



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0892/SL

JK&DAK&PJK:wj&jld:slr

D-NOTE

DOA:.....Easton, BB0175 - Increase excise tax rate on cigarette and tobacco products sales; health care quality trust fund

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Change
on pp. 2 + 16

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1. AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill increases the rate of the excise tax imposed on the sale of cigarettes from 77 cents per pack to \$1.77 per pack. The bill also increases the rate of the excise tax imposed on the sale of tobacco products from 25 percent of the manufacturer's list price to distributors to 57.5 percent of the manufacturer's list price to distributors.

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current federal and state law, Medical Assistance (MA) is a jointly funded, federal-state program that DHFS administers to provide health care services to eligible individuals with very low incomes and few assets; the state share of MA is paid from a combination of general purpose revenues, program revenues from hospital assessments, and segregated funds under the MA trust fund. Under a waiver of federal Medicaid laws from the federal Department of Health and Human Services, DHFS also administers under MA the Badger Care Health Care Program (BadgerCare). BadgerCare provides health care coverage to certain low-income families and to certain low-income children who do not reside with a parent. This bill establishes a trust fund designated as the health care quality fund, from moneys

obtained from an increase in cigarette and other tobacco products taxes and from certain other sources. Under the bill, moneys from the health care quality fund are used as another source of funding for MA and for BadgerCare.

Under current law, DHFS annually assesses hospitals a total of \$1,500,000, in proportion to each hospital's respective gross private-pay patient revenues during the hospital's most recent fiscal year. Moneys from the assessments are credited to a program revenue appropriation account, from which is paid a portion of MA program benefits, certain long-term care pilot projects under the Long-term Support Community Options Program (COP), and services under the Family Care Program. The bill eliminates the current hospital assessment and, instead, authorizes DHFS to levy, enforce, and collect an annual assessment on hospitals, based on claims information collected by an entity from hospitals under the laws relating to health care information. Under the bill, the assessments are due before December 1 and are based on a rate not to exceed 1 percent of a hospital's gross revenues, other than MA reimbursement, as adjusted by DHFS. ~~Total annual assessments may not exceed \$50,000,000.~~ The assessments must be deposited into the health care quality fund, as created in the bill, and are first due before December 1, 2007.

PUBLIC ASSISTANCE

Currently, DHFS reimburses pharmacists and pharmacies for prescription drugs purchased by elderly persons who are enrolled in a program of prescription drug assistance (Senior Care). Senior Care provides payments under the program from general purpose revenues, rebate payments made by prescription drug manufacturers, and federal funds.

This bill establishes a trust fund designated as the health care quality fund, from moneys obtained from an increase in cigarette and other tobacco products taxes and from certain other sources. Under the bill, moneys from the health care quality fund are used as another source of funding for payments made under Senior Care.

OTHER HEALTH AND HUMAN SERVICES

Currently, DHFS administers a grant program for statewide tobacco use control that funds programs to prevent, reduce, or cease tobacco use. Also under current law, a trust fund designated as the permanent endowment fund exists that consists of proceeds from the sale of the state's right to receive payments under a master tobacco settlement agreement and investment earnings on the proceeds.

This bill establishes a trust fund designated as the health care quality fund, from moneys obtained by increasing cigarette and other tobacco products taxes, by transferring funds from the permanent endowment fund, and from certain other sources. Under the bill, moneys from the health care quality fund are appropriated in part for aids and local assistance for the statewide grant program for tobacco use control and for health care quality and patient safety information.

INSURANCE

Under current law, certain health care providers are required to carry health care liability insurance with liability limits of at least \$1,000,000 for each occurrence and at least \$3,000,000 for all occurrences in a policy year. Any portion of a medical malpractice claim against a health care provider subject to the health care liability

insurance requirements that exceeds the policy limits of the health care provider's health care liability insurance is paid by the injured patients and families compensation fund. Moneys for the fund come from annual assessments paid by the health care providers who are subject to the health care liability insurance requirements. This bill transfers \$175,000,000 in fiscal year 2007-08 from the injured patients and families compensation fund to the health care quality fund, as created in the bill.

