

## C. HEALTH AND FAMILY SERVICES AND INSURANCE

### HEALTH AND FAMILY SERVICES

#### 1. Health Insurance Risk Sharing Plan (HIRSP) Privatization

*Sections 140 [as it relates to s. 20.145 (5)], 156w, 320p, 320r, 522c, 535m, 535p, 535r, 1286c, 1354L, 1406f, 2032m, 2033m, 2033r, 2034c, 2034m, 2035c, 2035m, 2036c, 2036m, 2037c, 2037m, 2038c, 2038m, 2039c, 2039m, 2040c, 2040m, 2041c, 2041m, 2042c, 2042m, 2043c, 2043m, 2044c, 2044m, 2045c, 2045m, 2046c, 2046m, 2047c, 2047m, 2048c, 2048m, 2049c, 2049m, 2050c, 2050m, 2051c, 2051m, 2052c, 2052m, 2053c, 2053m, 2054c, 2054m, 2055c, 2055m, 2056c, 2056m, 2057c, 2057m, 2058c, 2058m, 2059c, 2059m, 2060c, 2060m, 2061c, 2061m, 2062c, 2062m, 2063c, 2065, 2429c, 2429e, 2429g, 2429h, 2429j, 2429m, 2429p, 2429r, 9121 (13p), 9221 (3p), 9321 (4L), 9321 (4p), 9341 (19p) and 9421 (5p)*

These sections relate to the creation of a nonprofit organization with a 13-member board to operate the HIRSP insurance program for high-risk individuals, which is currently administered by the Department of Health and Family Services. The board would have responsibility for all functions related to HIRSP including: designing the benefit package; setting premiums, copayments and deductibles; and determining eligibility. The transfer of authority would be effective January 1, 2006. At that time, the program would no longer be attached to the Department of Health and Family Services for administration and oversight. Instead, the board would largely function independently with limited oversight provided by the Office of the Commissioner of Insurance, which would collect insurer assessments to transfer to the board and would ensure the board's benefit packages complied with general insurance laws.

I believe that turning to a nonprofit board to operate HIRSP, which is how many other states operate their high-risk pools, may be the appropriate approach for Wisconsin. However, I object to the proposal included in the budget because it provides almost unlimited authority to the board with extremely limited state oversight and inadequate protections for policyholders. I am, therefore, vetoing this proposal in its entirety to return to current law, but would support separate legislation in this area.

The proposal in the budget has several weaknesses. First, it would change the current residency requirement from 30 days to six months; thus delaying the ability of policyholders to obtain needed medical services. Second, the language would remove the list of HIRSP benefits from current law and, instead, allow the board broad discretion to define, modify or eliminate benefits. Third, under current law, low-income deductible subsidies are funded 50 percent by insurers and 50 percent by medical providers. The proposal changes this to a split of 60 percent paid by the participant, 20 percent paid by insurers and 20 percent by providers. This shift will cost policyholders an additional \$3.5 million per year. This added policyholder cost is on top of what they already pay for health insurance, with a typical policyholder annual cost of over \$8,000 per year for individual coverage.

HIRSP is highly regulated through Wisconsin Statutes and Administrative Rules and critics of the program contend the program needs greater flexibility to operate more like

a commercial insurer. While this contention has merit, the proposal goes too far in terms of relinquishing state oversight and protections for policyholders.

I am willing to work with legislators and HIRSP stakeholders to develop separate legislation for consideration during the fall 2005 legislative session. Separate legislation should, among other issues, address oversight of benefit plans and premiums and deductibles.

## **2. Authority to Transfer from the General Fund to Other Funds (Medical Assistance Trust Fund and Budget Stabilization Fund)**

### *Sections 9255 (1) (b) and 9255 (2)*

These provisions specify that the Department of Administration secretary may not lapse or transfer monies to the general fund from a specified list of program revenue appropriations if such lapses or transfers would be a violation of the federal or state constitution. These provisions also require a specified amount of funding be transferred from the general fund to the taxpayer protection fund (renamed in the bill from the budget stabilization fund).

I am partially vetoing the first part of these provisions because they include unnecessary and redundant language. Clearly, lapses or transfers that violate the Wisconsin Constitution or U.S. Constitution will not be authorized.

In the bill, it is assumed that \$36 million from the sale of state-owned properties would be deposited in the general fund to offset the transfer of general fund revenues to the renamed budget stabilization fund. I am vetoing the transfer of revenues from the general fund to the taxpayer protection fund because these revenues need to be retained in the general fund in order to protect public education and property taxpayers.

The bill also assumed that the net proceeds from any sale of state-owned properties in excess of \$36 million would be deposited into the budget stabilization fund. This language was eliminated in the veto under the State Government Operations Section, Budget Management, Item #3 which, among other things, reversed the renaming of the budget stabilization fund.

Despite the veto of this language, my Administration remains committed to managing state properties effectively and selling state-owned property to improve the fiscal stability of the state. In partially vetoing this section, the remaining language will authorize the Department of Administration secretary to transfer revenue from the general fund to any appropriation account or fund. With this authority, I am requesting the Department of Administration secretary to transfer the net proceeds from the sale of unneeded state-owned properties in excess of \$36 million into the budget stabilization fund.

With this same authority, I am requesting the Department of Administration secretary to transfer \$235,449,000 in fiscal year 2005-06 from the general fund to the Medical Assistance trust fund to be used for ongoing Medical Assistance expenditures. While this amount is \$32,609,100 less than the amount transferred by the Legislature, I am directing the Department of Health and Family Services secretary to seek out opportunities to maximize federal revenues for the Medical Assistance program. This

transfer, combined with the veto to restore the transfer of revenue from the transportation fund to the general fund (see Environmental and Commercial Resources Section, Transportation, Item #35), will provide greater flexibility for financing the state's commitment to public education and health care for elderly, disabled and low-income families.

The Department of Health and Family Services currently has several projects under development to increase federal revenue for the Medical Assistance program, and these projects will be put forth when the appropriate federal and state approvals are secured. In addition, the secretary should continue to develop program improvements and reforms to contain costs in both this biennium and in the long run. The department has made great strides to lower the costs of prescription drugs and additional cost containment options continue to be developed. The department is committed to expanding use of community-based, long-term care services shown to reduce costs compared to nursing homes, and to continue to expand the use of managed care to serve both low-income families and persons with disabilities. All of these efforts will help ensure that the growth rate for Medical Assistance is contained.

Moreover, there are reasons to expect that costs in the Medical Assistance program will be lower in the next biennium. The state's seasonally-adjusted unemployment rate has dropped below five percent, and historical data shows that the Medical Assistance caseload drops shortly after unemployment drops below this threshold. In addition, Wisconsin continues to see gains in wages and employment that also will reduce pressure on the Medical Assistance caseload.

### **3. Nursing Home Bed Assessment – GPR-Earned Revenues**

#### *Sections 537, 1222m and 1223*

These sections specify that all revenue collected from an assessment on licensed nursing home beds should be deposited in the Medical Assistance trust fund. Under current law, \$13,800,000 of these revenues in fiscal year 2004-05 were deposited in the general fund, and in future fiscal years, 45 percent of the total revenues from this assessment would be returned to the general fund.

I am partially vetoing these sections because I object to changing the existing arrangement under which a portion of the assessment revenues is returned to the general fund. This veto maintains the requirement that \$13,800,000 in assessment revenues will be returned to the general fund each year, thereby reducing revenues in the trust fund by a corresponding amount. I am, therefore, directing the Department of Health and Family Services secretary to develop new programs and opportunities that will enhance revenues and decrease expenditures in the trust fund to offset the reduced revenues from this veto.

#### **4. Nursing Home Rate Increase**

##### *Section 140 [as it relates to s. 20.435 (4) (b)]*

This provision increases reimbursement rates for nursing home services by an estimated 1.4 percent in each year of the biennium. I had recommended the same rate increase in my budget proposal, but funded this rate increase with an increased assessment on licensed nursing home beds. The assessment would have generated over \$67 million in new federal funding over the biennium. This new federal funding made such a rate increase affordable, but the Legislature's budget instead diverts scarce GPR dollars from property tax relief.

I am lining out the appropriation under s. 20.435 (4) (b) and am writing in a smaller amount that deletes \$5,141,700 GPR in fiscal year 2005-06 and \$10,118,000 GPR in fiscal year 2006-07. 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.

