

C. HEALTH AND PUBLIC SAFETY

CORRECTIONS

1. New Lisbon Reimbursement of Costs

Section 9110 (1x)

This provision allows the city of New Lisbon to apply to the Department of Corrections for reimbursement of costs associated with extending utility service to the New Lisbon Correctional Institution for costs incurred between May 1, 2002, and March 31, 2004. Under the provision, the Department of Corrections is required to pay at least \$215,000 of those costs no later than June 30, 2004.

I am vetoing this provision because it is unnecessary. The department already has an agreement to reimburse the city for costs associated with extending utility service to the prison. Since the facility is scheduled to open in April 2004, payments for water and sewer will begin at that time.

2. Highview Correctional Institution Alternative to Revocation Beds

Section 2490d

This provision converts Highview to a minimum security correctional institution and requires the Department of Corrections to designate 50 beds for programming for offenders in prison as an alternative to revocation.

I am partially vetoing this provision because I object to the limitations it imposes on the department's use of prison beds. The effect of the veto is to eliminate the requirement that the department designate a specific number of beds for alternative to revocation placements in order to maintain flexibility in the use of prison beds. I am also requesting that the department use some beds at Highview for alternative to revocation placements, as well as continue to use beds for this purpose at other institutions.

3. Pilot Program for Nonviolent Offender Community Reintegration

Section 2485g

This section requires the Department of Corrections to request proposals for the establishment of two 25-bed halfway houses for nonviolent offenders, one located in an urban area and one located in a rural area, and specifies that a proposal may not be accepted unless the daily cost is less than or equal to the highest daily cost of out-of-state contract beds. It also requires a study to be submitted to the Governor and the Legislature by January 1, 2007, evaluating the cost effectiveness, administration, public opinion and success of the program in accomplishing community reintegration of nonviolent offenders.

I am partially vetoing this section because I object to the limits it imposes on the department's ability to provide effective offender treatment and community protection. I am vetoing the provision that would require establishment of one rural and one urban halfway house because it would limit the department's ability to find suitable locations for halfway house beds. I am vetoing the provision that would require the cost to be less than or equal to the highest daily rate provided for out-of-state contract beds because it would limit the department's ability to provide appropriate treatment to offenders and provide community protection. I am vetoing the reporting requirement because it imposes a burdensome work load at a time when agency budgets are limited.

The effect of this veto will be to require the Department of Corrections to request proposals to create a pilot program for nonviolent offenders to spend the last six months of incarceration at one of two 25-bed halfway houses. The pilot program will sunset July 1, 2008.

4. Contracting with County Sheriffs for Beds

Section 2491g

This provision requires the Department of Corrections to accept proposals from county sheriffs to place state inmates in county jails by July 1 of each year if there is an existing contract with a private provider for placement of inmates in out-of-state facilities. The department must evaluate the proposals by October 1 of each year and notify a county if state inmates can be placed in the county's jail beginning the following January 1. The department must also give such counties priority over out-of-state contractors if the department determines that inmates may be placed in a county's jail.

The provision specifies that the daily cost for placing an inmate in a county jail must be determined by the Department of Corrections and the county, but requires the daily cost to be no higher than the highest daily rate provided to out-of-state contractors.

I am vetoing this provision because I object to the limits it places on the department's ability to negotiate contracts with county sheriffs. I support working with counties to house state inmates and the department is already pursuing agreements with counties to reduce reliance on out-of-state contract beds. Given the department's current authority in this area, this provision is unnecessary.

5. Juvenile Correctional Services Program Revenue Deficit

Sections 441d, 2493m, 9130 (2f) and 9430 (2f)

These provisions require the Department of Corrections to do all of the following:

- Estimate unexpended revenues, less encumbrances, on or before March 15 of each odd-numbered year, that will remain in the juvenile correctional services appropriation on June 30 of that year, and provide the estimate to the Department of Administration and the Joint Committee on Finance.

- Require that 50 percent of any deficit projected by the Joint Committee on Finance be included in the cost basis for calculation of secured correctional facility daily rates for each year of the subsequent biennium, and require that the share of daily rate revenue proportionate to the share of the increased cost basis be reserved for retiring the deficit. Any revenue reserved for this purpose that exceeds the amount of the deficit must be reimbursed to the counties and the state in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state. Specify that \$569,300 be added to the cost basis for the calculation of daily rates in the 2003-05 biennium.
- Submit quarterly reports to the Joint Committee on Finance detailing year-to-date revenues and expenditures and projecting the unexpended revenues, less encumbrances, that will remain in the appropriation on June 30 of that year. Require the department to report on efforts to reduce operating costs to minimize any potential deficit.

I am partially vetoing section 441d as it relates to the juvenile correctional services deficit and the other sections entirely to maintain the department's flexibility to effectively manage juvenile programs. I object to the reporting requirements and deadlines because they impose a burdensome work load at a time when agency budgets are limited. Further, these provisions would place an undue burden on counties by requiring the Department of Corrections to charge counties to recover deficits in the appropriation.

DISTRICT ATTORNEYS

6. Byrne and Penalty Assessment Funded Assistant District Attorneys

Sections 286 [as it relates to s. 20.475 (1) (h)] and 9101 (13p)

This provision allocates \$165,000 PR-O annually in penalty assessment matching funds and associated Byrne funding of \$495,000 PR-F annually to fund 11.0 FTE PR-O assistant district attorney positions. To provide the remaining match funding necessary to fully fund 11.0 FTE PR-O assistant district attorney positions, the provision directs the Office of Justice Assistance to determine a reduction in penalty assessment matching funds of \$22,300 PR-O annually and associated Byrne funds of \$66,900 PR-F annually from among the following programs: (a) antidrug task forces; (b) Governor's Law Enforcement and Crime Commission special projects; (c) truancy and supervision programs; (d) Wisconsin Incident Based Reporting System program; and (e) children's community grants.

I am vetoing this provision because I object to exempting the district attorneys from spending reductions. I am lining out the appropriation under s. 20.475 (1) (h) and writing in a smaller amount that deletes \$660,000 PR-O funding in each fiscal year. I am also requesting the Department of Administration secretary not to allot these funds. The effect of this veto will be to delete the funding increase and position authority added by the Legislature and instead implement my recommendation to reduce the district attorneys GPR salaries and fringe benefits appropriation by \$900,000 GPR and 15.0 FTE GPR positions annually.

Further, I object to the allocation of scarce penalty assessment and Byrne funds for assistant district attorney positions. Diverting these funds to assistant district attorney positions reduces the ability of the state to fund a variety of programs and does not provide a long-term solution for funding the positions. During fiscal year 2002-03, my administration facilitated the Joint Committee on Finance approval of 11.0 FTE PR-F assistant district attorney positions. As more federal funding is made available in the future, the State Prosecutors Office will forward similar position requests to the Department of Administration.

Since federal requirements mandate that Byrne funding for assistant district attorney positions be limited to four years, the Legislature's proposal would have created a long-term GPR commitment for the state. Vetoing this provision will give the Office of Justice Assistance more flexibility to use these penalty assessment matching funds and associated Byrne funding for other crime prevention and law enforcement programs and initiatives.

HEALTH AND FAMILY SERVICES

7. Medical Assistance – Revenue Report

Sections 9124 (10f) and 9124 (11f)

These sections require the Department of Administration secretary to submit to the Joint Committee on Finance by December 1, 2003, a report detailing projected expenditures in the Medical Assistance program, federal funding available to the state and recommendations for reductions to the Medical Assistance program if expenditures are projected to outpace revenues. These sections also create session law requiring the Department of Health and Family Services to submit a proposal to the Legislature to fund expanded services or increase rates for home- and community-based waiver services, programs to reduce the use of nursing homes, increased rates for noninstitutional providers, and expansion of Family Care or additional services under the Community Support program, if there are sufficient federal Medical Assistance program revenues available.

I am vetoing these sections because they are unnecessary. I strongly support the concept of expanding the availability of community-based care, but the expenditure reporting requirement is unneeded. Under current law, the Department of Health and Family Services has the authority to reallocate Medical Assistance resources and could, if funding is available, create new slots administratively. I also object to this provision because it imposes an unnecessary and burdensome reporting requirement and interferes with agency discretion regarding the submittal of proposals to the Legislature.

8. Graduate Medical Education

Sections 286 [as it relates to s. 20.435 (4) (b)] and 9124 (12q)

These provisions, compared to my original budget, partially restore funding for supplemental payments to hospitals for graduate medical education and specify that, of

the GPR funding allocated for these payments, \$2,000,000 per year shall be expended on indirect graduate medical education.