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

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

1 **SECTION 1.** 20.435 (4) (bc) of the statutes is amended to read:

2 20.435 (4) (bc) *Badger Care health care program; general purpose revenue.* As
3 a continuing appropriation, the amounts in the schedule for a portion of the Badger
4 Care health care program under s. 49.665.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 2.** 20.435 (4) (bm) of the statutes is amended to read:

6 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*
7 *administration; contract costs, insurer reports, and resource centers.* Biennially, the
8 amounts in the schedule to provide a portion of the state share of administrative
9 contract costs for the Medical Assistance program under s. 49.45, ~~the food stamp~~
10 ~~program under s. 49.79,~~ and the Badger Care health care program under s. 49.665
11 and to provide the state share of administrative contract costs for the food stamp
12 program under s. 49.79, other than payments to counties and tribal governing bodies
13 under s. 49.78 (8), to develop and implement a registry of recipient immunizations,
14 to reimburse insurers for their costs under s. 49.475, for costs associated with
15 outreach activities, and for services of resource centers under s. 46.283. No state
16 positions may be funded in the department of health and family services from this

1 appropriation, except positions for the performance of duties under a contract in
2 effect before January 1, 1987, related to the administration of the Medical
3 Assistance program between the subunit of the department primarily responsible for
4 administering the Medical Assistance program and another subunit of the
5 department. Total administrative funding authorized for the program under s.
6 49.665 may not exceed 10% of the amounts budgeted under pars. (bc), (p), and (x).

7 **SECTION 3.** 20.435 (4) (gp) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

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

9 20.435 (4) (xd) *Health care quality fund; Medical Assistance and Badger Care*
10 *benefits.* From the health care quality fund, as a continuing appropriation, the
11 amounts in the schedule to provide a portion of the state share of Medical Assistance
12 program benefits administered under s. 49.45 and to provide a portion of the costs
13 of benefits under the Badger Care health care program under s. 49.665.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

14 **SECTION 5.** 20.435 (4) (xe) of the statutes is created to read:

15 20.435 (4) (xe) *Health care quality fund; administration.* From the health care
16 quality fund, as a continuing appropriation, the amounts in the schedule to provide
17 a portion of the state share of administrative contract costs for the Medical
18 Assistance program under s. 49.45.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

19 **SECTION 6.** 20.435 (4) (xh) of the statutes is created to read:

20 20.435 (4) (xh) *Health care quality fund; prescription drug assistance; benefits.*
21 From the health care quality fund, as a continuing appropriation, the amounts in the

1 schedule for payment to pharmacies and pharmacists under s. 49.688 (7) for
2 prescription drug assistance for elderly persons.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 7.** 20.435 (4) (xi) of the statutes is created to read:

4 20.435 (4) (xi) *Health care quality fund; prescription drug assistance;*
5 *administration.* From the health care quality fund, as a continuing appropriation,
6 the amounts in the schedule for administration of the program for prescription drug
7 assistance for elderly persons under s. 49.688 (7).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 8.** 20.435 (4) (xk) of the statutes is created to read:

9 20.435 (4) (xk) *Health care quality fund; quality and patient safety information*
10 *technology.* From the health care quality fund, as a continuing appropriation, the
11 amounts in the schedule for promoting the adoption of health care quality and
12 patient safety information technology and developing exchanges of health
13 information.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14 **SECTION 9.** 20.435 (5) (q) of the statutes is created to read:

15 20.435 (5) (q) *Health care quality fund; tobacco prevention and education.*
16 From the health care quality fund, as a continuing appropriation, the amounts in the
17 schedule for local assistance under the grants under s. 255.15 (3).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 10.** 20.435 (5) (r) of the statutes is created to read:

1 20.435 (5) (r) *Health care quality fund; tobacco use control.* From the health
2 care quality fund, as a continuing appropriation, the amounts in the schedule for aids
3 under the grants under s. 255.15 (3).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 11.** 25.17 (1) (gd) of the statutes is created to read:

5 25.17 (1) (gd) Health care quality fund (s. 25.772);

6 **SECTION 12.** 25.69 of the statutes is amended to read:

7 **25.69 Permanent endowment fund.** There is established a separate
8 nonlapsible trust fund designated as the permanent endowment fund, consisting of
9 all of the proceeds from the sale of the state's right to receive payments under the
10 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
11 and all investment earnings on the proceeds. There is transferred from the
12 permanent endowment fund to the health care quality fund \$50,000,000 in each
13 fiscal year.