I continue to favor a \$50 increase in the monthly assessment levied on licensed nursing home beds and would support separate legislation that implemented a \$50 increase in the assessment. Such a proposal would provide for a larger rate increase than funded by this provision, and capture additional federal funds.

#### **5. Community Relocations Initiative**

##### *Sections 869 and 9121 (12r)*

Section 869 specifies that the Department of Health and Family Services can only relocate a Medical Assistance eligible individual from a nursing home to a community care setting in cases where the individual has resided in a nursing home for at least 100 days. Section 9121 (12r) requires the department to submit a report to the Joint Committee on Finance by January 1, 2007, identifying the effects of the Governor's Community Relocations Initiative.

I am partially vetoing section 869 to delete the 100-day stay requirement because it would force individuals in need of long-term care services to remain in a nursing home for at least three months, even in cases when they could be placed in a community care setting long before the 100-day waiting period has expired. Since the intent of the Community Relocations Initiative is to prevent long-term institutional stays, I am directing the department to develop policies which will prevent individuals from entering a nursing home for the sole purpose of obtaining a community placement.

I am vetoing section 9121 (12r) because the department already has to meet significant reporting requirements related to the Community Integration Program II as part of its statutory obligations. Information about the Community Relocations Initiative can be included in existing reporting requirements and does not require a separate report.

**6. Functional Screen**

*Sections 1132f and 1217r*

These provisions restrict the Department of Health and Family Services from using the long-term care functional screen to determine levels of care for nursing home residents and to set Medical Assistance reimbursement rates for nursing homes.

I am vetoing these provisions because I object to a permanent statutory ban on the use of the functional screen to determine levels of care for nursing home residents and to set reimbursement rates for nursing homes. The department will initially use the federal Minimum Data Set for data for level of care determinations rather than the functional screen. However, as the state continues to develop innovative ways to deliver long-term care services in a cost-effective manner, the functional screen could prove to be an important tool in establishing a single standard for measuring levels of care and determining reimbursement rates across all service delivery models in the future.

**7. Nursing Home Reimbursement Rates**

*Section 1128m [as it relates to identifying payments to nursing homes]*

This section directs the Department of Health and Family Services to identify the extent to which payments are made to nursing homes for direct care nursing services.

I am partially vetoing this section because there is no need for a permanent statutory requirement of this sort. The department can provide this information as part of its regular communications with the nursing home industry.

**8. Pharmacy Reimbursement – Rates for Brand Name Prescription Drugs**

*Section 140 [as it relates to s. 20.435 (4) (b), (bc) and (bv)]*

This provision maintains funding for a pharmacy reimbursement rate for brand name drugs at the average wholesale price (AWP) minus 13 percent. I had proposed a rate more aligned with prices paid by other insurers and purchasers of prescription drugs, at AWP minus 16 percent. The Legislature restored the funding and thus increased pharmacy reimbursement in the Medical Assistance, BadgerCare and SeniorCare programs.

Numerous independent reports have highlighted two problems with Wisconsin's reimbursement system for brand name drugs. First, the rate Wisconsin pays pharmacies for these drugs is significantly higher than pharmacies' acquisition costs. A 2004 report by the U.S. Office of the Inspector General found the average acquisition cost to pharmacies for single source innovator drugs is AWP minus 17.2 percent, 4.2 percentage points higher than what Wisconsin reimburses pharmacies for these drugs.

Second, the AWP-based system has been repeatedly shown to be an ineffective tool, easily manipulated by manufacturers. Wisconsin needs to eliminate the use of an

AWP-based reimbursement rate and develop a methodology that is not only fair to pharmacies, but also provides the Medical Assistance program with a reasonable price. I am, therefore, directing the Department of Health and Family Services secretary to develop a new reimbursement system for consideration in the 2007-09 biennial budget.

I am lining out the Medical Assistance benefits appropriation under s. 20.435 (4) (b) and am writing in a smaller amount that deletes \$2,270,300 GPR in fiscal year 2005-06 and \$3,430,900 GPR in fiscal year 2006-07. I am also lining out the BadgerCare benefits appropriation under s. 20.435 (4) (bc) and am writing in a smaller amount that deletes \$234,100 GPR in fiscal year 2005-06 and \$386,400 GPR in fiscal year 2006-07. Finally, I am lining out the SeniorCare benefits appropriation under s. 20.435 (4) (bv) and am writing in a smaller amount that deletes \$1,416,900 GPR in fiscal year 2005-06 and \$2,202,700 GPR in fiscal year 2006-07. By lining out the appropriations under s. 20.435 (4) (b), (bc) and (bv) and writing in smaller amounts, I am vetoing the additional GPR in the bill that was added by the Legislature to increase the reimbursement for brand name drugs to AWP minus 13 percent. I am also requesting the Department of Administration secretary not to allot these funds. This veto will reduce the reimbursement rate for prescription drugs to AWP minus 16 percent.

## **9. Pharmacy Reimbursement – Dispensing Fees**

### *Section 140 [as it relates to s. 20.435 (4) (b), (bc) and (bv)]*

This provision maintains funding for a pharmacy dispensing fee of \$4.38 per prescription. As with the reimbursement rate for brand name drugs, I had proposed a dispensing fee more aligned with prices paid by other purchasers of prescription drugs. My budget reduced the fee to \$3.88 per prescription. The Legislature restored the funding and thus reversed the decrease in the dispensing fee paid under the Medical Assistance, BadgerCare and SeniorCare programs.

I am lining out the Medical Assistance benefits appropriation under s. 20.435 (4) (b) and am writing in a smaller amount that deletes \$613,100 GPR in fiscal year 2005-06 and \$865,900 GPR in fiscal year 2006-07. I am also lining out the BadgerCare benefits appropriation under s. 20.435 (4) (bc) and am writing in a smaller amount that deletes \$57,800 GPR in fiscal year 2005-06 and \$89,200 GPR in fiscal year 2006-07. Finally, I am lining out the SeniorCare benefits appropriation under s. 20.435 (4) (bv) and am writing in a smaller amount that deletes \$648,900 GPR in fiscal year 2005-06 and \$925,400 GPR in fiscal year 2006-07. By lining out the appropriations under s. 20.435 (4) (b), (bc) and (bv) and writing in smaller amounts, I am vetoing the additional GPR in the bill that was added by the Legislature to restore the dispensing fee to \$4.38 per prescription. I am also requesting the Department of Administration secretary not to allot these funds. This veto will reduce the dispensing fee paid to pharmacies by \$0.50 from \$4.38 to \$3.88 per prescription.

**10. Prohibition Against Limitations on Reimbursement for Psychotropic Medications**

*Section 9121 (14k)*

This section prohibits the Department of Health and Family Services from imposing any limitations on reimbursement under the Medical Assistance, BadgerCare or SeniorCare programs for psychotropic medications, other than stimulants and related agents or selective serotonin reuptake inhibitors, which are prescribed to treat a mental illness. I am vetoing this section because I object to this limitation on the department's ability to manage costs, particularly with respect to managing use of the most expensive class of drugs available under these programs.

The department, through its new Prior Authorization Advisory Committee, has taken great care in establishing an open, evidence-based process through which all prescription drugs can be evaluated for the implementation of reasonable, cost-saving policies. Moreover, in prohibiting any new limitation on reimbursement, the language would prevent the application of a lower average wholesale price discount as directed by the veto on the reimbursement rate for brand name prescription drugs (see Item #8). If this section were retained, it would increase costs in these programs by millions of dollars, diminishing the ability of the state to finance other vital health care services under Medical Assistance.

**11. Report on Physician Prescribing Practices**

*Section 9121 (14p)*

This section requires the Department of Health and Family Services to submit by January 1, 2006, to the Joint Committee on Finance and appropriate standing committees of the Legislature, a report detailing the prescribing practices of every physician who is a certified Medical Assistance provider. The report specifically should identify: (a) the percentage of prescriptions written for generic drugs and for brand name drugs; (b) the number and percentage of prescriptions requiring prior authorization; and (c) the number of prescriptions for brand name drugs when there is a generic available.

I am vetoing this section because it creates an onerous reporting requirement and will not result in interpretable data that could be used for meaningful policymaking purposes. Some physicians may simply work in specialties where there are not many generic drugs available to treat their patients. The department already collects data, which is used both in prospective and retrospective drug utilization review, to ensure that prescriptions are appropriate and cost-effective. Given the unclear need for this additional data, I am vetoing the reporting requirement.