I am partially vetoing section 286 [as it relates to s. 20.435 (4) (b)] because the Medical Assistance program cannot afford this level of payment. I am lining out the s. 20.435 (4) (b) appropriation and writing in a smaller amount that deletes \$3,033,700 in fiscal year 2003-04. I am also requesting the Department of Administration secretary not to allot these funds. With this veto I am reflecting my intent to eliminate all but \$1,000,000 GPR in fiscal year 2003-04 funding for graduate medical education, while maintaining the fiscal year 2004-05 funding level of \$4,037,900. I am also vetoing section 9124 (12q) because limited resources should be focused on direct medical education. The state cannot afford the level of payment included in the Legislature's budget due to the failure of the Legislature to transfer funding from the Patients Compensation Fund, leaving a deficit in excess of \$200 million in the Medical Assistance program.

I support reviewing the funding level for these payments in the 2005-07 biennium. Our teaching hospitals play an important role in preparing and training Wisconsin's future physicians, and I am committed to maintaining this support now and in the future.

9. Nursing Home Bed Assessment

Sections 286 [as it relates to s. 20.435 (4) (b)], 1333d, 9124 (11k), 9124 (11p) and 9424 (7)

These sections make three changes to my proposal to provide a 3.3 percent rate increase for nursing home providers under the Medical Assistance program through increasing the assessment on nursing home beds from \$32 per occupied bed per month to \$116 per licensed bed per month. First, the sections provide for a 3.2 percent rate increase by appropriating \$2,729,500 GPR in fiscal year 2003-04 and \$5,229,700 GPR in fiscal year 2004-05, supplementing revenue generated from the Legislature's assessment level of \$75 per licensed bed per month. Second, the provision alters the formula for nursing home reimbursement under Medical Assistance by specifying that the same proportionate share of funding allocated for direct care services in fiscal year 2002-03 will be maintained in all future fiscal year nursing home allocations. Third, the sections require the Department of Health and Family Services to submit a waiver to exempt facilities with a high proportion of private-pay residents from the assessment, as well as to report to the Joint Committee on Finance on the feasibility of exempting all private-pay beds from the bed assessment.

I am lining out the appropriation under s. 20.435 (4) (b) and am writing in a smaller amount that deletes \$2,729,500 GPR in fiscal year 2003-04 and \$5,229,700 GPR in fiscal year 2004-05 because I object to using GPR funds to pay for rate increases to nursing homes, when the Legislature deleted funding for rate increases to community-based, long-term care providers. In my budget proposal, I identified a mechanism to provide the rate increase for nursing homes by leveraging additional federal dollars through the \$116 per bed assessment instead of using GPR funds. While I support a rate increase for nursing homes, the deficit in the Medical Assistance program included in the budget passed by the Legislature makes this rate increase unaffordable. By lining out the appropriation under s. 20.435 (4) (b) and writing in a

smaller amount, I am vetoing the additional GPR in the bill that was added by the Legislature. I am also requesting the Department of Administration secretary not to allot these funds. This veto will effectively reduce the rate increase for nursing homes to an estimated 2.6 percent per year.

I am also vetoing section 1333d because it constrains the Department of Health and Family Services' authority to administer reimbursement for nursing homes through earmarked allocations of Medical Assistance resources. The department currently uses a formula that allocates nursing home funding between six cost centers. This section arbitrarily freezes the proportion of nursing home funding that would be used for the direct care cost center at the level provided in fiscal year 2002-03, which fails to recognize that in future years, a different allocation of resources may be needed to address changing conditions in the nursing home marketplace.

Finally, I am vetoing sections 9124 (11k) and 9124 (11p) and partially vetoing section 9424 (7) because waivers and proposals to exempt private-pay beds and facilities with high proportions of private-pay beds from the bed assessment would by definition reduce the amount of revenue that would be collected through the bed assessment. These provisions provide no mechanism to offset the lost revenue. If implemented, these sections would either require the department to reduce funding for all other nursing homes or to fund nursing homes at the same level, thus creating a larger deficit in the Medical Assistance program.

10. Nursing Home Bed Assessment Credit

Sections 286 [as it relates to s. 20.835 (2) (e)], 666m, 1580r, 1580s, 1580w, 9345 (4f) and 9445 (3f)

These provisions create a sum sufficient appropriation to provide a refundable income tax credit for nursing home residents who pay an assessment levied by the Department of Health and Family Services on licensed nursing home beds that generates revenue for the Medical Assistance program. The tax credit would be in an amount up to \$43 for each month the assessment is paid by the individual, which is equal to the new \$75 assessment on licensed nursing home beds less the existing \$32 assessment.

I am partially vetoing section 286 to delete the appropriation under s. 20.835 (2) (e) and am vetoing sections 666m, 1580r, 1580s, 1580w, 9345 (4f) and 9445 (3f) because this tax credit is likely in violation of federal Medicaid regulations. States may implement assessments on providers as a financing mechanism for Medical Assistance programs, but federal rules require that the assessment be uniform, broad based and that it not contain provisions that hold the payers of the assessment harmless. The federal rule under 42 CFR 433.68 (f) indicates that provider assessments violate the hold harmless provision if ". . . the tax provides, directly or indirectly, for any payment, offset, or waiver that guarantees to hold taxpayers harmless for all or a portion of the tax." A tax credit which reduces the impact of the assessment on an individual clearly could be challenged on this premise. I also object to spending additional GPR given the state's fiscal condition.

11. Prescription Drug Reimbursement Rates

Section 286 [as it relates to s. 20.435 (4) (b), (bc) and (bv)]

This provision partially restores funding for reimbursement to pharmacies for prescription drugs purchased under the Medical Assistance, BadgerCare and SeniorCare programs. This additional funding provides for a reimbursement rate for brand name drugs at the average wholesale price (AWP) minus 12 percent. I originally recommended a rate of AWP minus 15 percent as a form of cost containment in these programs and as a measure to avoid large across-the-board cuts in provider rates and participant eligibility.

I am partially vetoing this provision because I object to the limited increase in the average wholesale price discounted reimbursement rate, which the Medical Assistance program cannot afford. By lining out the Department of Health and Family Services appropriation under s. 20.435 (4) (b) and writing in a smaller amount to delete \$2,244,200 GPR in fiscal year 2004-05, I am reducing Medical Assistance funding related to this provision. By lining out the appropriation under s. 20.435 (4) (bc) and writing in a lower amount to delete \$64,300 GPR in fiscal year 2004-05, I am reducing funding for the BadgerCare program related to this provision. By lining out the appropriation under s. 20.435 (4) (bv) and writing in a lower amount to delete \$735,700 GPR in fiscal year 2004-05, I am reducing funding for the SeniorCare program related to this provision. These reductions will produce total savings across the Medical Assistance, BadgerCare and SeniorCare programs of \$3,044,200 GPR in fiscal year 2004-05 and reflect my intent to partially veto this provision to establish a reimbursement rate of AWP-13 percent in fiscal year 2004-05. Furthermore, I am requesting the Department of Administration secretary not to allot these funds.

These savings will be set aside in the general fund balance, to be requested in the event that actual state tax revenues or federal Medicaid revenues fall short of the Legislature's estimates. This veto would not have been necessary if the Legislature had included my recommendations to use a surplus in the Patients Compensation Fund and more of the federal fiscal relief funding to support health care services for the elderly, disabled and low-income families under these programs.

12. Prescription Drugs – Prior Authorization Advisory Committee

Sections 286 [as it relates to s. 20.435 (4) (b)], 1392p, 1392q, 1392r, 1392rj, 1392s, 1392t, 1393 [as it relates to s. 49.45 (49m) (cg) and (cr)], 9124 (8w) and 9424 (8w)

These sections prohibit the department from requiring prior authorization for mental health drugs other than certain antidepressants, and delay the implementation of prior authorization for selective serotonin reuptake inhibitors (SSRIs) until March 15, 2004. To reflect the increased cost to the Medical Assistance program of delaying implementation, the Legislature increased funding by \$2,000,000 GPR in fiscal year 2003-04. The provisions also establish numerous requirements on the structure and operations of a committee which advises the Department of Health and Family Services on decisions regarding the use of prior authorization for prescription drugs in the Medical Assistance program. The sections further add requirements as to the committee's

membership, specify a meeting schedule, establish new reporting requirements and direct the committee to advise the department on the creation of a preferred drug list.