14 **SECTION 13.** 25.772 of the statutes is created to read:

15 **25.772 Health care quality fund.** There is established a separate
16 nonlapsible trust fund designated as the health care quality fund, to consist of all of
17 the following:

18 (1) The amount of the taxes collected under subchs. II and III of ch. 139 as
19 determined under ss. 139.455 and 139.865.

20 (2) All moneys received under s. 50.375 from assessments on hospitals.

21 (3) All moneys transferred from the permanent endowment fund.

22 **SECTION 14.** 46.27 (9) (a) of the statutes is amended to read:

1 46.27 (9) (a) The department may select up to 5 counties that volunteer to
2 participate in a pilot project under which they will receive certain funds allocated for
3 long-term care. The department shall allocate a level of funds to these counties
4 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w),
5 or (xd) to nursing homes for providing care because of increased utilization of nursing
6 home services, as estimated by the department. In estimating these levels, the
7 department shall exclude any increased utilization of services provided by state
8 centers for the developmentally disabled. The department shall calculate these
9 amounts on a calendar year basis under sub. (10).

10 **SECTION 15.** 46.27 (10) (a) 1. of the statutes is amended to read:

11 46.27 (10) (a) 1. The department shall determine for each county participating
12 in the pilot project under sub. (9) a funding level of state medical assistance
13 expenditures to be received by the county. This level shall equal the amount that the
14 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w),
15 or (xd), or because of increased utilization of nursing home services, as estimated by
16 the department.

17 **SECTION 16.** 46.275 (5) (a) of the statutes is amended to read:

18 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
19 department under sub. (3r), provides under this program is available from the
20 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd). If 2 or more
21 counties jointly contract to provide services under this program and the department
22 approves the contract, Medical Assistance reimbursement is also available for
23 services provided jointly by these counties.

24 **SECTION 17.** 46.275 (5) (c) of the statutes is amended to read:

1 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and
2 (xd) to counties and to the department under sub. (3r) for services provided under
3 this section may not exceed the amount approved by the federal department of health
4 and human services. A county may use funds received under this section only to
5 provide services to persons who meet the requirements under sub. (4) and may not
6 use unexpended funds received under this section to serve other developmentally
7 disabled persons residing in the county.

8 **SECTION 18.** 46.278 (6) (d) of the statutes is amended to read:

9 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
10 share of service costs under a waiver received under sub. (3), the department may,
11 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
12 that the county provides under this section to persons who are in addition to those
13 who may be served under this section with funds from the appropriation account
14 under s. 20.435 (4) (b) ~~or~~, (w), or (xd).

15 **SECTION 19.** 46.2785 (5) (a) of the statutes is amended to read:

16 46.2785 (5) (a) Medical assistance reimbursement for services a county or
17 private agency contracts for or provides under the waiver program shall be made
18 from the appropriation accounts under s. 20.435 (4) (b) ~~and~~, (o), and (xd).

19 **SECTION 20.** 46.283 (5) of the statutes is amended to read:

20 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
21 (bm), ~~(gp)~~, (pa), and (w), and (xd) and (7) (b), (bd), and (md), the department may
22 contract with organizations that meet standards under sub. (3) for performance of
23 the duties under sub. (4) and shall distribute funds for services provided by resource
24 centers.

25 **SECTION 21.** 46.284 (5) (a) of the statutes is amended to read:

1 46.284 **(5)** (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
2 (im), (o), and (w), and (xd) and (7) (b) and (bd), the department shall provide funding
3 on a capitated payment basis for the provision of services under this section.
4 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
5 under contract with the department may expend the funds, consistent with this
6 section, including providing payment, on a capitated basis, to providers of services
7 under the family care benefit.

