### 4. Lifespan Respite Care

Under current law, the department of health and family services (DHFS) uses general purpose revenues to contract with a private, nonprofit organization that prescribes criteria for, awards, and oversees grants to conduct respite care projects. ("Respite care" is care that is provided to a person with special needs, or a person at risk of abuse of neglect, in order to provide temporary relief to the caregiver of that person or when the caregiver is unable to provide care.) The organization may award grants to conduct respite care projects to county departments of social services, human services, community programs, or developmental disabilities services; governing bodies of federally recognized American Indian tribes or bands; or nonprofit or for-profit community-based private entities. The grant funds must be equally distributed among five administrative regions of the state, as prescribed by DHFS.

This bill increases an appropriation of general purpose revenues by a total of \$225,000 in fiscal year 2002-03 for the respite care program, including grant funds for one additional respite care project in each of the five administrative regions prescribed by DHFS and two additional respite care projects anywhere in the state.

### 5. Medical Assistance Trust Fund

This draft creates a medical assistance trust fund, consisting of all of the following:

(a) All federal moneys received, including moneys that DHFS may transfer from the appropriation under s. 20.435 (4) (o), stats., that are related to payments under s.

bill

49.45 (6m) and are based on public funds that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.

(b) All public funds that are related to payments under s. 49.45 (6m) and that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share of medical assistance funding.

Moneys from this trust fund are used for providing funding increases for programs as specified in this ~~draft~~ in state fiscal years 2001-02 and 2002-03.

(ef)

1

**SECTION 1.** 15.197 (11n) ~~(e)~~ of the statutes is created to read:

2

15.197 (11n) ~~(e)~~ *Annual report*. By January 31 of each year, the council shall

(ef)

3

prepare a report for the preceding calendar year and shall submit the report to the

4

legislature under s. 13.172 (2). The report shall evaluate waiting lists for services

5

for persons with developmental disabilities in Wisconsin based on data compiled by

6

the department of health and family services.

7

**SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert

8

the following amounts for the purposes indicated:

9

2001-02

2002-03

10

**20.435 Health and family services**

11

(4)

12

(w) Medical assistance trust fund      SEG C      -0      -0-

13

**SECTION 3.** 20.435 (4) (o) of the statutes is amended to read:

14

20.435 (4) (o) *Federal aid; medical assistance*. All federal moneys received for

15

meeting costs of medical assistance administered under ss. 46.284 (5), 49.45 and

16

49.665, to be used for those purposes and for transfer to the medical assistance trust

17

fund, for those purposes.

18

**SECTION 4.** 20.435 (4) (w) of the statutes is created to read:

1 20.435 (4) (w) ~~Medical assistance trust fund~~. From the medical assistance trust  
2 fund, all moneys received for meeting costs of medical assistance administered under  
3 2001 Wisconsin . . . (this act), SECTION 13.

4 SECTION 5. 25.17 (1) (jr) of the statutes is created to read:

5 25.17 (1) (jr) ~~Medical assistance trust fund (s. 25.77)~~.

6 SECTION 6. 25.77 of the statutes is created to read:

7 **25.77 Medical assistance trust fund.** There is created a separate  
8 nonlapsible trust fund designated as the medical assistance trust fund, consisting  
9 of all of the following:

10 (1) All federal moneys received, including moneys that the department of  
11 health and family services may transfer from the appropriation under s. 20.435 (4)  
12 (o), that are related to payments under s. 49.45 (6m) and are based on public funds  
13 that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal  
14 share of medical assistance funding.

15 (2) All public funds that are related to payments under s. 49.45 (6m) and that  
16 are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and  
17 federal share of medical assistance funding.

18 SECTION 7. 46.985 (7) (a) of the statutes is amended to read:

19 46.985 (7) (a) From the appropriations under ~~s. 20.435 (4) (w) and~~ 20.435  
20 (7) (b) ~~and~~ and (o), the department shall allocate to county departments funds for  
21 the administration and implementation of the program.

22 SECTION 8. 46.985 (7) ~~(a) and (e)~~ <sup>(am)</sup> of the statutes ~~are~~ <sup>is</sup> created to read:

23 46.985 (7) ~~(a)~~ <sup>(am)</sup> Funds from the appropriation under s. 20.435 (4) (w), ~~and~~  
24 ~~allocated under 2001 Wisconsin Act . . . (this act), SECTION 13.14~~ in accordance with  
25 the following requirements:

the department shall distribute \$2,700,000 in fiscal year 2002-03 and in each fiscal year thereafter,

INSERT 521

not affected by 2001 Wisconsin Act 16

RESTORE TO PLAIN

(am)

is

✓

✓



community-supported living  
arrangements program under  
42 USC 1396u

child that an administering agency  
determines is eligible

SECTION 8

under this section

1. For disabled children determined for the program, the department shall ensure that county departments determine whether these children are also eligible for any medical assistance home and community-based waiver program.

2. If a disabled child is determined to be eligible, under subd. 1., for a medical assistance home and community-based waiver program for which the child's eligibility ends at age 22, the department shall require county departments to use the available funds under s. 46.985 (1)(d) (intro) as the required nonfederal matching funds under the waiver program.

3. If a disabled child is determined to be eligible, under subd. 1., for the program under s. 46.278, the department shall encourage county departments to use the available funds under s. 46.985 (1)(d) (intro) as the required nonfederal matching funds under the waiver program.

4. The administering agency may approve funding for all or a portion of the cost of any services or goods that have been identified as necessary in a family's service plan and which meet the criteria promulgated under sub. (2) (a) 9., and which are not services or goods eligible to be funded under any of the waiver programs for which the child is determined eligible under subd. 2. and 3.

SECTION 9. CR; 46.985 (7)(e)

(e) The department shall assist county departments in maximizing the use of the medical assistance waiver programs described in sub. (1)(b) 2. and 3. for disabled children who are also eligible for the program.

SECTION 9. 46.986 (2) (b) 1. of the statutes is amended to read:

46.986 (2) (b) 1. After consulting with the department, county departments, tribes or bands, providers and caregivers, prescribe criteria for the distribution of grants to conduct life-span respite care projects. The criteria shall include the requirement that grant funds be equally distributed among 5 administrative regions

INSERT  
6-20

INS  
7-3

1 of the state, as prescribed by the department, except that, beginning July 1, 2002,  
2 the grant funds shall also be used to conduct 2 respite care projects anywhere in the  
3 state.

4 SECTION 10. 46.986 (2) (b) 2. (intro.) of the statutes is amended to read:  
5 46.986 (2) (b) 2. (intro.) Solicit applications from and, using the criteria under  
6 subd. 1., award in ~~the 1999-2001/2001-03~~ <sup>each</sup> state fiscal biennium up to one grant 2  
7 grants in each of the 5 administrative regions prescribed by the department and up  
8 to 2 additional grants anywhere in the state to any of the following to conduct a  
9 life-span respite care project:

10 SECTION 11. ~~51.437 (1) (b) 2nd~~ <sup>46.278 (6m)</sup> of the statutes ~~is~~ <sup>is</sup> created to read:  
11 ~~51.437 (1) (b) 2nd~~ <sup># 46.278 (6m) RULES FOR DISTRIBUTION OF FUNDS.</sup> Promulgate rules establishing criteria for distribution of funds  
12 appropriated under s. 20.435 (4) (w) in the amounts ~~designated in 2001 Wisconsin~~  
13 ~~Act ... (this act), Section 13 (1) (b)~~ <sup>specified in sub. (6) (am)</sup>, for services for persons with developmental  
14 disabilities who are waiting for services. The rules shall require the following:

15 1. That the department shall collect data from each county department under  
16 ss. 46.21, 46.23, 51.42 and 51.437 on the total number of persons with developmental  
17 disabilities who have requested services and have not received services from the  
18 county department. The data shall indicate which of these persons have been placed  
19 on waiting lists for services by the county department. The data shall also indicate  
20 the length of time the person has been on the waiting list, and the severity of the  
21 person's need for services.