I am vetoing sections 1392p, 1392q, 1392r, 1392rj, 1392s, 1392t, 9124 (8w) and 9424 (8w) and am partially vetoing section 1393 as it relates to s. 49.45 (49m) (cg) because I object to this broad expansion of legislative oversight, which does not belong in a budget bill, and to the unnecessary reporting requirements it creates. I am also partially vetoing section 286 [as it relates to s. 20.435 (4) (b)] and partially vetoing section 1393 [as it relates to s. 49.45 (49m) (cr)] because I object to the statutory mandates that will restrict the well thought-out and reasonable use of prior authorization for mental health drugs. I am lining out the appropriation under s. 20.435 (4) (b) and writing in a smaller amount that deletes \$2,000,000 in fiscal year 2003-04. I am also requesting the Department of Administration secretary not to allot these funds.

I understand and appreciate the intent of the Legislature in making these changes. We all share the goal of making sure that people with mental illness get the medications they need. However, I believe that taken together, the legislative changes are unnecessary permanent statutory restrictions that may limit the potential to achieve our mutual goals of assuring the practice of sound medicine while saving money.

Prior authorization is a vital tool in our efforts to control the skyrocketing costs of prescription drugs in the Medical Assistance program. I am committed to implementing prior authorization in a way that will ensure that people with mental illness receive the medications they need. I am confident that the Department of Health and Family Services secretary will implement the prior authorization of mental health drugs in a sound fashion, taking the time needed to carefully consider the decisions and meaningfully include consumers in the process.

With respect to mental health drugs, the department is currently moving forward with a prior authorization policy solely for SSRIs. There are no plans to extend prior authorization to other mental health drugs. However, a permanent statutory prohibition on considering prior authorization for other medications ignores the potential changes in the marketplace for medications including future advancement in drug therapies and the availability of therapeutically equivalent and more cost-effective medications in the future.

With this veto I am reflecting my intent to eliminate funding added to delay the implementation of prior authorization for antidepressants until March 15, 2004, as well as the policy provisions on the structure and membership of the prior authorization advisory committee. The state needs to be positioned to take advantage of savings as soon as sound prior authorization policy can be established.

13. Mental Health Medication Review Committee

Section 1392u

This section requires the Department of Health and Family Services secretary to create a new Mental Health Medication Review Committee to advise the department on the implementation of prior authorization for antidepressant drugs, specifically selective serotonin reuptake inhibitors (SSRIs), as well as any other proposals to use prior

authorization for prescription drugs for the treatment of individuals with mental illness. The secretary would be required to ensure that at least 50 percent of the committee's membership consists of advocates and consumers.

I am vetoing this section because I object to this additional restriction on the secretary's authority to administer the Medical Assistance program. Current law concerning a prescription drug prior authorization advisory committee does not need to be revised in order for the secretary to create a special mental health medication review committee that includes effective consumer and advocate participation.

14. SeniorCare – Copayments for Brand Name Prescription Drugs

Sections 1446g and 9424 (11g)

These sections increase from \$15 to \$20 per prescription the copayment for brand name drugs charged to all participants in the SeniorCare program.

I am vetoing these sections because I object to this additional change to the SeniorCare program, and this legislative proposal adds yet another reduction in benefits for Wisconsin's low-income seniors. The SeniorCare program has been crucial in controlling the skyrocketing costs of prescription drugs for more than 91,000 seniors enrolled in the program. Based on current caseload projections, this veto will increase costs in the SeniorCare program above currently appropriated amounts. I am, consequently, requesting the Department of Health and Family Services secretary to develop a plan to address this concern by July 1, 2004.

15. SeniorCare – Long-Term Care Insurance and Spend-Down Requirements

Sections 1438h, 1445h, 1446h and 9324 (13d)

This provision permits individuals enrolled in SeniorCare who have "spend-down" requirements to apply the cost of long-term care insurance premiums to their spend-down amount. Currently, individuals are eligible for SeniorCare if their income is below 240 percent of the federal poverty line, and those with incomes between 160 percent and 240 percent of poverty face a deductible requirement before being eligible for full SeniorCare benefits. If individuals or couples have income over 240 percent of the federal poverty line, they may be eligible for SeniorCare benefits if they meet an additional deductible requirement equal to the difference between their annual income and the income eligibility threshold at 240 percent of the poverty level. State law specifies that only prescription drug expenses may be applied to this spend-down requirement.

I am vetoing this provision because I object to using a prescription drug benefit program as an incentive for the purchase of long-term care insurance. The intent in creating deductible requirements in SeniorCare was to allow individuals with higher levels of income who also have high drug costs to benefit from the program. It is unclear to me why long-term care insurance costs merit special exception from this intent and not other expenses, such as premiums for health insurance or for supplemental prescription drug insurance. This provision could increase costs in the SeniorCare program and benefits

only higher income individuals. This new policy represents a significant change in the nature of the program and should be thoroughly analyzed and discussed through separate legislation.

This veto will maintain the current program structure of allowing only prescription drug costs to apply to the spend-down requirement.

16. Managed Care for Recipients of Supplemental Security Income

Section 1312n

This section requires the Department of Health and Family Services to submit proposed contracts with managed care organizations, which provide services under Medical Assistance to recipients of supplemental security income (SSI), to the appropriate legislative standing committees for review. It also requires the department work with advocacy organizations and managed care organizations to determine the service needs of SSI recipients.

I am vetoing this section because legislative review is unnecessary and the department is already engaged in the critical task of working with interested parties. No other contracts with Medical Assistance providers are subject to legislative review, and I see no reason why such a requirement should be created for these specific managed care contracts. While I support the goal of having the department work with managed care organizations and advocacy groups, I object to legislative mandates directing an agency to conduct tasks already being performed.

17. Drug Savings and Funding for Health Maintenance Organizations

Section 9124 (7c)

This section requires the Department of Health and Family Services to develop a plan to provide increases in capitation rates paid to managed care organizations serving Medical Assistance and BadgerCare recipients, using any unanticipated savings in prescription drug expenditures in these programs. This plan would be subject to review and approval by both the Department of Administration secretary and the Joint Committee on Finance under 14-day passive review.

I am vetoing this section because it restricts the department's administrative authority to reallocate resources within the Medical Assistance and BadgerCare programs for such needs. If there are additional savings in either prescription drug expenditures or other Medical Assistance budget items, the department needs the authority to best decide how to allocate these resources, taking into consideration the entire context of the Medical Assistance budget.

18. Supplemental Nursing Home Payment Pilot Demonstration

Section 9124 (13k)

This section requires the Department of Health and Family Services to earmark \$405,500 GPR in each year of the biennium from the Medical Assistance benefits appropriation for Milwaukee County to support a two-year demonstration project involving a facility with between 80 and 90 beds and with a population of residents of which 90 percent are Medical Assistance recipients. It is expected that the only facility meeting these requirements is the Kilbourn Care Center in Milwaukee.

I am vetoing this section because this pilot project has not been subject to the normal review of the Legislature nor been adequately justified. Earmarking these funds for this one facility would either mean that all other nursing homes throughout the state would receive less funding or the deficit in the Medical Assistance program would increase.

19. Food Stamp Retailer Transaction Fee

Sections 286 [as it relates to s. 20.435 (4) (bm)] and 1450m

These sections restore funding for a \$0.08 fee paid to grocers by the food stamp program for every electronic benefit transfer (EBT) transaction processed on grocers' own point-of-sale terminals. These sections also amend current law to make this fee, which was originally established to aid in the transition of a coupon-based food stamp system to an electronic benefits system, permanent.

I am partially vetoing section 286 [as it relates to s. 20.435 (4) (bm)] and am vetoing section 1450m because I object to the continuation of this fee, which was originally authorized to temporarily reward grocers who use their own point-of-sale terminals (as opposed to terminals purchased and maintained by the state) to process EBT benefits. By lining out the appropriation under s. 20.435 (4) (bm) and writing in a smaller amount that deletes \$250,000 GPR per fiscal year, I am vetoing the part of the bill that funds this provision. I am also requesting the Department of Administration secretary not to allot these funds.

Only seven other states pay such a transaction fee and, of the seven, Wisconsin's fee is the highest. Grocers incur transaction costs with every sale, regardless of whether the purchase is made using cash, credit cards or checks. Grocers do not get reimbursed for these transaction costs which, with the exception of cash, are more expensive than processing an EBT transaction. While I support efforts to ensure grocers offer access to EBT-based food stamps, I feel the benefits grocers receive from this fee are small compared to the over \$200 million paid annually to grocers for the actual cost of food purchased through food stamps.

This veto maintains the Department of Health and Family Services' ability to eliminate the fee administratively, and will delete funding for this subsidy.

20. Hospital Data Collection

Sections 2092c, 2092e, 2092f, 2092i, 2092j, 2093bg, 2093bh, 2094c, 2094d, 2094e, 2094f, 2094g, 2094L, 2094x, 2095re, 2095rn and 9124 (10k)

These sections require that the Department of Administration enter into a contract with the Wisconsin Hospital Association to collect health care information from hospitals and ambulatory surgery centers.