**12. Report on Capping the Number of Brand Name Prescription Drugs**

*Section 9121 (13n)*

This section requires the Department of Health and Family Services to deliver a report to the Joint Committee on Finance by July 1, 2006, which analyzes the fiscal impacts of

restricting the number of brand name drugs a Medical Assistance, BadgerCare or SeniorCare recipient receives in a given month. The report would identify both savings to the state and costs incurred by the department in implementing this policy. I am vetoing this section because it creates an unnecessary reporting requirement.

More importantly, I do not wish to have the department spending its time analyzing proposals that are poor fiscal and bad public policy. Such arbitrary restrictions to the access of medical services would have a disproportionate impact on those persons who are most vulnerable and most in need of services from the Medical Assistance program – persons with cancer, acquired immunodeficiency syndrome or mental health issues. States that have implemented similar caps have not demonstrated these policies generate any significant savings and may actually increase costs by exacerbating medical problems experienced by the chronically ill.

### **13. Generic Drug Copayments**

*Sections 1144p, 1184c, 9321 (9w) and 9421 (11w)*

These sections increase the copayment charged to recipients under Medical Assistance and BadgerCare for generic prescription drugs from \$1 to \$3, the maximum allowed under federal law. This copayment level is also the same as the copayment required for brand name prescriptions. This section was passed with the intention of reducing expenditures under Medical Assistance and BadgerCare by \$1,807,600 in fiscal year 2005-06 and \$2,530,600 in fiscal year 2006-07.

I am vetoing this section because it will actually increase, not decrease costs. The bedrock of the pharmacy program is the department's efforts to encourage the use of generic drugs, which save the state tens of millions of dollars every year. However, if recipients are required to pay the same copayment for generic drugs as for brand name drugs, they will have no incentive to use the less costly prescriptions. The department projects that this policy shift would increase the use of brand name medications, causing Medical Assistance and BadgerCare expenditures to rise by over an estimated \$9 million in fiscal year 2005-06 alone.

### **14. Outpatient Hospital Reimbursement Rates**

*Section 140 [as it relates to s. 20.435 (4) (b)]*

This provision increases reimbursement rates for hospital services provided on an outpatient basis by \$2,500,000 GPR in each fiscal year, an estimated five percent increase. I am lining out the appropriation under s. 20.435 (4) (b) and am writing in a smaller amount that deletes \$2,500,000 in each year of the biennium. The state cannot afford this level of rate increase. Furthermore, providing hospitals a rate increase while all other providers have gone without increases for years is simply not fair. 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.



## **15. Essential Access City Hospital Payments**

*Sections 1135c, 1135d and 1135e*

These sections modify current law provisions that govern the distribution of the essential access city hospital (EACH) supplemental hospital payment under Medical Assistance effective July 1, 2007. The intent of this provision is to expand the number of hospitals that qualify for this supplemental payment. Under current law and the existing Medical Assistance state plan, only one hospital qualifies for this supplemental payment.

While I support the intent of helping inner city hospitals with a large volume of Medical Assistance recipients, I am vetoing these sections because they create an unfunded, advance commitment for the 2007-09 biennium. If the Legislature wants to change the qualifying criteria for this supplement to increase the number of hospitals that qualify, it should provide the funding to do so. Otherwise, this provision would either exacerbate the structural deficit going into the next biennium or it would result in a cut to the hospital currently receiving this supplemental payment. Therefore, I am removing this advance commitment. I support reviewing this item in a thoughtful and comprehensive manner which includes funding options that can be best addressed as part of the next biennial budget.

## **16. Bariatric Surgery Prohibition**

*Sections 1146j, 1157j and 9321 (9q)*

These sections eliminate the coverage of bariatric surgery under the Medical Assistance and BadgerCare programs.

I am vetoing these sections because current state law strictly limits the availability of this service to a medical emergency. Prior authorization requirements recently enacted by the Department of Health and Family Services make certain that the service is only used when there is a direct and immediate medical threat to the patient, ensuring the procedure is truly a treatment of last resort. Coverage of the surgery is limited to participants who are morbidly obese, have failed with other weight loss treatments, have a documented commitment to adhere to a weight management program, and are diagnosed with comorbidity medical conditions that have not responded to treatment and threaten the patient's life. Further, medical professionals should decide what is a medically necessary procedure. It is not surprising that the only physician, in the Legislature voted against this provision.

I am directing the Department of Health and Family Services secretary to strictly adhere to the existing statutory limitation of only providing this service in the case of a documented medical emergency.

**17. Actuarial Soundness of Health Maintenance Organization Reimbursement Rates**

*Section 1124g*

This section requires the Department of Health and Family Services to provide reimbursement for services provided by health maintenance organizations to Medical Assistance or BadgerCare recipients through capitation rates that are actuarially sound.

I am vetoing this section because it unnecessarily duplicates federal law in state law. The redundant requirements would not change the contracting process the department uses to establish reasonable reimbursement rates for prepaid health providers, a process already required in order to qualify for federal Medical Assistance funding. Furthermore, the provisions could create confusion in the future if federal laws were to change, but corresponding changes to state law were not enacted.

**18. Family Planning Funding Preference**

*Sections 2133c, 2133f, 2133i, 2133L, 2133n and 2133p*

These sections require the Department of Health and Family Services to give preference to local public health departments and tribal health centers in awarding state and federal family planning funds. These funds are currently distributed through a competitive process.

I am vetoing these sections because this method of procurement will politicize the distribution of these funds and increase the likelihood that access to vital family planning services will be restricted. Thousands of low-income women rely on these services for their health care. This provision risks compromising the health status of these women and their families.

**19. Foster Care Rates**

*Section 951d*

This section reduces my proposed increase in monthly foster care rates by 50 percent in fiscal years 2005-06 and 2006-07.

I am partially vetoing this section because I object to the rate increase provided by the Legislature. Wisconsin has the lowest basic foster care rate in the Midwest. Monthly foster care rates have not been increased since 2001 making it difficult to recruit and retain foster families to provide care for our state's most vulnerable children. The effect of this partial veto will be to create a five percent increase in monthly foster care rates beginning January 1, 2006. The five percent increase will remain in effect for the remainder of the biennium to enhance the recruitment and retention of quality foster families.

**20. Termination of Parental Rights Warning in Subsidized Guardianships**

*Section 926*

This section requires the juvenile court to verbally notify parents of the grounds for termination of their parental rights, as well as the conditions necessary for their child to be returned home when the court appoints a subsidized guardian for the child. The section also permits the court to terminate the parental rights of a parent who has been so notified if the parent fails to visit or communicate with the child for at least a three month period.

I am vetoing this section because it is unnecessary and burdensome on the juvenile court and may discourage prospective guardians and parents from pursuing guardianship. Current law will still permit courts to terminate parental rights in guardianship cases if a parent has had no contact with the child for six months or longer and termination of parental rights is in the best interests of the child.

**21. Bureau of Milwaukee Child Welfare Report on Caseworker Retention**

*Section 9121 (12d)*

This provision requires the Department of Health and Family Services to submit a report to the Joint Committee on Finance by January 1, 2006, concerning caseworker retention activities conducted by the Bureau of Milwaukee Child Welfare. The report must include results of a review of caseworker turnover conducted by the Child Welfare League of America.

I am vetoing this section because an additional report on caseworker retention is unnecessary. Two reports have already been completed on caseworker retention indicating the need for salary adjustments and additional training. The Joint Committee on Finance removed the \$841,500 funding per fiscal year I provided to support these recommendations and, instead, substituted a requirement for an additional report. The removal of funding is a setback for children who endure longer stays in out-of-home care when their caseworkers leave.

**22. Study of Funding Options for Refugee Family Strengthening Project**

*Section 9121 (13f)*

This provision requires the Department of Health and Family Services, in consultation with project funding recipients, to submit a report by January 1, 2006, to the Joint Committee on Finance. The report is to identify alternative funding sources for the Refugee Family Strengthening Project.

I am vetoing this section because a report on funding alternatives is unnecessary. I support the goal of identifying alternative funding sources for the Refugee Family Strengthening Project and am requesting the department to develop such options.

**23. Study of Evidence-Based Practices**

*Section 9121 (13g)*

This section directs the Department of Health and Family Services to submit a report to the Legislature by December 31, 2006, regarding how evidenced-based practices in substance abuse and mental health treatment are determined for the purposes of awarding grants for county substance abuse and mental health treatment programs.