22 2. That the funds appropriated under s. 20.435 (4) (w), in the amounts  
23 designated in 2001 Wisconsin Act ... (this act), SECTION 13 (1) (b), shall be distributed  
24 to county departments to provide services to persons identified utilizing the data  
25 collected in subd. 1. County departments may not use these funds to supplant funds

1 already allocated, as of the effective date of this act . . . [revisor inserts date], for  
2 services for persons with developmental disabilities.

3 3. That the funds appropriated under s. 20.435 (4) (w), in the amounts  
4 designated in 2001 Wisconsin Act . . . (this act), SECTION 13 (1) (b), shall be distributed  
5 to maximize the capture of federal matching funds for federal medical assistance  
6 waiver programs, and to provide service under the family support program under s.

7 ~~46.287.~~  
8 ~~SECTION 13 (1) (b), 51.437 (1) (b)~~  
9 Ensure that public and private providers of services to persons with  
10 developmental disabilities are provided information about the department's plan  
11 under sub. (1) (a) to eliminate waiting lists for services for persons with  
12 developmental disabilities.

NOTE: Current law requires the DHFS to perform several functions relating to the implementation of programs for persons with developmental disabilities. This SECTION adds 2 additional duties: (1) to promulgate rules establishing criteria for distribution to county departments funds appropriated under this (draft) for developmental disabilities waiting lists; and (2) to ensure that public and private providers of services are given information about the DHFS' plans for eliminating waiting lists for services for persons with developmental disabilities.

SECTION 12. 51.437 (14p) of the statutes is created to read:

51.437 (14p) ~~Plan to eliminate waiting lists for services~~ (By July 1, 2002 the  
13 department shall incorporate into the plan under this subsection a plan to eliminate  
14 waiting lists for services for persons with developmental disabilities) by the end of  
15 state fiscal year 2004-05. The plan to eliminate waiting lists shall utilize criteria set  
16 forth by the department by rule under sub. (1) (a) and shall include a fiscal estimate  
17 of the amount of ~~funds needed~~ <sup>moneys necessary</sup> to implement the plan in each state fiscal year.  
18

NOTE: Current law requires the department to submit a state plan for developmental disabilities services to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance. The plan was required to be distributed by December 1, 1991 and must be submitted every 5 years thereafter. The plan must be updated biennially. Section 51.437 (14p) (b), sets out the plan objectives; s. 51.437 (14p) (c) sets out the required plan contents. This SECTION adds a requirement that the DHFS incorporate into

1099

Move to p. 10, after l. 5

Note: std

MOVE TO P. 10, after l. 5

Note: std

bill

create auto-ref "C"

CS

PLAN TO ELIMINATE WAITING LISTS.

as created by this act

The department of health and family services shall

make sure that LPS: this note: std precedes the one

create  
auto  
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MOVE  
TO  
P. 10,  
after  
2.5

the state plan for developmental disabilities services a plan to eliminate waiting lists for these services by the end of state fiscal year 2004-05.

1 SECTION 13. Nonstatutory provisions; health and family services.

2 (1) From the appropriation under section 20.435 (4) (w) of the statutes, as  
3 created by this act, the department of health and family services shall expend the  
4 following amounts for the following purposes:

5 (a) In each year of the 2001-03 biennium, \$3,700,000 to increase the daily rate  
6 paid under the community integration program for persons with mental retardation  
7 under section 46.278 of the statutes.

8 (b) In state fiscal year 2001-02, \$1,000,000, and in state fiscal year 2002-03,  
9 \$7,000,000, to fund medical assistance home and community-based waiver services  
10 for persons with developmental disabilities who are waiting for services and are  
11 identified as provided under section 51.437 (14) (j) of the statutes.

12 (c) In state fiscal year 2001-02, \$700,000, and in state fiscal year 2002-03,  
13 \$2,700,000 to allocate additional funding for the family support program as provided  
14 under section 46.985 (7) (d) of the statutes, as created by this act.

15 (d) In state fiscal year 2002-03, \$225,000 to increase funding for additional  
16 grants for life-span respite care projects as provided in section 46.986 (2) (b) 2.  
17 (intro.) of the statutes, as affected by this act.

18 The department of health and family services shall submit in proposed form  
19 the rules required under section 51.437 (14) (j) of the statutes, as created by this act,  
20 to the legislative council staff no later than the first day of the 6th month beginning  
21 after the effective date of this act. Before the date on which the proposed rules are  
22 finally promulgated, the department of health and family services shall administer  
23 section 46.278 (6m) of the statutes, as created by this act, according to procedures

RULES

auto  
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46.278 (6m)

1 established by that department, notwithstanding the absence of rules to administer  
2 that section.

3 ~~SECTION 14. Effective date. This act takes effect the 2nd day after publication~~  
4 ~~of the 2001-03 biennial budget act.~~

5 ~~END~~

Material from p. 8, lines 12 to 18, ~~and p. 8~~ and p. 8, lines 8 to 11, plus NOTE at bottom of p. 8 + top of p. 9, plus NOTE between lines 11 and 12 on p. 8 all goes HERE

LPS: Change the material to non-stat components

2001

Nonstat File Sequence: **DDD**

LRB \_\_\_\_\_ / \_\_\_\_\_

**\$\$\$ CHANGE**

1. In the component bar:

For the action phrase, execute: ..... create → action: → \*NS: → \$change

For the budget action phrase, execute: .... create → action: → \*NS: → 92XX

For the text, execute: ..... create → text: → \*NS: → \$change

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9200 department code.

SECTION #

**92**

Appropriation changes

~~(A)~~ ~~RA~~ <sup>CS</sup> RATE INCREASE FOR COMMUNITY INTEGRATION PROGRAM

In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services

under section 20.435. (4) (w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by \$ 2,200,000 for fiscal year 2001-02 and the dollar amount is increased by \$ 3,700,000 for fiscal year 2002-03 to increase funding

for the [purpose] [purposes] for which the appropriation is made to increase funding to supplement the daily rate paid for the provision of home and community-based services under section 46.278 of the statutes \*

\* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.



2001

Nonstat File Sequence: **DDD**

LRB \_\_\_\_\_ / \_\_\_\_\_

**\$\$\$ CHANGE**

1. In the component bar:

For the action phrase, execute: ..... create → action: → \*NS: → \$change

For the budget action phrase, execute: .... create → action: → \*NS: → 92XX

For the text, execute: ..... create → text: → \*NS: → \$change

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9200 department code.

**SECTION # [92]. Appropriation changes; ....**

~~(A)~~ <sup>(CS)</sup> INCREASE FOR COMMUNITY INTEGRATION PROGRAM

In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435.(4)(w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by \$ 7,000,000 for fiscal year 2001-02 and the dollar amount is increased by \$ 7,000,000 for fiscal year 2002-03 to increase funding for the purpose [purposes] for which the appropriation is made to increase funding for home and community-based services under section 46.278 of the statutes

g\*

\* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.



2001

Nonstat File Sequence: **DDD**

LRB \_\_\_\_\_ / \_\_\_\_\_

**\$\$\$ CHANGE**

1. In the component bar:

For the action phrase, execute: ..... create → action: → \*NS: → \$change

For the budget action phrase, execute: .... create → action: → \*NS: → 92XX

For the text, execute: ..... create → text: → \*NS: → \$change

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9200 department code.

**SECTION # [92 ] Appropriation changes; ...**

~~(A)~~ ~~(M)~~ <sup>(S)</sup> FAMILY SUPPORT PROGRAM

..... In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services

under section 20.43.5.(4)(w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by \$ 2,700,000 for fiscal year 2001-02 and the dollar amount is increased by \$ 2,700,000 for fiscal year 2002-03 ~~to increase funding~~

~~for the purpose/purposes for which the appropriation is available~~ to increase funding for the family support program under section 46.985(7)(am) of the statutes

\* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.