I am partially vetoing this provision because I object to the composition of the oversight board, the time frame for the data transfer, the ability of the Wisconsin Hospital Association to approve requests to waive the data requirements and certain limitations placed on the Department of Health and Family Services relating to data collection analysis and distribution. The result of these vetoes will be provisions that more closely resemble the compromise agreement reached by the Department of Health and Family Services and the Wisconsin Hospital Association. That agreement was designed to make the contract process more workable and ensure full public access to timely, quality data.

Since the language was introduced by the Joint Committee on Finance, the department, which currently collects such data, has been negotiating with the Wisconsin Hospital Association to make the proposal more workable. For example, it was agreed to use the existing Board on Health Care Information as the oversight body rather than creating a new board as required in the bill. The Department of Health and Family Services and the Wisconsin Hospital Association also agreed to move the start date back six months. However, the compromise package did not get incorporated into the budget. The effect of this veto will be to have the Department of Administration contract with the Wisconsin Hospital Association for the collection of health care data. The timeframe for the transfer is improved and the Department of Health and Family Services will continue to provide some oversight of the data. The veto will also provide more flexibility in the types of data collected and allow the Department of Health and Family Services to continue sharing data with other state agencies.

21. Chronic Disease Program

Sections 1424, 1425, 1426, 1429, 1430, 1433 and 9324 (2)

These sections require that people with renal disease or adult cystic fibrosis apply to all other existing governmental health care programs, specified by the Department of Health and Family Services by rule, before they can apply for assistance under the chronic disease program, but it exempts people with hemophilia from this application requirement.

I am partially vetoing these sections to eliminate this exemption because it is too broad. In order to maximize the use of scarce GPR funding, it is essential to require that the maximum possible number of participants apply to programs partially funded by federal funds and to have those participants use those federally funded programs if found to be eligible.

Section 1426 requires the Department of Health and Family Services to pay claims in this program at the lower of the Medicare or Medical Assistance rate. I am partially vetoing this section because it would be a very expensive undertaking to completely redo the claims processing system used by the fiscal agent and there is no estimate of potential savings associated with this action.

22. Tobacco Control Advisory Committee

Sections 2459x and 9124 (5x)

These sections require the Department of Health and Family Services to establish a tobacco control advisory committee, which would essentially recreate a Tobacco Control Board, with duties similar to that board, within the department. These sections also require external, independent evaluations of the success of tobacco control projects.

I am vetoing these sections because they are unnecessary. Public health staff, through their current tobacco prevention and control efforts, are already consulting with an extensive network of people and agencies to assist the department in its future efforts to control the use of tobacco. In addition, the department is already committed to using both internal and external evaluations, using existing resources, to evaluate the effectiveness of these projects.

23. Health Insurance Risk Sharing Plan

Section 9124 (10h)

This section requires the Department of Health and Family Services to prepare a request for proposal for bids to become the fiscal agent for the Health Insurance Risk Sharing Plan. It further specifies that the proposal should be ready to issue six months after the effective date of passage of the biennial budget and that the proposal be reviewed by the Joint Committee on Finance subject to the 14-day passive approval process.

I am vetoing this section because I object to the requirements it imposes on the department. These requirements are burdensome and unnecessary. The budget bill includes a provision allowing the department to prepare a request for proposal for bids to be the fiscal agent for the Health Insurance Risk Sharing Plan. Based on this provision, I request the Department of Health and Family Services secretary to prepare a request for proposal.

24. Multiple Sclerosis Screening

Section 2455r

This section requires that the Well-Woman Program earmark \$60,000 GPR annually of its current appropriation for multiple sclerosis screening.

I am partially vetoing this section because the earmark is arbitrary and could reduce the Department of Health Family Services' ability to fund other needed services, such as

breast and cervical cancer screening. This veto will remove the reference to "each fiscal year" and delete the word "screening" so that the department can use the \$60,000 as needed to cover the actual annual costs of providing referrals to appropriate health care providers and for multiple sclerosis education. My intent is to give the department the flexibility to determine the level of spending needed in each fiscal year until a total of \$60,000 has been expended for these services. If the level of multiple sclerosis spending over the biennium is insufficient to fully expend the \$60,000 earmark, the commitment will carry forward into future fiscal years until it is fulfilled.

25. Northern Wisconsin Center

Sections 1490c and 1496c

These sections prohibit the Northern Wisconsin Center for the Developmentally Disabled from transferring residents and staff to other centers on an involuntary basis. I am vetoing section 1490c and partially vetoing section 1496c because they limit the center's flexibility in best meeting resident treatment needs and in best allocating staff to meet workload demands. Current law already provides adequate protection because residents may only be transferred to another center with the permission of the legally responsible county, or by court order. Transfers are done in consultation with residents' guardians, and are based on the best interests of the residents. The Department of Health and Family Services also requires flexibility to deploy positions to areas of need, consistent with current bargaining agreements. I am vetoing these sections to retain this flexibility and to ensure that individuals with developmental disabilities are placed in appropriate facilities.

26. Daily Rate for Community Placements

Section 1320

This section identifies the daily placement rate for people moved from the centers for the developmentally disabled to placements in the community. The rate would increase from \$225 per day to \$325 per day beginning in fiscal year 2004-05. I am partially vetoing this section so that the new rate takes effect in fiscal year 2003-04 because the higher rate enables individuals to be placed in the community where they can be served well and in a cost-effective manner.

27. Bureau of Quality Assurance Surveyors

Section 1466d

This section requires that the bureau responsible for surveying community facilities, such as nursing homes, reduce the number of staff at the same percentage as the decrease in the number of facilities.

I am vetoing this section because it may result in less oversight of community facilities. Staffing demands may not decrease proportionately with the decrease in the nursing

home population due to increased intensity of care required for the population that remains in such facilities.

28. Income Augmentation Plan

Sections 1154e, 1157b, 9224 (2c) and 9424 (10c)

These sections delete the authority of the Department of Health and Family Services to propose the use of income augmentation funds for purposes other than supporting costs exclusively related to augmenting federal income, or other uses provided for by law or in budget determinations, effective July 1, 2005. In addition, these sections would require the department to lapse all future income augmentation revenue received during the 2003-05 biennium that is not budgeted or lapsed elsewhere in this budget.

I am partially vetoing sections 1154e, 9224 (2c) and 9424 (10c) and vetoing section 1157b because the Joint Committee on Finance plan review process in current law provides for sufficient legislative oversight of proposals for the use of income augmentation revenue for purposes other than those specified in statute. In addition, I am vetoing these provisions because they unduly limit the department's ability to respond to unforeseen needs and effectively manage programs. The effect of these vetoes will be to maintain current law, giving the Department of Health and Family Services the authority to propose the use of income augmentation revenue for purposes other than those specified in statute.

Under current law the Department of Health and Family Services is required to submit a plan for the proposed use of income augmentation funds for purposes other than those specified in statute to the Department of Administration secretary. If the secretary approves the plan, it is submitted to the Joint Committee on Finance for review. The Department of Health and Family Services may then implement the plan only if approved by the Joint Committee on Finance.

29. Wisconsin Statewide Automated Child Welfare Information System (WiSACWIS)

Sections 448t, 1104m and 9324 (15x)

These sections require counties to support 50 percent of the nonfederal portion of the ongoing costs of the Wisconsin Statewide Automated Child Welfare Information System (WiSACWIS). This would result in an increased cost to counties of approximately \$268,700 annually.

I am vetoing these sections because I object to the unfunded mandate they impose on county governments, which have previously agreed in good faith to support 33 percent, not 50 percent, of the nonfederal, ongoing costs of WiSACWIS. Furthermore, the increased county costs may slow implementation of WiSACWIS, a situation that could force the state to return federal matching funds and pay noncompliance penalties.

JUSTICE

30. Consumer Protection Assessments

Sections 286 [as it relates to s. 20.115 (1) (km)], 287p and 1817d

These provisions create a new appropriation and require the Department of Administration secretary to transfer an amount equal to the unassessed consumer protection assessment from the Department of Justice's GPR state operations appropriations to the Department of Agriculture, Trade and Consumer Protection's PR consumer protection, assessments appropriation. This transfer is to occur whenever a court fails to impose a consumer protection assessment as required under current law.

I am vetoing these provisions to return to current law because the required transfer arbitrarily and unfairly penalizes the Department of Justice. District attorneys have significant discretion to prosecute statutory, rule and ordinance violations under Chapter 98 (Weights and Measures) and Chapter 100 (Marketing; Trade Practices), in collaboration with the Department of Justice. Most importantly, current law requires a Wisconsin court to impose a consumer protection assessment and credits the assessment amount to the Department of Agriculture, Trade and Consumer Protection's appropriation. I urge the Chief Justice, as the administrative head of the state judicial system, to ensure that Wisconsin courts impose this assessment. The action or inaction of district attorneys and courts with regard to these assessments should not be the basis for reducing funding for the law enforcement efforts of the Department of Justice.