I am vetoing this section because requiring the report is unnecessary. I support the goal of identifying sound evidenced-based practices for substance abuse and mental health treatment and am requesting the department continue its work in this area.

**24. Supplemental Security Income Benefits Appropriation**

*Sections 140 [as it relates to s. 20.435 (7) (ed)], 331f and 1188d*

Sections 140 and 331f change the existing supplemental security income benefits appropriation from a sum sufficient appropriation to a sum certain appropriation. Section 1188d permits the Department of Health and Family Services to request additional funding from the Joint Committee on Finance for this appropriation if budgeted funding is insufficient to meet caseload demand.

I am partially vetoing section 140 and vetoing section 331f because keeping the appropriation as a sum sufficient will give the department the maximum possible flexibility in managing this program. I am vetoing section 1188d because this provision is unnecessary if the appropriation is maintained as a sum sufficient.

**25. Supplemental Security Income Managed Care Expansion Reporting Requirement**

*Section 9121 (13w)*

This section instructs the Department of Health and Family Services to submit a report to the Joint Committee on Finance by January 1, 2007, regarding the progress of the Supplemental Security Income managed care expansion.

I am vetoing this section because the department can respond to requests for information related to this program without being directed to do so in the statutes.

**26. Health Care Information Study and Reports**

*Sections 2067g, 9101 (6) and 9101 (7q)*

Section 9101 (6) requires the Department of Health and Family Services to study the feasibility of creating a centralized physician information database through a public and private sector cooperative effort. The department is required to submit this report to the Joint Committee on Finance by March 1, 2006.

I am partially vetoing the requirement that the study of this issue, which is already ongoing, be submitted to the Joint Committee on Finance in March 2006 because it is unnecessary. I am retaining the language directing the department to study this issue because pursuing a collaborative arrangement with the private sector to provide useful health care information is very important to all purchasers and providers of health care.

Sections 2067g and 9101 (7q) require the department to address deficiencies identified in a Legislative Audit Bureau report on the physicians office visit data program and report its progress in implementing the recommendations to the Joint Committee on Finance and Joint Legislative Audit Committee by November 30, 2005.

I am vetoing section 9101 (7q) to delete the reporting requirement to both committees because it is unnecessary. The Joint Legislative Audit Committee already has the authority to request the department to report to the committee. I am also vetoing section 2067g, which contains the specific items that the department should fix, because further legislative direction is unnecessary. The department is aware of the problems that need to be corrected and has already committed to making improvements.

## **27. Joint Services Study**

### *Sections 1225m and 9121 (12q)*

These sections require the Departments of Corrections, Veterans Affairs, and Health and Family Services to jointly develop a plan that analyzes how certain functions, such as personnel and groundskeeping, can be shared between the agencies at the Northern and Southern Centers for the Developmentally Disabled. The report would be submitted to the Joint Committee on Finance by December 31, 2005.

I am vetoing these sections because they are unnecessary. These agencies have already begun working with the Department of Administration to address the consolidation of services at these Centers.

**D. JUSTICE**

**CIRCUIT COURTS**

**1. Register in Probate Copy Fee**

*Section 2448m*

This section increases the per page copy fee charged by the register in probate from \$1 to \$1.25.

I am vetoing this section because I object to the increased fee charged to individuals who access register in probate services through their county court system. The effect of this veto is a return to current law with the per page copy fee of \$1.

**CORRECTIONS**

**2. Pilot Program for Pharmaceutical Contracting**

*Section 9109 (2q)*

This section requires the Department of Corrections to create a pilot program under which a private contractor would supply and distribute pharmaceuticals at one of the department's adult institutions if the contract would result in cost savings.

I am partially vetoing this section to allow the pilot to be operated at more than one institution. I am committed to lowering health care costs in the prison system and want to provide the department with the flexibility to achieve greater cost savings.

**3. Study of Funding for Long-Term Care Inmates**

*Section 9109 (3q)*

This section requires the Department of Corrections to submit to the Legislature by June 30, 2006, a report on the cost reductions for the care of inmates who are not a threat to the community and who require extended nursing care. The study would examine the possibility of using other revenues to pay for the care of such inmates in a setting other than a conventional facility infirmary.

I am partially vetoing this section to remove the reporting date. I support the intent of the Legislature to control the costs of prison health care, but want to ensure the department has the time it needs to carefully consider the use of other revenues and the ramifications of placing inmates in the community before they have fully served their sentences.

#### **4. Facilities Study**

##### *Section 9105 (14x)*

This section requires the Building Commission and the Department of Corrections to prepare or contract for the preparation of a strategic plan for state correctional facilities through 2016. The plan must include all of the following:

- An evaluation of the physical condition; security; environmental; health and safety concerns; and housing, program and food service capacity of each correctional institution.
- A determination of the operating capacity of the state's correctional system based on the mission of the Department of Corrections; appropriate space occupancy guidelines; model operating capacities that account for inmate security classification, gender, age, health condition, programmatic needs and length of incarceration; a comparison of the guidelines and models with current conditions at correctional institutions; and the optimal design and operational system for each correctional institution.
- A determination of the operating capacity shortfall within the state correctional system through 2016.
- Recommendations for building projects and budgets, and the potential use of out-of-state and county jail bed contracts to address any identified operating capacity shortfalls within the correctional system.

The section specifies that the Building Commission pay for the cost of the study and submit the results to the Governor and the Legislature by September 1, 2007.

I am vetoing this section because it is unnecessary. The Department of Corrections and the Department of Administration are already working on a strategic plan for correctional facilities. I am requesting that the departments continue their efforts in preparation for the next budget.

#### **5. Unit Supervisors**

##### *Section 2221m*

This section prohibits the Department of Corrections from employing a unit supervisor or a person having comparable duties to supervise correctional institution security staff unless the person directly reports to the institution's security director.

I am vetoing this section because I object to the limits it places on the department's ability to manage correctional institutions. These positions improve the department's ability to effectively manage program costs and corrections populations by coordinating inmate security, health care, mental health, food service, maintenance and programming.

## **6. Contract Bed Funding**

### *Section 140 [as it relates to s. 20.865 (4) (a)]*

This section includes \$3,000,000 GPR in the Joint Committee on Finance's supplemental appropriation for additional prison contract beds in fiscal years 2005-06 and 2006-07.

I am vetoing this section because I object to placing the additional funding in the Joint Committee on Finance appropriation. There is sufficient funding in the Department of Corrections for prison contract beds in the biennium. I am lining out the appropriation under s. 20.865 (4) (a) and writing in a smaller amount that deletes \$1,500,000 in each fiscal year. I am also requesting the Department of Administration secretary not to allot these funds.

## **7. Sale of Inmate Products**

### *Sections 2239m, 2240g and 2240r*

These sections authorize the Department of Corrections to sell products produced by state correctional inmates on the open market if the products are produced as part of a technical college course provided to inmates. The provision also eliminates the requirement that products manufactured by state correctional inmates as part of vocational training may only be offered for sale on the open market if the purpose of the sale is to support the institution's or agency's mission or is for some other charitable purpose and the sale has been approved by the Prison Industries Board.

I am vetoing these sections because I object to changing the current law approach to the sale of inmate-produced products. This reduced regulation and oversight of the sale of products made with inmate labor could prove detrimental to private business, industry, and labor in Wisconsin. The Prison Industries Board, which includes representatives from private business, should set policy regarding the impact of inmate-produced products on businesses and industries.

## **8. Juvenile Correctional Facility Cost Reduction**

### *Section 9109 (1e)*

This section requires the Department of Corrections to submit a plan to close one secured correctional facility for juveniles or achieve operational savings sufficient to reduce the daily rate for secured correctional facility care in fiscal year 2006-07 to \$187, which was the daily rate for fiscal year 2004-05. The provision specifies that the plan must be submitted to the Joint Committee on Finance by March 1, 2006, and is subject to a 14-day passive review process.

I am partially vetoing this section because I object to requiring the department to make reductions to reach an arbitrary number. The effect of this veto will be to remove the requirement that the plan be submitted by March 1, 2006, and to remove the requirement that the reductions restore the daily rate to \$187. Given the current juvenile



population, closing an institution is not possible at this time. However, I am asking the department to provide information to the Legislature by January 2007 on the costs of operating juvenile correctional facilities and realistic reductions in operational costs that could be made in the future. The development of the report will allow the department to engage stakeholders in a discussion of these issues.