2001

Nonstat File Sequence: **DDD**

LRB \_\_\_\_\_ / \_\_\_\_\_

\_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_

**\$\$\$ CHANGE**

1. In the component bar:

For the action phrase, execute: ..... create → action: → \*NS: → \$change

For the budget action phrase, execute: .... create → action: → \*NS: → 92XX

For the text, execute: ..... create → text: → \*NS: → \$change

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9200 department code.

**SECTION # [92] . Appropriation changes; ....**

~~(\*)~~ <sup>(3)</sup> RESPIRE CARE PROJECTS .....

..... In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435(4)(w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by \$ 225,000 for fiscal year 2001-02 and the dollar amount is increased by \$ 225,000 for fiscal year 2002-03 to increase funding for the [purpose] [purposes] for which the appropriation is made to increase funding for respite care projects under section 46.986(2)(a) (intro.) of the statutes

\* Use the 2nd alternative if the purpose of the increase or decrease is more limited than the purpose or purposes of the appropriation as currently shown in the text of ch. 20, stats.



2001

Nonstat File Sequence: **FFF**

LRB \_\_\_\_\_/\_\_\_\_

\_\_\_\_\_:\_\_\_\_\_:\_\_\_\_

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → \*NS: → **effdate**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . **Effective date.**

( #1 ) ( ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → \*NS: → **effdateE**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . **Effective dates** .....

..... This act takes effect on ~~the day after publication~~ <sup>July 1, 2002</sup>, except as follows:

(~~1~~) ..... The ~~treatment~~ of repeal and recreation section 20.435 (4) (w) .....

of the statutes takes effect on July 1, 2003 .....

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → \*NS: → **94XX**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

**SECTION 94** \_\_\_\_\_ . **Effective dates;** .....

( #1 ) ( ) ..... The treatment of sections .....

of the statutes takes effect on .....

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → \*NS: → **effdate**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . **Effective date.**

( #1 ) ( ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → \*NS: → **effdateE**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . **Effective dates;** .....

~~..... This act takes effect on the day after publication, except as follows.~~

~~.....~~ The treatment of sections (13) (1) autoref and (2) use auto "C" - ref of the statutes takes effect on the day after publication.

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → \*NS: → **94XX**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

**SECTION 94** \_\_\_\_\_ . **Effective dates;** .....

( #1 ) ( ) ..... The treatment of sections ..... of the statutes takes effect on .....

use auto ref "A" from p. 9

use auto ref "B" from p. 9

(End)

D-NOTE

~~Section 717b~~  
created

INSERT 5-21

1 SECTION 1. 20.435 (4) (w) of the statutes, as ~~affected~~ by 2001 Wisconsin Act 16,  
2 is amended to read:

3 20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust  
4 fund, biennially, the amounts in the schedule for meeting costs of medical assistance  
5 administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and  
6 49.472 (6) ~~and~~, for administrative costs associated with augmenting the amount of  
7 federal moneys received under 42 CFR 433.51, for the family support program under  
8 s. 46.985 (7) (am), and for life-span respite care project grants under s. 46.986 (2) ~~(b)~~  
9 ~~(a)~~ (intro.). The department may transfer from this appropriation to the  
10 appropriation account under par. (x) moneys in the amount and for the purpose  
11 specified in 2001 Wisconsin Act ~~... (this act)~~, section 9123 (8e).

History: 2001 a. 16.

12 SECTION 2. 20.435 (4) (w) of the statutes, as affected by 2001 Wisconsin Act  
13 16 and ~~... (this act)~~, is repealed and recreated to read: 2001 Wisconsin Act

14 20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust  
15 fund, biennially, the amounts in the schedule for meeting costs of medical assistance  
16 administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and  
17 49.472 (6), for administrative costs associated with augmenting the amount of  
18 federal moneys received under 42 CFR 433.51, for the family support program under  
19 s. 46.985 (7) (a), and for life-span respite care project grants under s. 46.986 (2) ~~(b)~~

20 (intro.) (a) am

21 SECTION 3. 46.278 (6) (am) of the statutes is created to read:

, section 717b,

1 46.278 (6) (am) In addition to the funding specified in par. (a), from the  
2 appropriation under s. 20.435 (4) (w), the department shall distribute all of the  
3 following:

4 1. In fiscal year 2002-03 and each fiscal year thereafter, \$3,700,000 to  
5 supplement the daily rate paid under par. (a) for the provision of home and  
6 community-based services for eligible persons.

7 2. In fiscal year 2002-03 and each fiscal year thereafter, \$7,000,000 to provide  
8 home and community-based services for eligible persons who are identified as  
9 specified in sub. (6m).

10 SECTION 4. 46.278 (6m) of the statutes is created to read:

11 46.278 (6m) RULES FOR DISTRIBUTION OF FUNDS. The department shall  
12 promulgate rules establishing criteria for distribution of the funds specified under  
13 sub. (6) (am) 2., for services for persons with developmental disabilities who are  
14 waiting for services. The rules shall require the following:

15 (a) 1. That the department collect data from each county department under ss.  
16 46.21, 46.23, 51.42, and 51.437 on the total number of persons with developmental  
17 disabilities who have requested services and have not received services from the  
18 county department. The data shall indicate which of these persons have been placed  
19 on waiting lists for services by the county department. The data shall also indicate  
20 the length of time each person has been on a waiting list, and the severity of the  
21 person's need for services.

22 (b) 2. That the funds be distributed to county departments to provide services to  
23 persons identified using the data collected under ~~subd. 1~~ and that county  
24 departments may not use these funds to supplant funds allocated as of the effective

par. (a)

~~subd. 1~~

paragraph  
.....

1 date of this ~~subdivision~~ [revisor inserts date], for services for persons with  
2 developmental disabilities.

3 ③ That the funds be distributed to maximize the capture of federal matching  
4 funds for medical assistance.

(c)

5 SECTION 5. 46.985 (2) (a) 12. of the statutes is created to read:

6 46.985 (2) (a) 12. Criteria for administering funds under sub. (7) (am).

7 SECTION 6. 46.985 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 16,  
8 is amended to read:

9 46.985 (7) (a) ~~From~~ Except as provided in par. (am), from the appropriations  
10 under s. 20.435 (7) (b) and (c), the department shall allocate to county departments  
11 funds for the administration and implementation of the program.

History: 2001 a. 16.

INSERT 6-20

12 SECTION 7. 46.986 (2) (a) (intro.) of the statutes is amended to read:

13 46.986 (2) (a) (intro.) From the appropriation account under s. 20.435 (4) (w)  
14 using not more than ~~(\$225,000 in fiscal year 2002-03 and each fiscal year thereafter and from the~~  
15 appropriation account under s. 20.435 (7) (br), the department shall contract for the  
16 administration of life-span respite care projects with an organization to which all of  
17 the following apply:

INS 7-3

History: 1999 a. 9.

18 SECTION 8. 46.986 (2) (b) 2. (intro.) of the statutes, as affected by 2001  
19 Wisconsin Act 16, is amended to read:

20 46.986 (2) (b) 2. (intro.) Solicit applications from and, using the criteria under  
21 subd. 1., award in each state fiscal biennium up to ~~one grant~~ 2 grants in each of the  
22 5 administrative regions prescribed by the department and up to 2 additional grants

- 1 anywhere in the state to any of the following to conduct a life-span respite care
- 2 project:

History: 2001 a. 16.

D-NOTE

To Laura Rose:

¶ Because the rules establishing criteria for distribution of moneys from s. 20.435(4)(w), stats., (proposed as s. 51.437(14)(j)) appear now to relate solely to moneys distributed under s. 46.278, stats., I have placed them under that section; as s. 46.278 (6m) ; okay?