31. Criminal History Searches; Fingerprint Identification Appropriation

Sections 286 [as it relates to s. 20.455 (2) (gm)] and 556r

This provision converts the Department of Justice's criminal history searches and fingerprint identification appropriation from a continuing to an annual appropriation.

I am vetoing this provision because it unduly restricts the department's ability to maintain and increase fund balances in future years. The department should have the flexibility to monitor these fund balances, to plan for the long-term needs of the Crime Information Bureau and, thereby, avoid requesting supplementation from the Joint Committee on Finance appropriations.

32. Department of Justice Required Lapses

Section 9232 (2r)

Section 9232 (2r) requires the Department of Administration secretary to lapse \$1,567,000 PR-O in fiscal year 2003-04 and \$1,208,000 PR-O in fiscal year 2004-05 from the Department of Justice's crime laboratories and drug law enforcement assessment appropriation under s. 20.455 (2) (Lm).

I am vetoing this section because I object to imposing this excessive lapse requirement on the Department of Justice. Lapsing the amount required by the Legislature from the

crime laboratories and drug law enforcement assessment appropriation could force the department to close the Wausau Crime Laboratory, and drastically reduce funding for the two remaining labs. The effect of my veto will be to allow the Department of Justice to retain this fee revenue, which will ensure that the department has the resources needed to continue providing the services local law enforcement agencies depend upon to solve cases and apprehend offenders.

OFFICE OF JUSTICE ASSISTANCE

33. Federal Homeland Security Funding

Sections 286 [as it relates to s. 20.465 (3) (mg)], 562m, 2111g and 2111j

Sections 286 [as it relates to s. 20.465 (3) (mg)], 562m and 2111j create a federal continuing appropriation under the Department of Military Affairs' emergency management services program and establish oversight responsibility for the receipt and expenditure of funds for homeland security programs to be administered by the department. Section 2111g requires the department's Division of Emergency Management to apply for contracts, and receive and expend federal funds related to homeland security. The section enumerates, as a statutory duty of the Adjutant General, the administration of federal homeland security funds and also requires the Adjutant General to notify the Joint Committee on Finance of proposed expenditures.

I am vetoing these provisions because I have designated the Office of Justice Assistance as the state-administering agency for federal homeland security-related grant programs. By deleting these provisions, the office remains the designated agency to administer the federal homeland security funds. The office is better equipped to oversee homeland security grants because it is experienced in administering a variety of federal and state, criminal justice, and law enforcement grant programs.

The office will closely coordinate homeland security programs with the Department of Military Affairs' Division of Emergency Management. The office will focus on grants administration while the Department of Military Affairs will focus on carrying out emergency management duties of the Adjutant General and administering state and local government responses to natural and man-made disasters, including the threat of chemical and biological weapons of mass destruction. The Adjutant General continues to be the principal assistant to the Governor for emergency management activities.

PUBLIC DEFENDER BOARD

34. Base Budget Reductions

Section 9140 (1z)

This section directs the State Public Defender to report monthly to the Joint Committee on Finance regarding the expenses, obligations and current balance in the private bar and investigator reimbursement appropriation.

I am vetoing this section to remove this requirement because it is excessive. Existing statutory requirements are adequate in the direction they give the State Public Defender to provide quarterly reports to the Department of Administration and the Joint Committee on Finance. Under s. 977.085, the State Public Defender reports every quarter on private bar and staff case loads, reimbursement and recoupment revenue, current fiscal year and projected expenditures, and plans to improve reimbursement and recoupment procedures. The State Public Defender also periodically addresses projections that indicate that appropriation moneys will be expended prior to the end of the current fiscal year. Any necessary changes to the State Public Defenders' GPR expenditure authority can be approved by the Joint Committee on Finance under the s. 13.10 process.

D. STATE GOVERNMENT OPERATIONS

BUDGET MANAGEMENT AND COMPENSATION RESERVES

1. Discretionary Compensation Adjustment Reductions

Section 9160 (2f)

This provision creates a requirement that the Department of Administration secretary determine the annualized value of the discretionary compensation adjustments, including the associated fringe benefits costs, awarded in fiscal year 2001-02 to nonrepresented classified employees and reduce each associated appropriation by an amount equal to 27 percent of the determined annualized amount.

I object to and am partially vetoing this provision because the required method of apportioning the reduction does not offer the appropriate level of flexibility required in the current fiscal environment. Every appropriation that had such adjustments would have to be reduced under this provision. This is unnecessary, since other appropriations may be used to meet the reduction and lapse requirements. As implemented by the Department of Administration, the effect of this partial veto will be to require the same annual lapse and transfer amounts to the general fund as were intended in the budget bill: \$520,000 GPR-lapse, \$130,900 FED-lapse, \$400,000 PR-lapse, \$80,000 SEG-lapse and \$480,000 in GPR departmental revenues. Through this veto, the Department of Administration secretary may apportion these reductions in alternate ways.

ADMINISTRATION

2. Attorney Positions

Section 9101 (9x)

This provision requires the Department of Administration secretary to ensure that on January 2, 2004, not less than 31.0 FTE vacant and, if necessary, filled attorney positions are eliminated from state agencies.

I am partially vetoing this provision to remove the exclusive focus on attorney positions because it is too limiting. I am also partially vetoing this provision to direct the position reductions on vacant positions because I object to unnecessarily eliminating filled positions. As a result of this veto, the reduction in 31.0 FTE positions can be made from any vacant position identified by the secretary.

While my veto removes the focus of this reduction on attorney positions, I remain concerned about the numbers and organization of attorneys in the state work force. My consolidation proposal, which was rejected by the Legislature, would have streamlined the provision of legal services by transferring attorneys in executive branch agencies to the Department of Administration. This proposal would have resulted in a leaner and more efficient legal services organization. Attorney positions will be among the first that the Department of Administration secretary examines when implementing the 31.0 FTE

position reduction by the prescribed deadline. However, I want to be able to make reductions that deliver the greatest efficiencies. In order to preserve this option, I exercise my partial veto authority.

3. State Agency Appropriation Lapses to the General Fund

Section 9260 (1)

This provision presents the amounts of program revenue cash balances that are directed to be lapsed to the general fund by certain state agencies. These lapses include a requirement for the Department of Commerce to lapse an amount equal to \$2,400,000 over the biennium from repayments of Recycling Market Development Board loans or certain financial assistance appropriations to the general fund. The provision also includes a means for the Department of Commerce to propose alternate lapse plans to the secretary of the Department of Administration, who may approve or modify the alternate plans and submit those plans to the Joint Committee on Finance for 14-day passive approval.

I am partially vetoing this provision to give agencies greater flexibility in proposing and implementing alternate lapse plans. I object to the limitations placed on state agencies by the Legislature in implementing the many reductions and lapses in this budget. The effect of my veto will remove the Joint Committee on Finance from the review process, so that the Department of Administration may give final approval to alternate lapse allocation plans. As this veto removes the requirement relating to the Recycling Market Development Board loan repayments, I am also requesting that the Department of Commerce ensure that the maximum amount of loan repayments are collected to offset any potential fiscal effect of this veto.

4. Local Revenue Sharing Board

Sections 286 [as it relates to s. 20.505 (8) (k)], 615m, 615r and 1531m

This provision requires the creation of a four-member board in each city and county in which a gaming facility is located. Each board would be required to: (1) determine annually the costs of each political subdivision for providing public safety (fire, police and emergency medical) services to casinos and certify the total amounts to the Department of Administration; (2) create a methodology for each political subdivision to determine casino-related public safety costs; (3) enter into a cooperative agreement with public safety entities to determine an apportionment formula for distributing payments of tribal gaming revenues; and (4) set up an account at a local financial institution for the deposit of all tribal gaming revenues received from the state or tribes.

Additionally, the provision creates a new program revenue sum sufficient appropriation from tribal gaming receipts under the Department of Administration, capped at \$225,300 annually, to pay local boards the amounts of public safety services costs certified to the department, but only if these costs are not payable directly to local governments pursuant to tribal compacts.

The provision further exempts first-class cities or counties with a population of at least 500,000 from these requirements.

I am vetoing this provision in its entirety because it creates a new, and unnecessary, layer of government to deal with matters that existing governmental structures and processes can already address. In addition, this provision offers questionable relief to local units of government and would likely prove to be insufficient to accomplish the intent of the language. The fiscal effect of this veto is to increase GPR-earned by \$225,300 in fiscal year 2003-04 and \$225,300 in fiscal year 2004-05.