## **9. Juvenile Correctional Services Deficit**

### *Sections 295g, 295h, 2210m and 9409 (1x)*

These provisions require all of the following:

- The Department of Corrections, prior to the end of each odd-numbered year, to estimate unexpended revenues, less encumbrances, that will remain in the juvenile correctional services appropriation on June 30 of that year. If the estimated balance is projected to be negative, the Department of Administration must include the amount of the estimated deficit in the cost basis for the calculation of the proposed secured correctional facilities daily rates for the subsequent biennium.
- The Department of Administration to include 50 percent of any projected deficit in the cost basis for the calculation of daily rates for each year of the subsequent biennium, and the Department of Administration secretary to reserve, for the purpose of retiring the deficit, the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated 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.

I am vetoing sections 295h and 2210m and partially vetoing sections 295g and 9409 (1x) as these sections relate to future juvenile correctional services deficits to maintain the department's flexibility to effectively manage juvenile programs. These provisions would place an undue burden on counties by requiring the Department of Corrections to charge counties to recover deficits in the appropriation.

## **10. Youth Diversion Program in Ward 3 in the City of Racine**

### *Section 88p*

This provision directs the Department of Corrections to allocate \$100,000 in fiscal years 2005-06 and 2006-07, funded from penalty assessment receipts administered by the Department of Justice for the purposes of entering into a contract with an organization in Ward 3 in the city of Racine to provide services in Racine County to divert youths from gang activities.

I am partially vetoing this provision because I object to limiting the receipt of funding to a single ward in an individual city. Instead, these funds should be accessible to organizations across the state that have identified youth diversion as a priority. The goals of youth diversion are important to Wisconsin, and my veto retains the additional \$100,000 for these purposes.

## JUSTICE

### 11. County Law Enforcement Services Grant

#### *Section 140 [as it relates to s. 20.455 (2) (kq)]*

This section authorizes \$1,000,000 in PR-S funds for the county law enforcement services grant administered by the Department of Justice. This program is one of three that provides grants for law enforcement to counties and tribes. The county law enforcement services grant is available to any county that borders one or more federally recognized Indian reservations and has not established a cooperative county-tribal law enforcement plan under the separate Department of Justice grant program.

I am partially vetoing section 140 [as it relates to s. 20.455 (2) (kq)] because I object to the excessive increase in funding for this program over current levels. By lining out the department's appropriation under s. 20.455 (2) (kq) and writing in a smaller amount that deletes \$450,000 PR-S in each fiscal year, I am maintaining current funding levels for the program in addition to funding a new earmark of \$300,000 for Forest County. I am also requesting the Department of Administration secretary not to allot these funds.

### 12. Drug Law Enforcement and Crime Laboratories Appropriations Lapse

#### *Section 9229 (2k)*

This provision requires all unencumbered balances exceeding \$175,000 in the appropriations related to drug law enforcement and crime laboratories be lapsed to the general fund for fiscal years 2005-06 and 2006-07.

I am partially vetoing this provision because I object to the unjustified retention of \$175,000 in each fiscal year in the related appropriations. My veto lapses all unencumbered balances at the end of fiscal years 2005-06 and 2006-07 and contributes additional money to the general fund.

## OFFICE OF JUSTICE ASSISTANCE

### 13. Interagency and Intra-Agency Aids Appropriation

#### *Section 415x*

This section repeals the interagency and intra-agency aids appropriation of the Office of Justice Assistance. This appropriation is authorized to receive money from other appropriation accounts of the Department of Administration and from other state agencies and to use those monies for aids to individuals or organizations.

I am vetoing this section because I object to this infringement on executive branch authority to manage programs. The Office of Justice Assistance's mission is to provide financial resources to state agencies, local governments and private nonprofit organizations that are committed to improving Wisconsin's justice system. This is a



## E. STATE GOVERNMENT OPERATIONS

### BUDGET MANAGEMENT

#### 1. Lapse to General Fund

*Sections 9255 (1) (title) and 9255 (1) (a)*

This nonstatutory provision directs the Department of Administration secretary to lapse certain dollar amounts from specific agency appropriations to the general fund.

In light of other vetoes, this provision is not broad enough to fully lapse all required funds from the agencies. I am, therefore, partially vetoing this provision to increase the total lapse amount to \$71,234,800 over the biennium. This revised lapse amount will allow the Department of Administration secretary to lapse not just the original program revenue lapses (\$34,125,500) in the provision, but also to capture the lapse related to the elimination of attorney positions (\$724,900), the savings related to my Accountability, Consolidation and Efficiency (ACE) initiative (\$35,500,000), and the lapse related to land information aids (\$884,400).

Lapses related to the ACE initiative will be identified as that initiative is implemented over the course of the 2005-07 biennium. Similarly, the vacant attorney positions will not be eliminated until June 30, 2007, and, consequently, lapse amounts cannot be immediately assessed to agencies. Further guidance to agencies will be provided in the upcoming months that will help them plan for these lapses.

Consistent with the program revenue lapse amounts in this provision, I am directing the Department of Administration secretary to lapse the following amounts per agency per year:

	Agency	2005-06 Fiscal Year	2006-07 Fiscal Year
20.505	Administration, Department of		
(1)(iu)		\$21,700	\$0
(1)(ka)		35,900	0
(1)(kc)		1,818,900	0
(1)(kL)		7,500,000	0
(1)(ke)		427,100	0
(4)(hc)		36,800	0
(4)(k)		150,000	0
(5)(ka)		5,453,600	0
(5)(kb)		1,250,000	0
(8)(h)		56,700	0
(8)(j)		100,000	0

	Agency	2005-06 Fiscal Year	2006-07 Fiscal Year
20.115 (1)(j)	Agriculture, Trade and Consumer Protection, Department of	325,000	0
20.433 (1)(g)	Child Abuse and Neglect Prevention Board	35,700	35,700
20.143 (1)(gm)	Commerce, Department of	25,100	25,100
(3)(ga)		24,600	24,600
(3)(j)		1,353,600	1,428,700
20.507 (1)(h)	Commissioners of Public Lands, Board of	60,800	60,800
20.435 (6)(jm)	Health and Family Services, Department of	250,000	250,000
(8)(kx)		151,800	278,300
20.145 (1)(g)	Insurance, Office of the Commissioner of	1,538,300	3,038,300
20.455 (1)(km)	Justice, Department of	133,100	133,100
20.255 (1)(hg)	Public Instruction, Department of	176,100	176,100
20.165 (1)(g)	Regulation and Licensing, Department of	3,881,600	2,662,000
20.566 (1)(g)	Revenue, Department of	164,000	169,000
(1)(gb)		34,000	39,000
(1)(h)		31,100	31,100
(1)(ha)		59,600	59,600
(2)(h)		222,200	0
(3)(gm)		145,100	100

Agency	2005-06 Fiscal Year	2006-07 Fiscal Year
20.545 State Employment Relations, Office of (1)(i)	15,000	0
20.292 Technical College System, Board of (1)(L)	118,300	118,300

## 2. Transfer from the Joint Committee on Finance Appropriation

### *Sections 9155 (4) (c) and 9155 (5dv)*

These nonstatutory provisions allow agencies to request the Joint Committee on Finance to restore, under the s. 13.10 process, approximately \$96 million of the \$100 million GPR eliminated as a result of the Senate's 2.3 percent across-the-board state operations reduction and clarify the implementation of lapses and transfers to the general fund related to unfunded liabilities under the Wisconsin Retirement System.

State agencies have already taken significant operating budget reductions in this budget and in past budgets. Further across-the-board reductions are problematic for a variety of reasons, including an untenable and highly questionable cut of over \$150,000 per year to the operations of the Department of Military Affairs. I object wholeheartedly to this reduction in support for National Guard operations as Wisconsin service men and women are defending freedom abroad. Examples like this are no doubt why the Senate moved the money and the responsibility to determine the exact cuts to the Joint Committee on Finance in a middle-of-the-night amendment.

I am partially vetoing these sections to authorize the Department of Administration secretary to transfer funds from the Joint Committee on Finance appropriation back to the agencies in amounts not to exceed those listed in this section. The secretary will notify agencies formally when these transfers will occur and regarding the procedures to be followed. These restored funds will be reflected in the budget bases of the affected agencies for purposes of the 2007-09 biennial budget process.