¶ I have not changed the <sup>(C2)</sup> NOTES to reflect the many changes to the draft.

¶ Please let me know if I can help further with this bill.

DAK

¶ Since s. ~~20~~ 51.437 (14p), stats., was repealed in 2001 Wisconsin Act 16, I have revised the provisions referring to the plan to eliminate waiting lists and placed them in the nonstatutory section.



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3358/P2dn  
DAK:ej:s:jf

November 19, 2001

To Laura Rose:

Because the rules establishing criteria for distribution of moneys from s. 20.435 (4) (w), stats., (proposed as s. 51.437 (14) (j)) appear now to relate solely to moneys distributed under s. 46.278, stats., I have placed them under that section, as s. 46.278 (6m); okay?

Since s. 51.437 (14p), stats., was repealed in 2001 Wisconsin Act 16, I have revised the provisions referring to the plan to eliminate waiting lists and placed them in the nonstatutory section.

I have not changed the NOTES to reflect the many changes to the draft.

Please let me know if I can help further with this bill.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)

## TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 11/26/01

CONVERSATION  
WITH:

Laura Rose

OF:

Leg. Council

TELEPHONE NO:

REGARDING LRB #  
OR DRAFT TOPIC:

01 - 3358/P2

### INSTRUCTIONS:

① Instead of 7/1/02, eff date should be on publication, so first years' funding should be added back in

Questions:

① What abt 46.986 (2) (a) (intro.)? (ok)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3358/P2dn  
DAK:cjs:jf

November 19, 2001

To Laura Rose:

Because the rules establishing criteria for distribution of moneys from s. 20.435 (4) (w), stats., (proposed as s. 51.437 (14) (j)) appear now to relate solely to moneys distributed under s. 46.278, stats., I have placed them under that section, as s. 46.278 (6m); okay?

Since s. 51.437 (14p), stats., was repealed in 2001 Wisconsin Act 16, I have revised the provisions referring to the plan to eliminate waiting lists and placed them in the nonstatutory section.

I have not changed the NOTES to reflect the many changes to the draft.

Please let me know if I can help further with this bill.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1       **AN ACT** *to amend* 20.435 (4) (w), 46.985 (7) (a), 46.986 (2) (a) (intro.), 46.986 (2)  
2       (b) 1. and 46.986 (2) (b) 2. (intro.); *to repeal and recreate* 20.435 (4) (w); and  
3       *to create* 15.197 (11n) (ef), 46.278 (6) (am), 46.278 (6m), 46.985 (2) (a) 12.,  
4       46.985 (7) (am) and 46.985 (7) (e) of the statutes; **relating to:** increasing  
5       funding for services under the family support program and the respite care  
6       program; increasing the daily reimbursement rate for the community  
7       integration program for persons with mental retardation; providing funding for  
8       medical assistance home and community-based services for persons with  
9       developmental disabilities who are on waiting lists for services; requiring the  
10      department of health and family services to establish criteria for distribution  
11      of this funding and to develop a plan to eliminate waiting lists for services for  
12      persons with developmental disabilities by the end of state fiscal year 2004-05;  
13      requiring the council on developmental disabilities to evaluate, and report to  
14      the legislature, the number of persons with developmental disabilities on

- 1 waiting lists for services at the end of each calendar year; requiring the exercise  
2 of rule-making authority; and making appropriations.

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on developmental disabilities. The bill contains the following provisions.

**1. Family Support Program**

Under current law, the department of health and family services is required to distribute not more than \$4,339,800 in each fiscal year for the family support program allocation of community aids funding. The bill increases funding for the family support program by \$700,000 in state fiscal year 2001-02 and by \$2,700,000 in state fiscal year 2002-03. As of December 1, 2000, an estimated 2,500 children were on waiting lists to receive services under this program. Over the 2001-03 biennium, a total of \$3,400,000 additional general purpose revenue could provide services under the family support program for an estimated 400 children in fiscal year 2001-02 and 1,200 children in fiscal year 2002-03, based on the actual average per client cost of providing services under the program in calendar year 1999 (\$1,705). Counties may use these funds either to provide services to additional families with children on waiting lists or to provide additional services to underserved families.

Further, the bill provides that the increased funds must be used by counties as the nonfederal match for the community supported living arrangements (CSLA) medical assistance waiver, when a child is eligible both for CSLA and for the family support program. The bill also provides that the increased funds may be used by counties as the nonfederal match for the community integration program for persons with mental retardation (CIP-IB), when a child is eligible both for CIP-IB and for the family support program.

**2. CIP-IB**

Under current law, s. 46.278 governs the community integration program (CIP) for persons with mental retardation, commonly referred to as "CIP-IB". Under this program, a person who is diagnosed as developmentally disabled under the definition specified in s. 51.01 (5) and relocated from an institution other than a state center for the developmentally disabled, or who meets the intermediate care facility for the mentally retarded (ICF-MR) level of care requirements for medical assistance (MA) reimbursement in an ICF-MR and is ineligible for services under s. 46.275 or 46.277, may be eligible for this program.

The program authorizes the department of health and family services to serve MA recipients, who meet the level of care requirements for MA reimbursement in an

and local  
state fiscal  
year  
transfer

*and in each fiscal year thereafter*

ICF-MR, in their communities by providing home or community-based services as part of MA.

Currently, the state of Wisconsin provides funding at a daily rate of \$48.33 per day to serve these individuals under the CIP-IB program. This is MA funding, which is approximately 60% federal funds and 40% nonfederal funds.

This bill provides \$3,700,000 in fiscal year 2001-02 and ~~\$3,700,000 in fiscal year 2002-03~~ to increase the CIP-IB daily rate from the current rate of \$48.33 per day.

3. Waiting Lists for Developmental Disabilities Services

The bill creates an appropriation in the department of health and family services (DHFS) to be used to provide services to persons who are on waiting lists for developmental disabilities services. The bill provides \$1,000,000 in fiscal year 2001-02 and ~~\$7,000,000 in fiscal year 2002-03~~ to fund services for persons with developmental disabilities who are waiting for services. In distributing these funds, the DHFS must use the criteria established by the DHFS by rule. The rules must require that the funds be distributed to maximize the capture of federal funds. In addition, the rules must prohibit counties from supplanting funds allocated to developmental disabilities services with the funds received under this appropriation.

*level*

*thereafter*

The rules must also require that the DHFS collect data from county departments on the number of persons requesting, but not receiving, developmental disabilities services. The data must indicate the number of these persons placed on waiting lists by the county department, as well as the length of time the person has been on a waiting list and person's severity of need. Further, the rules must provide that the funds appropriated under this bill be distributed by the DHFS utilizing this data. The rules must be submitted to the legislative council staff for review no later than the first day of the 6th month beginning after the effective date of this bill. However, the DHFS must administer this bill prior to the promulgation of these rules according to procedures established by the DHFS.

This bill also requires the DHFS to develop a plan to eliminate waiting lists for services for persons with developmental disabilities in Wisconsin by the end of fiscal year 2004-05.

Finally, the bill requires the council on developmental disabilities under s. 15.197 (11n), stats., at the end of each calendar year, to evaluate the number of persons with developmental disabilities on waiting lists for services and report this information to the legislature as provided under s. 15.197 (11n), stats.

4. Lifespan Respite Care

Under current law, the department of health and family services (DHFS) uses general purpose revenues to contract with a private, nonprofit organization that prescribes criteria for, awards, and oversees grants to conduct respite care projects. ("Respite care" is care that is provided to a person with special needs, or a person at risk of abuse or neglect, in order to provide temporary relief to the caregiver of that person or when the caregiver is unable to provide care.) The organization may award grants to conduct respite care projects to county departments of social services, human services, community programs, or developmental disabilities services; governing bodies of federally recognized American Indian tribes or bands; or nonprofit or for-profit community-based private entities. The grant funds must be equally distributed among five administrative regions of the state, as prescribed by DHFS.