5. Interest Component in Risk Management General Fund Supplements

Section 222m

This section requires the Department of Administration to lapse to the general fund from available program revenue balances of the State Risk Management Program equal to any payments that may need to be made, plus interest, from the GPR sum sufficient risk management appropriation.

I am partially vetoing this section to remove the interest component of the repayment requirement because it is unnecessary. Lapses from program revenue balances equal to the payments will be sufficient to ensure the general fund is adequately reimbursed.

6. Public Benefits: Limitation on the Public Service Commission

Section 2317m

This section would prohibit the Public Service Commission from requiring: (a) utilities to perform additional energy conservation or efficiency programs or (b) ratepayers to pay additional funds due to transfers from the public benefits fund.

I am vetoing this section because it may have the effect of restricting the commission in carrying out its overall energy conservation program responsibilities. The commission is required to seek additional energy conservation or efficiency programs as part of approving utility projects. Because Wisconsin is experiencing a construction period for electrical generating facilities, the Public Service Commission needs all available tools to ensure that projects meet the public interest.

7. Required Report on Gaming Expenditures

Section 9101 (12d)

This provision requires the Department of Administration, no later than September 1, 2004, to submit a report to the Joint Committee on Finance regarding supplies and services expenditures incurred relating to the expanded responsibilities of the Office of Indian Gaming.

I am vetoing this provision because it is unnecessary. This information is available at any time.

8. State Government Management Systems and Web Site

Sections 215m, 230d, 230h, 230p, 230t, 9101 (4k), 9101 (14p) and 9401 (2k)

These provisions direct the Department of Administration secretary to solicit sealed proposals for developing several statewide Web-based information systems and to submit reports on these to legislative standing committees by July 1, 2004; require state agencies to submit to the department, for its approval, expenditure estimates for the costs of all printed publications that are not required by state constitution or law; and subject the development and maintenance of geographic information systems to approval by the Land Information Board. A related provision authorizes the department to implement an enterprisewide reporting, data warehousing and data analysis system.

I object to this requirement because its cumbersome nature will actually make state government less efficient. The requirements to pursue enterprise level Internet-based systems are well meaning and consistent with the department's goals in implementing state government technology. However, the complexity of the task and the magnitude of effort necessary to comply with the provisions within the arbitrary timeframe allotted are beyond the capacity available to the department and state agencies to accomplish in a manner that produces a less costly and more efficient system.

The requirement to individually review and approve agencies' printed publications not required by law is also inefficient, and I object to it. Finally, I object to the Land Information Board approval requirements as nonfiscal policy included in the budget. I am, therefore, vetoing all of these provisions. I am not vetoing a related provision concerning an enterprisewide reporting, data warehousing and data analysis system. This provision will enable the department to develop a more cost-effective information system.

9. Computer Services Rate Setting by Rule

Section 778 [as it relates to promulgation of service rate methodology by rule]

This provision requires the Department of Administration to follow the administrative rule procedure to set and promulgate methodologies and fees for computer services to agencies. I object to this requirement because it is burdensome and inefficient. I am, therefore, partially vetoing this provision to preserve the current methodology.

10. Transfer or Lapse of Information Technology Funds

Section 9160 (2x)

This provision requires the Department of Administration secretary to transfer or lapse to the general fund \$20,000,000 in each fiscal year of the 2003-05 biennium from appropriations, other than sum sufficient, in executive branch agencies. The amounts

must be taken from budget allocations for information technology projects that would have begun in the fiscal biennium.

I object to this provision because it is both unfair and unworkable. Information technology projects in agencies are a principal means by which expected efficiencies in state government will be realized to help agencies carry on under significant state operations reductions. Agencies that are investing significant base resources in projects to improve efficiency of service delivery would be penalized the most.

I am partially vetoing this provision to accomplish the following: (a) broaden the application to all state agencies and all appropriations; (b) make the lapses or transfers an aggregate \$40,000,000 biennial obligation, rather than \$20,000,000 each fiscal year; and (c) delete all association with information technology projects. The effect of my partial veto will enable the Department of Administration secretary to allocate the required lapses or transfers on a more equitable basis across all sectors of state government operations. In making this apportionment the secretary will, to the full extent possible, take into account economies that have been realized or can be realized through information technology improvements.

11. Required Report on Space Occupancy

Sections 9101 (11q) and 9130 (1q)

These provisions create a requirement that the Department of Administration review the occupancy of all state-owned and leased space, develop a plan for greater centralization of the offices into state-owned office buildings and submit the plan to the co-chairs of the Joint Committee on Finance by January 1, 2004. This report must be submitted prior to the release of funds budgeted in the committee's supplemental appropriation under s. 20.865 (4) (a).

I am vetoing these provisions because they are unnecessary. The Department of Administration and state agency personnel already are reviewing all space-related aspects of agency budgets. This planning process is dynamic and ongoing. A required point-in-time report of this nature is unneeded. The effect of this partial veto will be to leave the funding level unchanged, but remove the reporting requirement.

12. Tax Appeals Commissioner Hiring Freeze

Section 9145 (1f)

This provision prohibits the Governor from appointing a tax appeals commissioner until after June 30, 2005.

I am vetoing this position freeze because it is an unnecessary infringement on the authority of the executive branch to administer this program.

13. Waste Facility Siting Board Transfer

Sections 92x, 286 [as it relates to s. 20.370 (2) (ei)], 402p, 587p, 2475g and 9101 (8c)

This provision transfers the oversight and appropriation of the Waste Facility Siting Board from the Department of Administration to the Department of Natural Resources and restores the executive director position, with funding. My budget recommendation was to delete staff and associated funding for the board, leaving \$32,300 PR annually to meet the incidental costs of board members.

I object to the restoration of the director position because I do not believe the work load justifies it. I also object to the board's transfer to the Department of Natural Resources, because the board is better situated under the Department of Administration where it can continue to serve as a neutral arbiter of waste facility siting decisions.

I am vetoing the transfer of the board's appropriation from the Department of Administration to the Department of Natural Resources. The effect of the veto is to delete the funding and executive director position for the board and to retain the board under the Department of Administration. While it would have been my preference to retain some amount of funding for board member expenses, this was not possible. I request the Department of Administration secretary to examine funding options from existing resources for these costs.

BUILDING PROGRAM

14. Hmong Cultural Center

Sections 26m, 285ag [as it relates to the Hmong Cultural Center], 286 [as it relates to s. 20.867 (3) (bn)], 680, 687p, 690q, 9106 (1) (hm) and 9106 (7k)

These provisions enumerate a Hmong Cultural Center in the city of Milwaukee, located at the corner of National Avenue and 16th Street, and provide \$3,000,000 in general fund supported borrowing.

The Building Commission in June of 2001 developed requirements regarding the use of state Building Commission bonding authority for local units of government and private institutions. These requirements set specific guidelines on the use of state borrowing for local government and private projects. The guidelines specify that: (1) the project be in the public interest; (2) it have a statewide basis justifying the benefit of the project; (3) local or other financing alternatives be considered first; (4) it must be submitted and reviewed following the same procedures used for agency requests for funding through the capital budget; (5) the requestor must provide evidence that the purpose and use of the project allows for the use of tax-exempt bonding; (6) the requestor and the Department of Administration consider appropriate language to protect the state's interest in the project if the property is not used for the purposes originally approved by the Building Commission; (7) the commission can modify its original approval provided the proposed change is in the public interest and provided the change is approved by the state's bond counsel; and (8) the requestor agrees to provide a 50 percent or greater match for the project before initial review by the commission and the commission may

require appropriate guarantees for this match. Projects that meet the requirements then go through the process of being approved and enumerated by the Building Commission. I am vetoing these provisions because this project does not meet these requirements. I also object to the last minute introduction of these provisions in a late-night budget amendment.

While I am vetoing these provisions, I remain committed to assisting the Hmong community work through the Building Commission processes rather than last minute budget amendments.

EMPLOYEE TRUST FUNDS

15. Municipal Employer-Initiated Change in Health Care Plan Provider

Sections 1966, 1985m, 1985n, 2642m, 9317 (2) and 9317 (3q)

These provisions modify the Municipal Employment Relations Act relating to selection of group health insurance benefits provided by municipal employers. Specifically, a local government employer is authorized to unilaterally change its employee health care coverage plan to the public employer group health insurance plan offered by the Department of Employee Trust Funds or to a plan that is substantially similar to that plan. Moreover, such changes are declared to be nonviolations of collective bargaining agreements and municipal employers are prohibited from bargaining collectively with respect to the employer's selection of a health care coverage plan if the plan selected is the department plan or one substantially similar to it.