Finally, to assist state agencies in managing their budgets, I am directing the Department of Administration secretary to apportion, as quickly as possible, the remaining \$4 million reduction in a manner that minimizes the impact on critical services to Wisconsin citizens.

## 3. Limit on Expenditure of General Fund Revenues

### *Sections 10m, 15m, 17m, 65m, 66m, 68a, 68g, 68i, 68j, 81p, 85, 87d [as it relates to s. 16.896 (3)], 126e, 126m, 137m, 140 [as it relates to s. 20.875 (title) and (2) (q)], 482m, 482n, 482p, 482r, 520m, 536 and 9255 (2)*

These sections establish an additional limit on general fund expenditures beginning in fiscal year 2007-08; change the name of the budget stabilization fund to the taxpayer protection fund; specify that excess general fund revenues be deposited in the taxpayer

protection fund; require a recommendation from the Governor and a three-fourths vote of each house of the Legislature to appropriate money from the fund; specify that balances in the fund above ten percent of the amount budgeted for expenditure in that fiscal year must be returned to the taxpayers through reduction in state income taxes; and, finally, direct net proceeds in excess of \$36 million from the sale of state-owned properties be deposited in the renamed budget stabilization fund.

I am vetoing sections 15m, 68i and 68j in their entirety and partially vetoing section 536 because the provisions are redundant and unnecessary given current law.

In addition, I object to the treatment of the budget stabilization fund, which was created to help cushion the impact of an economic downturn. The concern that balances will build up in excess of ten percent of the amount budgeted for expenditure seems unwarranted given past experience. I am also vetoing the name change of the budget stabilization fund in these sections. This change accomplishes nothing and is not warranted. As a result, the language directing net proceeds in excess of \$36 million from the sale of state-owned properties is eliminated. As discussed in the asset sales portion of the Health and Family Services and Insurance Section, Health and Family Services, Item #2 veto, my Administration is committed to managing state real estate cost-effectively and selling assets as warranted to improve the state's financial condition and fund our higher priorities of education, health care and economic development.

Members of the Assembly have publicly urged me to veto these provisions which were included in a late-night amendment simply so the Senate could pass the budget. This veto obliges their request.

## **ADMINISTRATION**

### **4. Asset Sales Reporting Dates**

#### *Sections 9101 (4) (a) 1. and 9101 (4) (b)*

These provisions direct the Department of Administration secretary to review all holdings of state-owned real property for potential sale no later than July 1, 2006, and to submit a report to the Building Commission no later than October 1, 2006, containing an inventory of specific properties to be sold.

I am partially vetoing these provisions to remove the exact dates for the initial review and the report to the Building Commission. Having specific dates in the budget bill is not necessary. Staff at the department are already reviewing state-owned real properties and assessing which properties are appropriate for disposition based on performing the business functions of the state in the most cost-effective manner. As each determination is made, the recommendation and supporting analysis will be forwarded to the Building Commission for its review and approval.

## **5. Vacant Attorney Positions**

### *Section 9155 (1w)*

This provision directs the Department of Administration secretary to eliminate 13.0 FTE executive branch attorney positions, excluding attorney positions at the University of Wisconsin System, State Investment Board and Department of Employee Trust Funds, that become vacant before June 30, 2007.

I am partially vetoing this provision to remove the exemption for the University of Wisconsin System, thereby increasing the number of attorney positions available to meet the requirements of this provision. The attorney consolidation initiative I proposed would have resulted in the need for 13.0 FTE fewer attorney positions through more efficient deployment of legal resources and a streamlined management structure. While the Legislature mandated the same reduction of attorney positions, it blocked the accompanying efficiency and management improvements that made the reductions possible. Consequently, finding efficiencies in legal services will now be more difficult and expansion of the pool of positions is necessary.

## **6. Sale of State-Owned Heating, Cooling and Wastewater Treatment Facilities**

### *Sections 16m, 16n, 83m, 85g, 85r, 87d, 87h, 87k, 87L, 163m, 167m, 172m, 193m, 286m, 288m, 364c, 384t, 413m, 795f, 9101 (10v) and 9455 (3w)*

These sections require the Department of Administration to sell or contract with a private entity to operate each state-owned heating, cooling and wastewater treatment facility. The net proceeds of the sales are to be deposited into the budget stabilization fund. In addition, 270.92 FTE positions in six state agencies are eliminated as of April 2007.

I am vetoing these sections because the requirement to sell or contract for the operation of every such facility regardless of the individual circumstances, feasibilities and benefit-cost economics is not a good business approach.

As a result of this veto, the facilities will remain operational. While I cannot restore the 270.92 FTE positions eliminated by the Legislature, I am asking the Department of Administration secretary to pursue the restoration of these positions through procedures authorized under current law to ensure continuity of basic services.

## **7. Limitations on Resale of Telecommunications Services by State Agencies**

### *Sections 94m and 695q*

These sections specify that a state agency may use telecommunications services that it procures only for the agency's own purposes to fulfill its mission and that it may not offer, resell or provide services that are available from a private telecommunications carrier to the general public or private entities. An exception to this restriction is made if there is a consortium agreement in effect as of June 1, 2005, to provide services to member organizations.



I am partially vetoing these sections to remove the exception granted in the budget for an existing consortium in order to preserve the ability to maximize efficiency. The economies of scale needed to support the least costly and most effective telecommunications on a statewide enterprise level require a consolidated and coordinated approach. This capability is not served by exceptions for consortium agreements.

## **8. Video Gaming Devices and Pari-Mutuel Race Track Licensing**

*Sections 1430m, 1430o, 2422b, 2422c, 2422d, 2422e, 2422f, 2422g, 2422h, 2422i, 2422j, 2422L, 2422m, 2422n, 2422o, 2422om, 2422p, 2422q, 2422r, 2422s, 2422t, 2422tm, 2422u, 2422um, 2422v, 2422vm, 2422w, 2422wm, 2422x, 2422xm, 2422y, 2423c, 2423d, 2423e, 2423f, 2423g, 2423gm, 2423h, 2423i, 2423j, 2423k, 2423L, 2423m, 2423n, 2423o, 9101 (9r) and 9401 (2q)*

These provisions modify the current law use of video gaming machines, as they relate to simulcast wagering. Specifically, these provisions authorize a license for the sponsorship and management of video gaming devices which display a facsimile of a dog or horse race that has been previously conducted at another racetrack. They also permanently repeal the current law simulcast racing and intertrack wagering restriction that requires, effective January 1, 2007, that wagering on simulcast races must be conducted at a racetrack only as an adjunct to, and not in place of wagering on live on-track racing.

Additionally, these provisions prohibit the Department of Administration from imposing any fee on a Wisconsin licensee for receiving simulcast races from out-of-state racetracks or simulcasting races to an out-of-state legal wagering entity.

Further, these provisions create a single license category for: (a) the ownership and operation of a racetrack at which pari-mutuel wagering is conducted; and (b) the sponsorship and management of any race on which pari-mutuel wagering is conducted, but which is not located at a fair.

Lastly, these provisions provide that a license for a person operating a concession stand at a racetrack be subject to a maximum \$75 annual renewal licensing fee.

I am vetoing these provisions because I object to the expanded use of video gaming devices for simulcast pari-mutuel wagering. This is nonfiscal policy that does not belong in a budget. In addition, these provisions, taken together, raise serious constitutional concerns by potentially expanding gambling.

While I am vetoing all of these provisions, I am willing to consider narrowly focused legislation that would delay the sunset of the current law provision allowing simulcast intertrack wagering.

**9. Payment of Fiscal Year 2004-05 MHEC Membership Dues**

*Section 9101 (10k)*

This provision requires that the Department of Administration pay membership dues, not to exceed \$82,500, for the previous fiscal year for the Midwestern Higher Education Compact from a program revenue appropriation within the agency.

I am vetoing this provision because I object to this earmarking of payments.

**10. Required Reports on Information Technology**

*Sections 9101 (11k) and 9101 (12k)*

These provisions require the Department of Administration to report to the Joint Committee on Finance on plans to lease a new data center and the associated hardware and software costs. Also, any proposed acquisition of major management information system project resources is made subject to Committee review under a 14-day passive approval process.

I am vetoing these provisions because they are unnecessary. The Department of Administration remains committed to working with the Legislature on these issues. However, legally mandated reports unnecessarily limit information sharing and dialogue on these matters.

**11. Pension Obligation Lapses and Transfers**

*Section 79*

This section codifies how the Department of Administration secretary will administer the lapses and fund transfers related to unfunded retirement liability debt service.