This bill increases an appropriation of general purpose revenues by a total of \$225,000 in fiscal year 2002-03, for the respite care program, including grant funds for one additional respite care project in each of the five administrative regions prescribed by DHFS and two additional respite care projects anywhere in the state.

*and in each fiscal year thereafter*

*modifies the*

5. Medical Assistance Trust Fund

*to provide that*

This bill creates ~~a~~ medical assistance trust fund, ~~consisting of all of the following:~~

~~(a) All federal moneys received, including moneys that DHFS may transfer from the appropriation under s. 20.435 (4) (o), stats., that are related to payments under s. 49.45 (6m) and are based on public funds that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.~~

~~(b) All public funds that are related to payments under s. 49.45 (6m) and that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share of medical assistance funding.~~

*→* Moneys from this trust fund are used for providing funding increases for programs as specified in this bill in state fiscal years 2001-02 and 2002-03.

*The family support program and life-span*

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SECTION 1. 15.197 (11n) (ef) of the statutes is created to read:

15.197 (11n) (ef) *Annual report.* By January 31 of each year, the council shall prepare a report for the preceding calendar year and shall submit the report to the legislature under s. 13.172 (2). The report shall evaluate waiting lists for services for persons with developmental disabilities in Wisconsin based on data compiled by the department of health and family services.

*respite care project grants.*

SECTION 2. 20.435 (4) (w) of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust fund, biennially, the amounts in the schedule for meeting costs of medical assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and 49.472 (6) ~~and~~, for administrative costs associated with augmenting the amount of federal moneys received under 42 CFR 433.51, for the family support program under s. 46.985 (7) (am), and for life-span respite care project grants under s. 46.986 (2) (a) (intro). The department may transfer from this appropriation to the appropriation account under par. (x) moneys in the amount and for the purpose specified in 2001 Wisconsin Act 16, section 9123 (8e).

1           **SECTION 3.** 20.435 (4) (w) of the statutes, as affected by 2001 Wisconsin Act 16,  
2 section 717b, and 2001 Wisconsin Act .... (this act), is repealed and recreated to read:

3           20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust  
4 fund, biennially, the amounts in the schedule for meeting costs of medical assistance  
5 administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and  
6 49.472 (6), for administrative costs associated with augmenting the amount of  
7 federal moneys received under 42 CFR 433.51, for the family support program under  
8 s. 46.985 (7) (am), and for life-span respite care project grants under s. 46.986 (2) (a)  
9 (intro.).

10           **SECTION 4.** 46.278 (6) (am) of the statutes is created to read:

11           46.278 (6) (am) In addition to the funding specified in par. (a), from the  
12 appropriation under s. 20.435 (4) (w), the department shall distribute all of the  
13 following:

14           1. In fiscal year <sup>2001-02</sup> ~~2002-03~~ and each fiscal year thereafter, \$3,700,000 to  
15 supplement the daily rate paid under par. (a) for the provision of home and  
16 community-based services for eligible persons. In fiscal year 2001-02,  
\$1,000,000, and

17           2. ~~In~~ fiscal year 2002-03 and each fiscal year thereafter, \$7,000,000 to provide  
18 home and community-based services for eligible persons who are identified as  
19 specified in sub. (6m).

20           **SECTION 5.** 46.278 (6m) of the statutes is created to read:

21           46.278 (6m) **RULES FOR DISTRIBUTION OF FUNDS.** The department shall  
22 promulgate rules establishing criteria for distribution of the funds specified under  
23 sub. (6) (am) 2., for services for persons with developmental disabilities who are  
24 waiting for services. The rules shall require the following:



1 (a) That the department collect data from each county department under ss.  
2 46.21, 46.23, 51.42, and 51.437 on the total number of persons with developmental  
3 disabilities who have requested services and have not received services from the  
4 county department. The data shall indicate which of these persons have been placed  
5 on waiting lists for services by the county department. The data shall also indicate  
6 the length of time each person has been on a waiting list, and the severity of the  
7 person's need for services.

8 (b) That the funds be distributed to county departments to provide services to  
9 persons identified using the data collected under par. (a) and that county  
10 departments may not use these funds to supplant funds allocated as of the effective  
11 date of this paragraph .... [revisor inserts date], for services for persons with  
12 developmental disabilities.

13 (c) That the funds be distributed to maximize the capture of federal matching  
14 funds for medical assistance.

15 **SECTION 6.** 46.985 (2) (a) 12. of the statutes is created to read:

16 46.985 (2) (a) 12. Criteria for administering funds under sub. (7) (am).

17 **SECTION 7.** 46.985 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 16,  
18 is amended to read:

19 46.985 (7) (a) ~~From Except as provided in par. (am), from the appropriations~~  
20 under s. 20.435 (7) (b) and (c), the department shall allocate to county departments  
21 funds for the administration and implementation of the program.

22 **SECTION 8.** 46.985 (7) (am) of the statutes is created to read:

23 46.985 (7) (am) From the appropriation under s. 20.435 (4) (w), the department  
24 shall distribute \$2,700,000 in fiscal year 2002–03 and in each fiscal year thereafter,  
25 in accordance with the following requirements:

\$ 700,000 in fiscal year 2001-02 and

1           1. For a disabled child that an administering agency determines is eligible for  
2 the program under this section, the department shall ensure that the county  
3 department determines whether the child is also eligible for any medical assistance  
4 home and community-based waiver program.

5           2. If a county department determines that a disabled child is eligible, under  
6 subd. 1., for the medical assistance community-supported living arrangements  
7 program under 42 USC 1396u, the department shall require the county department  
8 to use the available funds under this paragraph as the required nonfederal matching  
9 funds for the child's participation under that waiver program.

10          3. If a county department determines that a disabled child is eligible, under  
11 subd. 1., for the program under s. 46.278, the department shall encourage the county  
12 department to use the available funds under this paragraph as the required  
13 nonfederal matching funds under s. 46.278.

14          4. If subd. 2. or 3. applies, the administering agency may approve funding  
15 under par. (a) or this paragraph for all or a portion of the cost of any services or goods  
16 that have been identified as necessary in a family's service plan, that meet the  
17 criteria specified by rule under sub. (2) (a) 9., and that are not services or goods that  
18 may be provided under any of the programs for which the family's child is determined  
19 eligible under subd. 2. or 3.

20           **SECTION 9.** 46.985 (7) (e) of the statutes is created to read:

21           46.985 (7) (e) The department shall assist county departments in maximizing  
22 the use of the medical assistance waiver programs described in par. (am) 2. or 3. for  
23 disabled children who are also eligible for the program under this section.

24           **SECTION 10.** 46.986 (2) (a) (intro.) of the statutes is amended to read:

1           46.986 (2) (a) (intro.) From the appropriation account under s. 20.435 (4) (w)  
2 using not more than \$225,000 in fiscal year 2002–03 and each fiscal year thereafter  
3 and from the appropriation account under s. 20.435 (7) (br), the department shall  
4 contract for the administration of life–span respite care projects with an  
5 organization to which all of the following apply:

6           **SECTION 11.** 46.986 (2) (b) 1. of the statutes is amended to read:

7           46.986 (2) (b) 1. After consulting with the department, county departments,  
8 tribes or bands, providers and caregivers, prescribe criteria for the distribution of  
9 grants to conduct life–span respite care projects. The criteria shall include the  
10 requirement that grant funds be equally distributed among 5 administrative regions  
11 of the state, as prescribed by the department, except that, beginning July 1, 2002,  
12 the grant funds shall also be used to conduct 2 respite care projects anywhere in the  
13 state.