I am vetoing these provisions in their entirety because I object to this unilateral change. While I believe that the department's local government health insurance plan has much to offer municipal employers, I do not believe that forcing this plan onto employees is the correct approach. A healthy collective bargaining process that produces agreement on employee health insurance as part of an overall settlement is a far better path to take to achieve the cost savings that all parties seek in health care coverage.

16. Part-Time Employee Health Insurance

Sections 1009 [as it relates to part-time employee health insurance], 1991m and 9301 (1f)

These provisions modify the cost sharing formula for employees working between 50 percent and 75 percent of a full-time equivalent position to require these employees, like those now working less than 50 percent, to pay one-half of health insurance premiums. The provisions also make health insurance premium cost-sharing between the employer and this expanded group of part-time employees a prohibited subject of future collective bargaining and unalterable in future compensation plans for nonrepresented employees.

I object to the significant burden these additional costs would place on part-time employees, more than 80 percent of whom are women, many of whom are working at lower wage scales and in critical job classifications already facing serious shortfalls,

such as the health care professions. The effect of the formula change would be to force many out of their jobs.

I also object to making the employee contributions to health insurance costs a prohibited subject of collective bargaining. Wages, benefits and working conditions have long been the core subjects of collective bargaining for public employees in Wisconsin. Employee contributions toward health insurance premiums fall squarely within these core subjects. There is no need for the Legislature to abrogate the rights of part-time employees to negotiate this significant change to their benefits. I agree that the costs of state employee health insurance need to be controlled, and that part of the solution is asking state employees to contribute a fair share of the costs. However, I strongly believe that the amount of those contributions should be negotiated at the bargaining table, through a dialogue with the employee unions. This principle should apply to part-time employees (however defined) as firmly as it applies to full-time employees.

I am partially vetoing these provisions to allow part-time employees' share of health insurance premiums to be the subject of collective bargaining and the compensation plans. I am also vetoing, as unnecessary, the language that excludes the University of Wisconsin Hospitals and Clinics Authority from the provision affecting the employer's contribution toward health insurance for part-time employees.

Although my veto leaves in place the revised threshold of 1,566 hours annually for employees to receive benefits of a full-time equivalent position, the effect of this partial veto will be that the proportion of health insurance costs paid by each employee group will be determined through the collective bargaining process and by the compensation plans for nonrepresented state employees, the University of Wisconsin System, and nonrepresented University of Wisconsin Hospital and Clinics Authority employees. The statutory formula will remain in place only as a fallback if the bargaining process or compensation plan process fails to obtain agreement on the employee and employer contributions to health insurance premiums.

The Office of State Employment Relations will negotiate in good faith with the state employee unions to arrive at a mutually acceptable allocation of the costs of health insurance between the employer and employees. The director of the office will propose a cost-sharing arrangement for full-time and part-time employees that will be fair to all employees and that will help rein in the spiraling costs of employee health insurance.

My veto leaves in place the mechanism created in Senate Bill 44 for lapsing funds from agency budgets to offset the estimated costs of the health insurance formula change. I am requesting the Department of Administration secretary to recover from agency budgets the respective amounts that would have been lapsed under the terms of these provisions before partial veto.

17. Pharmacy Purchasing Pool

Section 1026r

This provision requires the Group Insurance Board to establish a pharmacy benefits purchasing pool beginning on January 1, 2005. I am partially vetoing this provision to remove the restriction that this prescription drug purchasing pool, which can lower drug

costs for individuals by hundreds of dollars per year, be made available only to employers. I object to restricting individuals from the lower costs of a pharmacy purchasing pool. While the provision extends the definition of employer to "a person doing business or operating an organization" and then further includes "a self-employed individual," the language still denies thousands of Wisconsinites, including the unemployed and employed persons whose employers choose not to participate, from joining the pool and benefiting from its capacity to lower drug costs. In many cases, these individuals face high prescription drug costs. There is no reason for excluding them. My partial veto allows every Wisconsin resident to join this cost-saving pool.

I am also vetoing the restriction imposed by the bill that requires that the Group Insurance Board submit its conditions for allowing eligible parties to join the pool, i.e., its implementation plan, to the Joint Committee on Finance for a 14-day passive review prior to taking effect. I believe that the Group Insurance Board's implementation plan should be allowed to take effect as soon as the board is ready to proceed.

Finally, I am vetoing the requirement that the board begin implementation of a purchasing pool on January 1, 2005. I object that the board has to wait this long to begin offering savings on a voluntary basis to organizations and individuals if it is possible to do so before this date. I encourage the Group Insurance Board to develop and expand this program as soon as is feasible.

18. Private Employer Health Care Program

Sections 9130 (1c) and 9133 (4c)

These provisions require the Senate Majority Leader and the Speaker of the Assembly to create a task force to study the private employer health care coverage program and provide funding reserved for the Department of Employee Trust Funds in the supplemental appropriation under s. 20.865 (4) (a). The task force is to present recommended statutory language changes no later than January 4, 2004.

I am partially vetoing these provisions to delete the task force and to strike out the requirement that the reserved funding may be used only to fund requests presented by the department. I object to limiting the debate on private employer health care to the Legislature and limiting access to the funding to one agency. The \$105,500 GPR in fiscal year 2003-04 and \$210,900 GPR in fiscal year 2004-05 are left in place, reserved for funding the operating costs of implementing private employer health care coverage.

Solutions to small employer health care coverage problems remain a challenge that will only be resolved by a full partnership between the Governor and the Legislature, with the involvement of employers and insurance providers. A legislatively-appointed task force given six months to complete the task is not the medium for this cooperative effort. I removed the restriction on release of the funds, consistent with a Department of Employee Trust Funds' request, because I view it as too restrictive.

OFFICE OF STATE EMPLOYMENT RELATIONS

19. Appropriation Conversion

Sections 286 [as it relates to s. 20.545 (1) (k)] and 626a

These provisions change the appropriation for funds received from other state agencies from a continuing to an annual appropriation. The primary use of this appropriation is for the development, implementation and maintenance of the statewide on-line human resources recruitment and testing system.

I object to the reduced flexibility this change would impose. I am partially vetoing these provisions to maintain this appropriation as a continuing appropriation.

20. Appointment of the Director

Section 97d [as it relates to the appointment of the director]

This provision creates a requirement that the Governor's nominee for the position of director of the Office of State Employment Relations be confirmed by the Senate.

I am partially vetoing this provision to remove the requirement that this appointment be subject to Senate confirmation. This would cause unnecessary delay in formalizing the appointment of the state's chief human resources officer.

21. Creation of Statutory Divisions

Sections 97d [as it relates to s. 15.105 (29) (b) 2. and 3.] and 2390d

These provisions create three statutory divisions in the Office of State Employment Relations: a Division of Merit Recruitment and Selection, a Division of Compensation and Labor Relations, and a Division of Affirmative Action.

I am vetoing the provisions that create the Division of Compensation and Labor Relations and the Division of Affirmative Action as statutory divisions. I acknowledge and support the important work conducted in these areas, but I do not want to unnecessarily restrict the organizational flexibility of the office. The effect of this partial veto will be to maintain the Division of Merit Recruitment and Selection as a statutory division while leaving the office discretion regarding the organization of the remaining two divisions.

22. Lapse of Employee Development and Training Services Revenue

Section 9218 (2d)

This provision requires the Office of State Employment Relations to lapse \$175,000 from the employee development and training services program revenue appropriation to the general fund.

I am partially vetoing this provision because the funding supports the agency's successful Labor Management Cooperation project which coordinates training, workshops and forums focused on improved labor-management relations. The lapse would also create an unnecessary burden on the Office of State Employment Relations by reducing the resources available for these statewide employee training and development initiatives. The effect of this partial veto will be to maintain the current cash balance associated with this appropriation.

LEGISLATURE

23. Legislative Reference Bureau Assistance in Obtaining Federal Grants

Section 40m

This section assigns an employee of the Legislative Reference Bureau to work with state agencies and the federal government in an attempt to increase the amount of federal funds received by the state.

I am vetoing this section because it is unnecessary. The Legislature may assign work load to its staff as it sees fit. This assignment does not need to be done by a statutory provision.

PROGRAM SUPPLEMENTS

24. Joint Committee on Finance Emergency Supplemental Appropriation

Section 286 [as it relates to s. 20.865 (4) (a)]

This provision allocates funding for the supplemental appropriation of the Joint Committee on Finance. Included in this appropriation is \$352,200 GPR in each fiscal year that was added to the budget by the Legislature for unforeseen emergencies.