I am partially vetoing this section to ensure the budget intent to realize savings through the issuance of pension obligation bonds is achieved while the goal of property tax relief and adequate school funding is met under the Education and Workforce Development Section, Public Instruction, Item #4. This veto will allow the Department of Administration to allocate the costs of repaying the pension obligation bonds and fully recoup the savings residing in agency fringe benefit lines.

**BUILDING COMMISSION**

**12. General Fund Supported Borrowing Target**

*Sections 16p and 16r*

These sections establish a target increase of general fund supported borrowing for the long-range state building program, beginning in the 2007-09 biennium. This target is set initially at \$480 million and is adjusted each biennium by the percentage change in

construction costs and reduced by general fund borrowing already authorized, but not yet issued, and general fund supported borrowing contained in executive bills and other legislation.

I am vetoing these sections in their entirety because they are unnecessary. The State of Wisconsin Building Commission exists to review the state building program and debt issuance strategies. The commission already considers general fund revenues and debt service, general fund borrowing already authorized but not yet issued, and general fund supported borrowing contained in executive bills and other legislation as it develops recommendations for additional general fund supported borrowing. A statutory target is unnecessary given this role.

Furthermore, the target is artificial as it is created by setting a \$480 million starting point based on information from one year and inflating the amount based on percentage changes in construction costs, despite the fact that the target includes both construction and nonconstruction related borrowing. The target also does not allow for consideration of program requirements or regulatory requirements that may impact the commission's recommendations for new general fund supported borrowing.

## **EMPLOYEE TRUST FUNDS**

### **13. Required Nonrepresented State Employee Retirement Contributions**

*Sections 737e, 737r, 9101 (7k) and 9414 (1k)*

These sections require nonrepresented state employees, including University of Wisconsin faculty and academic staff, to begin paying 1.5 percent of earnings into the Wisconsin Retirement System, effective September 1, 2005. Currently the state, as the employer, pays this portion of the total employee-required contribution for all represented and nonrepresented employees.

The GPR amounts budgeted in agencies for the 1.5 percent portion of the retirement contributions would lapse to the general fund. Comparable offsets would occur with other sources of funding.

I am vetoing these sections because they present serious legal and policy implications.

- Adding these sections to the budget bill in a late night, last minute effort to secure votes did not allow for public input or a thorough debate of the issues. For good reason, the statutes require that bills and amendments related to the retirement system and pension contributions be referred to the legislative Joint Survey Committee on Retirement Systems.
- Increasing the employee's required contribution may impair contractual rights.
- These provisions create disparities among employees' compensation and benefit funding.

To maintain a neutral fiscal effect to the general fund associated with this veto, I am requesting the Department of Administration secretary use the authority granted under

s. 16.50, Wisconsin Statutes, to prudently manage the allotment of funds in order to produce offsetting lapses during budget implementation.

## **REGULATION AND LICENSING**

### **14. Transfer of Alcohol and Other Drug Abuse Counselor Certification**

*Sections 2337am, 9121 (12s) (am) and 9421 (10q)*

These provisions transfer the certification and regulation of Alcohol and Other Drug Abuse (AODA) counselors from the Department of Health and Family Services to the Department of Regulation and Licensing effective January 1, 2006. Included in these provisions is the creation of a certification review committee to advise the Department of Regulation and Licensing on proposed rules. The majority membership of this committee is to be recommended by the Wisconsin Association on Alcoholism and Other Drug Abuses, Inc. (WAAODA). Also included in this provision is an exemption from certification for any physician who specializes in psychiatry. Other physicians would be subject to the new certification.

I am partially vetoing the effective date of this provision because the Department of Regulation and Licensing needs additional time to prepare for this transfer.

Additionally, while WAAODA should have input into determining the certification committee membership, the final appointment authority should be the Department of Regulation and Licensing secretary. I am, therefore, vetoing the requirement that a majority membership of the committee be recommended by WAAODA.

Lastly, I believe that all licensed physicians should be able to practice AODA counseling without special certification under this provision. The Wisconsin Medical Society already certifies physicians for AODA counseling. I am, therefore, partially vetoing the provision to remove the exemption for a physician specializing in psychiatry because it is unnecessary. This partial veto will allow all licensed physicians to provide AODA counseling without further certification.

## **VETERANS AFFAIRS**

### **15. Operational Efficiency Consultant**

*Section 140 [as it relates to s. 20.485 (1) (gk)]*

This provision provides \$200,000 in additional expenditure authority to the Department of Veterans Affairs to hire a consultant to determine how the department can operate the veterans homes at King and Union Grove more efficiently.

By lining out the departments appropriation under s. 20.485 (1) (gk) and writing in a smaller amount that deletes \$200,000 PR in fiscal year 2005-06, I am vetoing the additional PR that was added by the Legislature to complete the study. I am also requesting the Department of Administration secretary not to allot these funds.



**F. TAX**

**GENERAL FUND TAXES**

**1. Individual Income Tax Exclusion for Social Security Benefits**

*Sections 1286hm, 1286im and 1286jm*

These sections phase in a full income tax exclusion for Social Security benefits above certain thresholds: \$25,000 for single filers and \$32,000 for joint filers. Currently, 50 percent of the income above these thresholds is excluded from income tax (100 percent of income below these thresholds is excluded). The provision would increase this percentage to 65 percent for tax year 2007, 80 percent for tax year 2008 and 100 percent in tax year 2009.

I am partially vetoing this provision to start the full 100 percent exclusion of Social Security benefits one year earlier, beginning in tax year 2008 which makes the benefit of the full exclusion available to Social Security recipients sooner rather than later, and which provides \$16.2 million more in tax relief to these individuals by the end of fiscal year 2008-09.

**2. Private School and Homeschool Tax Credit**

*Sections 140 [as it relates to s. 20.835 (2) (eo)], 451u, 1311p, 1312m [as it relates to s. 71.07 (8r)], 1312u [as it relates to the private school and homeschool tax credit] and 9341 (10p)*

These sections create a refundable individual income tax credit of \$100 per eligible pupil enrolled in kindergarten or grades one to twelve at an eligible private school or home-based private educational program if the pupil is a dependent of the claimant. The credit is funded with a sum sufficient GPR appropriation and begins for tax year 2006.

I am vetoing this provision because it undermines the state's ability to properly fund public education. This tax credit takes over \$14,000,000 annually from the general fund and gives it to residents whose children are not in public schools. Even homeschooling activists have registered their dislike of this credit, objecting to additional government involvement in homeschooling.

**3. Adoption Expenses Credit**

*Sections 1286Lm, 1311ia, 1312o and 9341 (4k)*

These sections eliminate the state income tax deduction for adoption expenses and create instead a nonrefundable adoption tax credit that would be available to anyone who is eligible for, and claims, the federal adoption tax credit. The credit would be allowed for qualified adoption expenses that exceed the amount of the federal credit for which a claimant is eligible and claims. The state credit may not exceed \$5,000, but unused portions of the credit may be carried over to future tax years for up to five years.

I am vetoing this provision because the state already provides adoptive parents with a tax benefit through our adoption expenses deduction. The estimated \$7,500,000 annually saved through this veto will be used to fund education and provide property tax relief, offering further benefits to both adoptive parents and their children.

#### **4. Health Savings Accounts**

##### *Sections 1432m, 1450g and 9341 (5m)*

These sections update state tax references to the internal revenue code in order to conform to federal income tax exclusions and deductions for health savings accounts (HSAs). Under the federal HSA provisions, an eligible individual covered by a high-deductible health insurance plan may make pretax deductions to an HSA to cover qualified medical expenses. These provisions would first apply to tax year 2005.

I am vetoing these provisions on HSAs, as I have in the past, because HSAs are inextricably linked to high deductible medical insurance and, therefore, could decrease employer-sponsored insurance coverage. Additionally, HSAs are only viable for persons with higher incomes. Without a clear and demonstrated benefit for the residents of this state as a whole, I believe these provisions should only be taken up in the context of a larger debate on a comprehensive health care package that would effectively and affordably address the health care needs of seniors, children, and middle- and low-income families.

While I have vetoed these provisions, I am signing a tax cut for individuals paying health insurance premiums. This tax cut will help those whose employers do not contribute to health insurance premiums, meet the immediate cost of health care and will improve access to health insurance for persons who have no employer.