14           **SECTION 12.** 46.986 (2) (b) 2, (intro.) of the statutes, as affected by 2001  
15 Wisconsin Act 16, is amended to read:

16           46.986 (2) (b) 2. (intro.) Solicit applications from and, using the criteria under  
17 subd. 1., award in each state fiscal biennium up to ~~one grant~~ 2 grants in each of the  
18 5 administrative regions prescribed by the department and up to 2 additional grants  
19 anywhere in the state to any of the following to conduct a life–span respite care  
20 project:

21           **SECTION 13. Nonstatutory provisions; health and family services.**

22           (1) RULES. The department of health and family services shall submit in  
23 proposed form the rules required under section 46.278 (6m) of the statutes, as  
24 created by this act, to the legislative council staff no later than the first day of the  
25 6th month beginning after the effective date of this subsection. Before the date on

1 which the proposed rules are finally promulgated, the department of health and  
2 family services shall administer section 46.278 (6m) of the statutes, as created by this  
3 act, according to procedures established by that department, notwithstanding the  
4 absence of rules to administer that section.

5 (2) PLAN TO ELIMINATE WAITING LISTS. By July 1, 2002, the department of health  
6 and family services shall develop a plan to eliminate waiting lists for services for  
7 persons with developmental disabilities by the end of state fiscal year 2004–05. This  
8 plan shall utilize criteria set forth by the department by rule under section 46.278  
9 (6m) of the statutes, as created by this act, and shall include a fiscal estimate of the  
10 amount of moneys necessary to implement the plan in each state fiscal year. The  
11 department of health and family services shall ensure that public and private  
12 providers of services to persons with developmental disabilities are provided  
13 information about the department's plan.

~~NOTE: Current law requires the department to submit a state plan for developmental disabilities services to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance. The plan was required to be distributed by December 1, 1991 and must be submitted every 5 years thereafter. The plan must be updated biennially. Section 51.437 (14p) (b), sets out the plan objectives; s. 51.437 (14p) (c) sets out the required plan contents. This SECTION adds a requirement that the DHFS incorporate into the state plan for developmental disabilities services a plan to eliminate waiting lists for these services by the end of state fiscal year 2004–05.~~

~~NOTE: Current law requires the DHFS to perform several functions relating to the implementation of programs for persons with developmental disabilities. This SECTION adds 2 additional duties: (1) to promulgate rules establishing criteria for distribution to county departments funds appropriated under this bill for developmental disabilities waiting lists; and (2) to ensure that public and private providers of services are given information about the DHFS' plans for eliminating waiting lists for services for persons with developmental disabilities.~~

14 **SECTION 14. Appropriation changes.**

15 (1) RATE INCREASE FOR COMMUNITY INTEGRATION PROGRAM. In the schedule under  
16 section 20.005 (3) of the statutes for the appropriation to the department of health  
17 and family services under section 20.435 (4) (w) of the statutes, as affected by the acts

1 of 2001, the dollar amount is increased by \$3,700,000 for fiscal year ~~2002-03~~ <sup>2001-02 2nd</sup> to <sup>by</sup> ~~2002-03~~ <sup>\$3,700,000</sup> to  
 2 supplement the daily rate paid for the provision of home and community-based <sup>for</sup>  
 3 services under section 46.278 of the statutes. <sup>fiscal</sup>

4 (2) INCREASE FOR COMMUNITY INTEGRATION PROGRAM. In the schedule under  
 5 section 20.005 (3) of the statutes for the appropriation to the department of health  
 6 and family services under section 20.435 (4) (w) of the statutes, as affected by the acts  
 7 of 2001, the dollar amount is increased by \$7,000,000 for fiscal year 2002-03 to  
 8 increase funding for home and community-based services under section 46.278 of  
 9 the statutes. <sup>\$1,000,000 for fiscal year 2001-02 2nd</sup>

10 (3) FAMILY SUPPORT PROGRAM. In the schedule under section 20.005 (3) of the  
 11 statutes for the appropriation to the department of health and family services under  
 12 section 20.435 (4) (w) of the statutes, as affected by the acts of 2001, the dollar amount  
 13 is increased by \$2,700,000 for fiscal year 2002-03 to increase funding for the family  
 14 support program under section 46.985 (7) (am) of the statutes. <sup>\$700,000 for fiscal year 2001-02 2nd</sup>

15 (4) RESPITE CARE PROJECTS. In the schedule under section 20.005 (3) of the  
 16 statutes for the appropriation to the department of health and family services under  
 17 section 20.435 (4) (w) of the statutes, as affected by the acts of 2001, the dollar amount  
 18 is increased by \$225,000 for fiscal year 2002-03 to increase funding for respite care  
 19 projects under section 46.986 (2) (a) (intro.) of the statutes.

20 SECTION 15. Effective dates. This act takes effect on <sup>today after publication,</sup> ~~July 1, 2002~~, except as <sup>for</sup>  
 21 follows:

22 ~~(1)~~ The repeal and recreation of section 20.435 (4) (w) of the statutes takes effect  
 23 on July 1, 2003.

24 ~~(2) SECTION 13 (1) and (2) of this act takes effect on the day after publication.~~

25 (END)



By 11/29, if possible  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3358/EE 1

DAK:cjs:\*

stays

~~PRELIMINARY DRAFT / NOT READY FOR INTRODUCTION~~

Reagan  
cat

1 AN ACT to amend 20.435 (4) (w), 46.985 (7) (a), 46.986 (2) (a) (intro.), 46.986 (2)  
2 (b) 1. and 46.986 (2) (b) 2. (intro.); to repeal and recreate 20.435 (4) (w); and  
3 to create 15.197 (11n) (ef), 46.278 (6) (am), 46.278 (6m), 46.985 (2) (a) 12.,  
4 46.985 (7) (am) and 46.985 (7) (e) of the statutes; relating to: increasing  
5 funding for services under the family support program and the respite care  
6 program; increasing the daily reimbursement rate for the community  
7 integration program for persons with mental retardation; providing funding for  
8 medical assistance home and community-based services for persons with  
9 developmental disabilities who are on waiting lists for services; requiring the  
10 department of health and family services to establish criteria for distribution  
11 of this funding and to develop a plan to eliminate waiting lists for services for  
12 persons with developmental disabilities by the end of state fiscal year 2004-05;  
13 requiring the council on developmental disabilities to evaluate, and report to  
14 the legislature, the number of persons with developmental disabilities on

- 1 waiting lists for services at the end of each calendar year; requiring the exercise  
2 of rule-making authority; and making appropriations.

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on developmental disabilities. The bill contains the following provisions.

**1. Family Support Program**

Under current law, the department of health and family services is required to distribute not more than \$4,339,800 in each fiscal year for the family support program allocation of community aids funding. The bill increases funding for the family support program by \$700,000 in state fiscal year 2001-02 and by \$2,700,000 in state fiscal year 2002-03. As of December 1, 2000, an estimated 2,500 children were on waiting lists to receive services under this program. Over the 2001-03 biennium, a total of \$3,400,000 additional general purpose revenue could provide services under the family support program for an estimated 400 children in fiscal year 2001-02 and 1,200 children in fiscal year 2002-03, based on the actual average per client cost of providing services under the program in calendar year 1999 (\$1,705). Counties may use these funds either to provide services to additional families with children on waiting lists or to provide additional services to underserved families.

Further, the bill provides that the increased funds must be used by counties as the nonfederal match for the community supported living arrangements (CSLA) medical assistance waiver, when a child is eligible both for CSLA and for the family support program. The bill also provides that the increased funds may be used by counties as the nonfederal match for the community integration program for persons with mental retardation (CIP-IB), when a child is eligible both for CIP-IB and for the family support program.

**2. CIP-IB**

Under current law, s. 46.278 governs the community integration program (CIP) for persons with mental retardation, commonly referred to as "CIP-IB". Under this program, a person who is diagnosed as developmentally disabled under the definition specified in s. 51.01 (5) and relocated from an institution other than a state center for the developmentally disabled, or who meets the intermediate care facility for the mentally retarded (ICF-MR) level of care requirements for medical assistance (MA) reimbursement in an ICF-MR and is ineligible for services under s. 46.275 or 46.277, may be eligible for this program.