I find this amount to be excessive. By lining out the committee's s. 20.865 (4) (a) appropriation and writing in a smaller amount that deletes \$252,200 in each fiscal year, I am partially vetoing section 286 [as it relates to s. 20.865 (4) (a)]. I am also requesting the Department of Administration secretary not to allot these funds. This partial veto leaves \$100,000 GPR in each fiscal year for unforeseen emergencies.

SECRETARY OF STATE

25. Deputy Secretary of State

Sections 53m, 734e, 735e, 2398r and 9146 (1x)

These sections eliminate the position of deputy secretary of state.

I am vetoing these sections in order to retain statutory authority and position authorization for the deputy secretary of state. I object to the removal of this position

because I believe constitutional officers should be able to have deputies. This position is eligible to perform all of the duties of the Secretary of State, except membership on the Board of Commissioners of Public Lands, and is a sworn public officer as prescribed by Article IV, Section 28, of the Wisconsin Constitution.

VETERANS AFFAIRS

26. Veterans Tuition and Fee Reimbursement Schedule

Sections 1089g, 1092q, 1092r and 9358 (1f)

Current law provides participants in the Veterans Tuition and Fee Reimbursement Grant Program and Part-Time Study Grant Program a reimbursement rate of an amount not to exceed 85 percent of tuition and fees at Wisconsin four-year institutions and technical colleges. As a special benefit, disabled veterans participating in either program are eligible for an amount not to exceed 100 percent reimbursement of tuition and fees.

These provisions modify the Tuition and Fee Reimbursement Grant Program and Part-Time Study Grant Program to exclude fees and, instead, provide 100 percent tuition only to all veterans and reduce the 100 percent tuition plus fees benefit for disabled veterans. Section 1089g allows both nondisabled and disabled veterans who participated in the Veterans Tuition and Fee Reimbursement Program on a full-time basis before the effective date of the bill to receive an amount not to exceed 85 percent tuition plus fees, 100 percent tuition only or 100 percent tuition plus fees, whichever is greater (which always will be 100 percent of tuition plus fees). Section 1092q allows nondisabled veterans who participated in the Part-Time Study Grant Program before the effective date of the bill to receive an amount not to exceed 85 percent tuition plus fees or 100 percent tuition only, whichever is greater. The bill does not effectively provide a similar eligibility standard for disabled veterans who participated in the Part-Time Study Grant Program prior to the effective date of the bill. While this group of disabled veterans currently receives a rate of 100 percent tuition plus fees in the Part-Time Study Grant Program under current law, this group of disabled veterans would in the future receive the same lower reimbursement as new disabled enrollees – 100 percent of tuition only.

I strongly object to the changes in the reimbursement rate for a number of reasons. These changes will introduce unjustified inequities within the program between former veterans and future veterans. For example, veterans of Operation Desert Storm who are currently enrolled in the full-time program would be eligible to receive 100 percent tuition plus fees. However, veterans returning from Operation Iraqi Freedom would receive only 100 percent reimbursement of tuition. As a result, some of the men and women returning from service in Iraq would receive a lower level of reimbursement. Every veteran should be entitled to the same education benefits, whether they are from the current generation or past generations.

I also object to the use of 100 percent of tuition only as the standard for reimbursing veterans for educational expenses. Compared to the current standard of 85 percent of tuition and fees, the 100 percent of tuition-only standard would penalize some veterans who attend technical schools that rely less on tuition and more on fees.

Finally, I object to the reduction in the benefit for disabled veterans who enroll in the full-time program in the future, as well as the immediate repeal of the special benefit for both current and future disabled veterans who participate in the Part-Time Study Grant Program. This provision unfairly penalizes Wisconsin's disabled veterans and I am using my veto authority to remove it.

To restore a tuition reimbursement schedule that appropriately reflects the sacrifices of our fighting men and women, I am partially vetoing these provisions in a way that will place all veterans, past and future, disabled or not, on the same reimbursement schedule – 100 percent of tuition and fees for both the full tuition and part-time study grant programs. While it was not my original intent to increase reimbursement levels in this budget, I have little alternative but to exercise this partial veto in order to treat current and future veterans fairly and restore the special disabled veterans benefit eliminated by the Legislature.

This change in reimbursement levels may have a fiscal effect on the appropriations funding these benefits. I request the Department of Veterans Affairs secretary to evaluate these impacts and submit a request to the Legislature for supplemental funding as needed.

E. TAX AND FINANCE

REVENUE

1. Cigarette and Tobacco Excise Tax Refunds

Section 2057m

This provision reduces the rate of refunds to the tribes related to excise taxes on cigarettes sold to non-Native Americans from 70 percent to 30 percent.

I am vetoing this provision because it is an irresponsible action by the Legislature which may result in the loss of millions of dollars in revenue to the general fund. This provision would immediately abrogate a long-standing contract with Wisconsin's Native American tribes concerning the effective retail enforcement of the sale of tobacco products and cigarettes.

Before 1983, there was no agreement between the state and the Native American tribes regarding the collection of state excise taxes on cigarettes and tobacco products. Sales of these products were completely unregulated, creating serious enforcement and public health concerns.

The 1983-85 biennial budget created the refund provision to respond to these issues. The refund provision was enacted to encourage Native American retailers to sell only stamped cigarettes. In 1983, the cigarette tax was converted from an occupational tax to an excise tax to allow the state to impose the tax on sales of cigarettes made by Native Americans to non-Native Americans on reservations. The state then entered agreements with Native American tribes through which Native American retailers purchase and sell only stamped (taxed) cigarettes. The state then provides a refund to the tribes of 70 percent of the tax paid on sales to non-Native Americans and 100 percent of the tax paid on sales to Native Americans (federal law prohibits states from imposing a cigarette tax on sales by Native Americans to Native Americans on reservations). The net annual revenue to the state under these contracts is approximately \$18 million annually.

The Legislature's proposed abrogation of these contracts would result in serious financial and public health related consequences for the state. Without the contracts, the tribes could return to selling cigarettes and tobacco products without excise tax stamps affixed to the packages. The Department of Revenue would be forced to collect these revenues from each individual purchaser. Tracking every individual and collecting the legislatively mandated cigarette tax would be an enforcement nightmare. As a result, the short-term savings of \$6 million estimated by the Legislature could become an on-going \$18 million revenue loss to the state.

The Legislature's proposal also opens up the possibility of broader gray market sales or competitive tribal smoke shops. Not only does this undermine free market principles, it also creates an opportunity for unregulated sales of cigarettes to minors and young adults. This attempt to save a few million dollars could result in a public health disaster, reversing all of the recent gains in tobacco control efforts.

According to the Attorney General, the absence of enforcement brought on by this proposal would also open the state to the possibility of lawsuits from holders of tobacco bonds issued to securitize the state's share of the Master Settlement Agreement with the tobacco manufacturers. The Master Settlement Agreement requires that states maintain rigid enforcement mechanisms regarding the sale of cigarettes and tobacco products. The revenue estimates included in the agreement are predicated on certain assumptions that are tied to these enforcement measures. Reduced or nonexistent enforcement that would result from the abrogation of the excise tax agreement with the tribes would upset those assumptions and trigger immediate and massive lawsuits against the state for breach of contract.

This proposal puts Wisconsin at extreme risk. This is not the way to balance our budget. It's this type of short-sighted policy making that created the \$3.2 billion deficit in the first place.

2. Bad Debt Deductions Against Cigarette and Tobacco Products Taxes

Sections 2057v, 2058f and 9445 (1b)

These provisions allow cigarette and tobacco product wholesalers to claim as a deduction against excise taxes an amount equal to the taxes portion of a bad debt deducted under federal tax law.

I am vetoing these provisions because the proposed language draft is sufficiently flawed as to be unworkable. The proposal cannot be applied consistently. The tobacco products tax statute is specific to distributors, while the cigarette tax may include permittees other than distributors. The proposal lacks definitions that cannot be addressed by supplemental rules. Finally, it would be necessary to add personal liability to the cigarette and tobacco products tax statutes to allow the Department of Revenue to assess the debtor for the taxes owed to the state.

The proposal is better considered as separate legislation rather than in the budget.

3. Joint Committee on Finance Approval of Lottery Privatization

Sections 2630g, 2630h and 2631

These provisions require that privatization of the lottery can proceed only if the Joint Committee on Finance approves the contracts acting under s. 13.10.

I am vetoing these provisions since such detailed contract review is an unwarranted intrusion into the daily management of a state agency. They are also completely unnecessary. Section 565.25 (1m) of the statutes already provides standards for any potential private contract the lottery would consider. The statutes also specify requirements for contractor financial responsibility and prohibit conflicts of interest. Moreover, any contract for privatizing the lottery would have to address transition to operation of the lottery by a private entity.