#### **5. Sales Tax on Services Provided by Temporary Help Companies**

##### *Sections 1632n and 9441 (7w)*

These sections exempt taxable services provided by temporary help companies [as defined in s. 108.02 (24m)] from the state sales and use tax, as long as the client controls the means of performing the services and is responsible for the satisfactory completion of the services.

I am vetoing this provision because it does not take effect until July 1, 2007, and, thus, does not need to be decided in the context of this budget.

**6. Individual and Corporate Income and Franchise and Insurance Premiums Tax Credit for HIRSP Assessments**

*Sections 1311i, 1312r, 1319m, 1354m, 1385h, 1385p, 1386m, 1406m, 1428k, 1428p, 1474q, 1474s and 1686f*

These provisions create a nonrefundable credit under the insurance premiums tax, the corporate and individual income and franchise taxes, and the tax on investment income paid by life insurance companies. The credit is equal to a percentage of the amount of assessments paid by the insurer during the taxable year under the Health Insurance Risk-Sharing Plan (HIRSP). The Department of Revenue and the Office of the Commissioner of Insurance must set the credit percentage for each year so that the annual cost of the credit is as close as practicable to \$2,000,000 in fiscal year 2006-07 and \$5,000,000 in each fiscal year thereafter. Unused credits may be carried over for up to fifteen years.

I am vetoing this provision because it is an unaffordable benefit to HIRSP insurers. Revenue associated with this credit is more effectively used to adequately fund public schools and deliver property tax relief.

**7. Withholding from Nonresident Members of Pass-Through Entities – Technical Veto**

*Section 1431*

This section establishes rules that require corporations, trusts, limited liability companies, etc., that are treated as pass-through entities for federal tax purposes and that have Wisconsin income allocable to nonresident partners, members or shareholders to pay withholding taxes. However, the language does not provide a method for computing withholding from the income attributable to individuals and corporations.

I am partially vetoing this section to conform the language to the original legislative intent of the provision. If the veto is not made, the state will not collect some portion of the \$7,500,000 in fiscal year 2005-06 and \$5,000,000 in fiscal year 2006-07 that was included in my budget proposal and approved by the Legislature.

**8. Definition of Taxable Sales – Technical Veto**

*Section 1518m*

This provision was among a series of changes I recommended to conform to the Streamlined Sales and Use Tax Agreement. The Joint Committee on Finance decided to remove the proposal from the budget. However, due to a drafting error, this section of the proposal remained in the bill. I am vetoing this section to conform the bill to the record of legislative intent.



## REVENUE

### 9. Lottery Vending Machine Placements

#### *Section 2423v*

This section requires the Department of Revenue to place lottery ticket vending machines in certain airport terminals and Milwaukee Amtrak stations, subject to approval by each location's administration and the availability of qualified lottery retailers at each location.

I am vetoing this section because it is unnecessary. The department is already in discussions to place lottery machines at a number of airports around the state.

### SHARED REVENUE AND TAX RELIEF

### 10. School Levy Tax Credit

#### *Section 1717*

This section defines the annual appropriation for the school levy tax credit for 2005, 2006, 2007 and beyond.

I am partially vetoing this section to set a higher appropriation for the school levy tax credit beginning with property tax bills mailed December 2006. My partial veto has the effect of setting the appropriation amount at \$593,050,000 beginning in 2007 and continuing thereafter.

While I cannot restore all of the funding that I originally proposed, this partial veto does help property taxpayers by providing an additional \$73,745,000 in school levy tax credits beginning with tax bills mailed in December 2006. Since this partial veto affects payments made in July 2007, there is no increase to the appropriations for the 2005-07 biennium.

### 11. Levy Limit for Counties and Municipalities

#### *Sections 1251c, 1254m, 1257, 1258, 1258m, 1259, 1260b, 1260c and 9435 (4)* *[as it relates to charter sport fishing boats]*

These sections set limits on the percentage by which counties' and municipalities' property tax levies can increase in a given year. With certain exceptions and adjustments, the levy limit is equal to the percentage increase in a political subdivision's equalized value that is due to net new construction. Exceptions and adjustments are made for tax increments, debt service, service transfers, annexations, children with disability education boards, first-class city school levies, referendum-approved spending increases and town meeting-approved spending increases. These sections also set forth a penalty for exceeding the levy limit, and sunset it after three years.

I am partially vetoing these sections to make it more responsible and fair to all communities while still holding down property tax increases. My partial vetoes affect the provision in a number of ways.

First, the minimum levy limit for all communities will be set at two percent per year. Thus even lower-growth communities will have the option of raising their levy by a modest two percent per year, which will allow them to at least partially keep up with inflation. Higher-growth communities will still have the ability to raise revenues up to the limit dictated by their growth due to new construction. The Legislature's proposal would have severely harmed lower- or negative-growth communities in Wisconsin. This partial veto corrects that inequity.

Second, my veto eliminates the requirement that new debt be authorized by a referendum in order for debt service on that new debt to be excluded from the levy limit calculation. Instead, new debt simply needs to be "authorized" and backed by the full faith and credit of the political subdivision. Exempting new debt service allows communities to make investments and undertake capital projects that are essential for economic growth. Additionally, without the exemption, bond houses would be reluctant to underwrite bond issuances by municipalities and counties, which would hurt, for example, the city of Milwaukee's issuance of operating notes.

Third, the levy limits under my veto would sunset January 1, 2007, after the 2005 and 2006 property tax bills have been mailed. I object to a three year duration for the limits because I do not believe we should set levy limits beyond the current biennium for which we are budgeting. We cannot know beyond the two year budget timeframe what the state's commitments to shared revenue and school aids will be and cannot ask local governments and schools to freeze their taxes without the guarantee that they will receive the state aid they need to maintain their services.

To partially veto the provision to a two year sunset, I had to strike sections dealing with comprehensive planning provisions, birth certificate issuance fees, charter sport fishing boats and shared revenue utility aid payments. The shared revenue utility aid payment revision and the repeal of the comprehensive planning provisions are already struck in separate vetoes. The birth certificate issuance fees and charter sport fishing boats revisions should be reconsidered under separate legislation.

The duplicate birth certificate fee increase would have supported recommendations from Wisconsin's Call to Action to Prevent Child Abuse and Neglect. I remain strongly supportive of Call to Action priorities including: child sexual abuse prevention, family mental health programming and family support programming. To ensure the state moves forward in these critical areas, I am directing the Department of Health and Family Services secretary to work with the Children's Trust Fund to initiate Call to Action pilot projects in Milwaukee County. In addition, I support separate legislation to permanently increase the duplicate birth certificate fee to generate program revenue that will support implementation of Call to Action recommendations.

With these partial vetoes, levy limits are improved. The levy limits hold down property tax growth while still allowing all communities at least a small increase to keep up with inflation and rising costs. In addition, the duration of the limits is properly aligned with the biennial state budget to make sure that we can continue to make our commitments to local governments.

These limits, when combined with my vetoes to increase state aid for property tax relief (see Item #10 and Education and Workforce Development Section, Public Instruction, Item #4), will freeze property taxes on an average value home for the December 2005 bills and reduce taxes on an average value home for the December 2006 bill. This responsible freeze is made possible through an improving Wisconsin economy, savings from state government efficiency measures and cuts to state programs.

## **12. Shared Revenue Utility Aid – Distribution Formula**

*Sections 93m, 1258m, 1260b, 1260c, 1260p, 1260q, 1260t, 1473b, 1473d, 1473e, 1474p, 1705b, 1705c, 1705d, 1705e, 1705f, 1705g, 2097m, 2097n, 2098m and 9141 (1n)*

These provisions change the method of computing utility aid payments to municipalities from a nine-mill calculation to a capacity-based calculation based on capacity in megawatts. Additionally, they extend the property tax to general structures and substations, but allow companies that run these facilities to deduct the tax paid against their annual state license fee costs. The provisions also change the method of calculation for payments of impact fees for high-voltage transmission lines; the calculation would be based on net book value instead of original cost. Finally, they allow that mitigation payments paid from the Oak Creek Power Plant to adjoining municipalities may be recoverable via future rate increases.

I am vetoing all of these provisions. There is limited policy justification for these changes and they make financial commitments in future biennia. Since, the distribution formula changes do not begin until the 2007-09 biennium this issue is more appropriately addressed in the next budget.

Portions of these provisions were also struck in the Levy Limit veto (see Item #11) to secure a sunset date for the limits.