The program authorizes the department of health and family services to serve MA recipients, who meet the level of care requirements for MA reimbursement in an

and  
each  
fiscal  
year  
thereafter

✓

ICF-MR, in their communities by providing home or community-based services as part of MA.

Currently, the state of Wisconsin provides funding at a daily rate of \$48.33 per day to serve these individuals under the CIP-IB program. This is MA funding, which is approximately 60% federal funds and 40% nonfederal funds.

*here after* This bill provides \$3,700,000 in fiscal year 2001-02 and ~~\$3,700,000~~ <sup>each</sup> in fiscal year ~~2002-03~~ to increase the CIP-IB daily rate from the current rate of \$48.33 per day. ✓

### 3. Waiting Lists for Developmental Disabilities Services

The bill creates an appropriation in the department of health and family services (DHFS) to be used to provide services to persons who are on waiting lists for developmental disabilities services. The bill provides \$1,000,000 in fiscal year 2001-02 and \$7,000,000 in fiscal year ~~2002-03~~ to fund services for persons with developmental disabilities who are waiting for services. In distributing these funds, the DHFS must use the criteria established by the DHFS by rule. The rules must require that the funds be distributed to maximize the capture of federal funds. In addition, the rules must prohibit counties from supplanting funds allocated to developmental disabilities services with the funds received under this appropriation. *hereafter* ✓

The rules must also require that the DHFS collect data from county departments on the number of persons requesting, but not receiving, developmental disabilities services. The data must indicate the number of these persons placed on waiting lists by the county department, as well as the length of time the person has been on a waiting list and person's severity of need. Further, the rules must provide that the funds appropriated under this bill be distributed by the DHFS utilizing this data. The rules must be submitted to the legislative council staff for review no later than the first day of the 6th month beginning after the effective date of this bill. However, the DHFS must administer this bill prior to the promulgation of these rules according to procedures established by the DHFS.

This bill also requires the DHFS to develop a plan to eliminate waiting lists for services for persons with developmental disabilities in Wisconsin by the end of fiscal year 2004-05.

Finally, the bill requires the council on developmental disabilities under s. 15.197 (11n), stats., at the end of each calendar year, to evaluate the number of persons with developmental disabilities on waiting lists for services and report this information to the legislature as provided under s. 15.197 (11n), stats.

### 4. Lifespan Respite Care

Under current law, the department of health and family services (DHFS) uses general purpose revenues to contract with a private, nonprofit organization that prescribes criteria for, awards, and oversees grants to conduct respite care projects. ("Respite care" is care that is provided to a person with special needs, or a person at risk of abuse or neglect, in order to provide temporary relief to the caregiver of that person or when the caregiver is unable to provide care.) The organization may award grants to conduct respite care projects to county departments of social services, human services, community programs, or developmental disabilities services; governing bodies of federally recognized American Indian tribes or bands; or nonprofit or for-profit community-based private entities. The grant funds must be equally distributed among five administrative regions of the state, as prescribed by DHFS.

This bill increases an appropriation of general purpose revenues by a total of \$225,000 in fiscal year 2002-03 for the respite care program, including grant funds for one additional respite care project in each of the five administrative regions prescribed by DHFS and two additional respite care projects anywhere in the state. ✓

*and in each fiscal year hereafter*



5. Medical Assistance Trust Fund

*modifies the*

This bill ~~creates a~~ medical assistance trust fund ~~consisting of all of the following:~~

(a) All federal moneys received, including moneys that DHFS may transfer from the appropriation under s. 20.435 (4) (o), stats., that are related to payments under s. 49.45 (6m) and are based on public funds that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal share of medical assistance funding.

(b) All public funds that are related to payments under s. 49.45 (6m) and that are transferred or certified under 42 CFR 433.51 (b) and used as the non-federal and federal share of medical assistance funding.

*to provide that*

Moneys from this trust fund are used for providing funding increases for ~~programs~~ *as specified in this bill in state fiscal years 2001-02 and 2002-03.*

*the family support program and life span respite care project grants*

**SECTION 1.** 15.197 (11n) (ef) of the statutes is created to read:

15.197 (11n) (ef) *Annual report.* By January 31 of each year, the council shall prepare a report for the preceding calendar year and shall submit the report to the legislature under s. 13.172 (2). The report shall evaluate waiting lists for services for persons with developmental disabilities in Wisconsin based on data compiled by the department of health and family services.

**SECTION 2.** 20.435 (4) (w) of the statutes, as created by 2001 Wisconsin Act 16, is amended to read:

20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust fund, biennially, the amounts in the schedule for meeting costs of medical assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and 49.472 (6) and, for administrative costs associated with augmenting the amount of federal moneys received under 42 CFR 433.51, for the family support program under s. 46.985 (7) (am), and for life-span respite care project grants under s. 46.986 (2) (a) (intro.). The department may transfer from this appropriation to the appropriation account under par. (x) moneys in the amount and for the purpose specified in 2001 Wisconsin Act 16, section 9123 (8e).

1           **SECTION 3.** 20.435 (4) (w) of the statutes, as affected by 2001 Wisconsin Act 16,  
2 section 717b, and 2001 Wisconsin Act .... (this act), is repealed and recreated to read:

3           20.435 (4) (w) *Medical assistance trust fund.* From the medical assistance trust  
4 fund, biennially, the amounts in the schedule for meeting costs of medical assistance  
5 administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5), 49.45, and  
6 49.472 (6), for administrative costs associated with augmenting the amount of  
7 federal moneys received under 42 CFR 433.51, for the family support program under  
8 s. 46.985 (7) (am), and for life-span respite care project grants under s. 46.986 (2) (a)  
9 (intro.).

10           **SECTION 4.** 46.278 (6) (am) of the statutes is created to read:

11           46.278 (6) (am) In addition to the funding specified in par. (a), from the  
12 appropriation under s. 20.435 (4) (w), the department shall distribute all of the  
13 following:

14           1. In fiscal year ~~2002-03~~ <sup>2001-02</sup> and each fiscal year thereafter, \$3,700,000 to  
15 supplement the daily rate paid under par. (a) for the provision of home and  
16 community-based services for eligible persons.

17           2. In fiscal year ~~2002-03~~ <sup>2001-02</sup> and each fiscal year thereafter, \$7,000,000 to provide  
18 home and community-based services for eligible persons who are identified as  
19 specified in sub. (6m).

20           **SECTION 5.** 46.278 (6m) of the statutes is created to read:

21           46.278 (6m) **RULES FOR DISTRIBUTION OF FUNDS.** The department shall  
22 promulgate rules establishing criteria for distribution of the funds specified under  
23 sub. (6) (am) 2., for services for persons with developmental disabilities who are  
24 waiting for services. The rules shall require the following:

1 (a) That the department collect data from each county department under ss.  
2 46.21, 46.23, 51.42, and 51.437 on the total number of persons with developmental  
3 disabilities who have requested services and have not received services from the  
4 county department. The data shall indicate which of these persons have been placed  
5 on waiting lists for services by the county department. The data shall also indicate  
6 the length of time each person has been on a waiting list, and the severity of the  
7 person's need for services.

8 (b) That the funds be distributed to county departments to provide services to  
9 persons identified using the data collected under par. (a) and that county  
10 departments may not use these funds to supplant funds allocated as of the effective  
11 date of this paragraph .... [revisor inserts date], for services for persons with  
12 developmental disabilities.

13 (c) That the funds be distributed to maximize the capture of federal matching  
14 funds for medical assistance.

15 **SECTION 6.** 46.985 (2) (a) 12. of the statutes is created to read:

16 46.985 (2) (a) 12. Criteria for administering funds under sub. (7) (am).

17 **SECTION 7.** 46.985 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 16,  
18 is amended to read:

19 46.985 (7) (a) ~~From~~ Except as provided in par. (am), from the appropriations  
20 under s. 20.435 (7) (b) and (c), the department shall allocate to county departments  
21 funds for the administration and implementation of the program.

22 **SECTION 8.** 46.985 (7) (am) of the statutes is created to read:

23 46.985 (7) (am) From the appropriation under s. 20.435 (4) (w), the department  
24 shall distribute \$2,700,000 in fiscal year 2002-03 and in each fiscal year thereafter,  
25 in accordance with the following requirements:

*\$700,000 in fiscal year 2001-02 and*

1           1. For a disabled child that an administering agency determines is eligible for  
2 the program under this section, the department shall ensure that the county  
3 department determines whether the child is also eligible for any medical assistance  
4 home and community-based waiver program.

5           2. If a county department determines that a disabled child is eligible, under  
6 subd. 1., for the medical assistance community-supported living arrangements  
7 program under 42 USC 1396u, the department shall require the county department  
8 to use the available funds under this paragraph as the required nonfederal matching  
9 funds for the child's participation under that waiver program.

10          3. If a county department determines that a disabled child is eligible, under  
11 subd. 1., for the program under s. 46.278, the department shall encourage the county  
12 department to use the available funds under this paragraph as the required  
13 nonfederal matching funds under s. 46.278.

14          4. If subd. 2. or 3. applies, the administering agency may approve funding  
15 under par. (a) or this paragraph for all or a portion of the cost of any services or goods  
16 that have been identified as necessary in a family's service plan, that meet the  
17 criteria specified by rule under sub. (2) (a) 9., and that are not services or goods that  
18 may be provided under any of the programs for which the family's child is determined  
19 eligible under subd. 2. or 3.

20           **SECTION 9.** 46.985 (7) (e) of the statutes is created to read:

21           46.985 (7) (e) The department shall assist county departments in maximizing  
22 the use of the medical assistance waiver programs described in par. (am) 2. or 3. for  
23 disabled children who are also eligible for the program under this section.

24           **SECTION 10.** 46.986 (2) (a) (intro.) of the statutes is amended to read:

1           46.986 (2) (a) (intro.) From the appropriation account under s. 20.435 (4) (w)  
2 using not more than \$225,000 in fiscal year 2002–03 and each fiscal year thereafter  
3 and from the appropriation account under s. 20.435 (7) (br), the department shall  
4 contract for the administration of life–span respite care projects with an  
5 organization to which all of the following apply:

6           **SECTION 11.** 46.986 (2) (b) 1. of the statutes is amended to read:

7           46.986 (2) (b) 1. After consulting with the department, county departments,  
8 tribes or bands, providers and caregivers, prescribe criteria for the distribution of  
9 grants to conduct life–span respite care projects. The criteria shall include the  
10 requirement that grant funds be equally distributed among 5 administrative regions  
11 of the state, as prescribed by the department, except that, beginning July 1, 2002,  
12 the grant funds shall also be used to conduct 2 respite care projects anywhere in the  
13 state.

14           **SECTION 12.** 46.986 (2) (b) 2. (intro.) of the statutes, as affected by 2001  
15 Wisconsin Act 16, is amended to read:

16           46.986 (2) (b) 2. (intro.) Solicit applications from and, using the criteria under  
17 subd. 1., award in each state fiscal biennium up to ~~one grant~~ 2 grants in each of the  
18 5 administrative regions prescribed by the department and up to 2 additional grants  
19 anywhere in the state to any of the following to conduct a life–span respite care  
20 project:

21           **SECTION 13. Nonstatutory provisions; health and family services.**

22           (1) RULES. The department of health and family services shall submit in  
23 proposed form the rules required under section 46.278 (6m) of the statutes, as  
24 created by this act, to the legislative council staff no later than the first day of the  
25 6th month beginning after the effective date of this subsection. Before the date on

1 which the proposed rules are finally promulgated, the department of health and  
2 family services shall administer section 46.278 (6m) of the statutes, as created by this  
3 act, according to procedures established by that department, notwithstanding the  
4 absence of rules to administer that section.

5 (2) PLAN TO ELIMINATE WAITING LISTS. By July 1, 2002, the department of health  
6 and family services shall develop a plan to eliminate waiting lists for services for  
7 persons with developmental disabilities by the end of state fiscal year 2004–05. This  
8 plan shall utilize criteria set forth by the department by rule under section 46.278  
9 (6m) of the statutes, as created by this act, and shall include a fiscal estimate of the  
10 amount of moneys necessary to implement the plan in each state fiscal year. The  
11 department of health and family services shall ensure that public and private  
12 providers of services to persons with developmental disabilities are provided  
13 information about the department's plan.

NOTE: Current law requires the department to submit a state plan for developmental disabilities services to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance. The plan was required to be distributed by December 1, 1991 and must be submitted every 5 years thereafter. The plan must be updated biennially. Section 51.437 (14p) (b), sets out the plan objectives; s. 51.437 (14p) (c) sets out the required plan contents. This SECTION adds a requirement that the DHFS incorporate into the state plan for developmental disabilities services a plan to eliminate waiting lists for these services by the end of state fiscal year 2004–05.

NOTE: Current law requires the DHFS to perform several functions relating to the implementation of programs for persons with developmental disabilities. This SECTION adds 2 additional duties: (1) to promulgate rules establishing criteria for distribution to county departments funds appropriated under this bill for developmental disabilities waiting lists; and (2) to ensure that public and private providers of services are given information about the DHFS' plans for eliminating waiting lists for services for persons with developmental disabilities.

#### 14 SECTION 14. Appropriation changes.

15 (1) RATE INCREASE FOR COMMUNITY INTEGRATION PROGRAM. In the schedule under  
16 section 20.005 (3) of the statutes for the appropriation to the department of health  
17 and family services under section 20.435 (4) (w) of the statutes, as affected by the acts

*\$3,700,000 for fiscal year 2001-02 and by*

1

of 2001, the dollar amount is increased by  $\$3,700,000$  for fiscal year 2002-03 to supplement the daily rate paid for the provision of home and community-based services under section 46.278 of the statutes. ✓

*\$1,000,000 for fiscal year 2001-02 and by*

(2) INCREASE FOR COMMUNITY INTEGRATION PROGRAM. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (4) (w) of the statutes, as affected by the acts

7

of 2001, the dollar amount is increased by  $\$7,000,000$  for fiscal year 2002-03 to increase funding for home and community-based services under section 46.278 of the statutes. ✓

*\$700,000 for fiscal year 2001-02 and by*

(3) FAMILY SUPPORT PROGRAM. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (4) (w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by  $\$2,700,000$  for fiscal year 2002-03 to increase funding for the family support program under section 46.985 (7) (am) of the statutes. ✓

(4) RESPITE CARE PROJECTS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (4) (w) of the statutes, as affected by the acts of 2001, the dollar amount is increased by  $\$225,000$  for fiscal year 2002-03 to increase funding for respite care projects under section 46.986 (2) (a) (intro.) of the statutes. *(the day after publication)*

**SECTION 15. Effective dates.** This act takes effect on ~~July 1, 2002~~, except as follows:

(1) The repeal and recreation of section 20.435 (4) (w) of the statutes takes effect on July 1, 2003.

~~(2) SECTION 13 (1) and (2) of this act takes effect on the day after publication.~~



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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November 29, 2001

### MEMORANDUM

To: Legislative Council - J.C.

From: Dehora A. Kennedy, Managing Attorney

Re: LRB-3358/1 Family support program; CIP IB, waiting lists for developmental disabilities services; respite care; and creating a medical assistance trust fund

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY

JACKET FOR SENATE

*companion bills*

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0137 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.