8 **SECTION 22.** 46.485 (2g) (intro.) of the statutes is amended to read:

9 46.485 **(2g)** (intro.) From the appropriation accounts account under s. 20.435
10 (4) (b) ~~and (gp)~~, the department may in each fiscal year transfer funds to the
11 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
12 appropriation account under s. 20.435 (7) (mb) the department may not distribute
13 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
14 all of the following requirements, as determined by the department:

15 **SECTION 23.** 49.45 (2) (a) 17. of the statutes is amended to read:

16 49.45 **(2)** (a) 17. Notify the governor, the joint committee on legislative
17 organization, the joint committee on finance and appropriate standing committees,
18 as determined by the presiding officer of each house, if the appropriation accounts
19 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
20 medical assistance.

21 **SECTION 24.** 49.45 (5m) (am) of the statutes is amended to read:

22 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
23 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
24 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
25 hospitals that, as determined by the department, have high utilization of inpatient

1 services by patients whose care is provided from governmental sources, and to
2 provide supplemental funds to critical access hospitals, except that the department
3 may not distribute funds to a rural hospital or to a critical access hospital to the
4 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

5 **SECTION 25.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

6 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
7 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
8 provided in pars. (bg), (bm), and (br), be determined according to a prospective
9 payment system updated annually by the department. The payment system shall
10 implement standards that are necessary and proper for providing patient care and
11 that meet quality and safety standards established under subch. II of ch. 50 and ch.
12 150. The payment system shall reflect all of the following:

13 **SECTION 26.** 49.45 (6v) (b) of the statutes is amended to read:

14 49.45 (6v) (b) The department shall, each year, submit to the joint committee
15 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
16 provides information on the utilization of beds by recipients of medical assistance in
17 facilities and a discussion and detailed projection of the likely balances,
18 expenditures, encumbrances and carry over of currently appropriated amounts in
19 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, ~~and (o)~~, and (xd).

20 **SECTION 27.** 49.45 (6x) (a) of the statutes is amended to read:

21 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
22 under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department shall distribute not
23 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
24 hospital, except that the department may not allocate funds to an essential access

1 city hospital to the extent that the allocation would exceed any limitation under 42
2 USC 1396b (i) (3).

3 **SECTION 28.** 49.45 (6y) (a) of the statutes is amended to read:

4 49.45 **(6y)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
5 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), and (xd), the department shall distribute
6 funding in each fiscal year to provide supplemental payment to hospitals that enter
7 into a contract under s. 49.02 (2) to provide health care services funded by a relief
8 block grant, as determined by the department, for hospital services that are not in
9 excess of the hospitals' customary charges for the services, as limited under 42 USC
10 1396b (i) (3). If no relief block grant is awarded under this chapter or if the allocation
11 of funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3),
12 the department may distribute funds to hospitals that have not entered into a
13 contract under s. 49.02 (2).

14 **SECTION 29.** 49.45 (6y) (am) of the statutes is amended to read:

15 49.45 **(6y)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
16 under s. 20.435 (4) (b), (h), (~~gp~~), (o), and (w), and (xd), the department shall distribute
17 funding in each fiscal year to provide supplemental payments to hospitals that enter
18 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
19 to provide health care services funded by a relief block grant, as determined by the
20 department, for hospital services that are not in excess of the hospitals' customary
21 charges for the services, as limited under 42 USC 1396b (i) (3).

22 **SECTION 30.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

23 49.45 **(6z)** (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
24 accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w), and (xd), the department shall
25 distribute funding in each fiscal year to supplement payment for services to hospitals

1 that enter into a contract under s. 49.02 (2) to provide health care services funded
2 by a relief block grant under this chapter, if the department determines that the
3 hospitals serve a disproportionate number of low-income patients with special
4 needs. If no medical relief block grant under this chapter is awarded or if the
5 allocation of funds to such hospitals would exceed any limitation under 42 USC
6 1396b (i) (3), the department may distribute funds to hospitals that have not entered
7 into a contract under s. 49.02 (2). The department may not distribute funds under
8 this subsection to the extent that the distribution would do any of the following:

9 **SECTION 31.** 49.45 (8) (b) of the statutes is amended to read:

10 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (~~gp~~), (o), and (w), and (xd)
11 for home health services provided by a certified home health agency or independent
12 nurse shall be made at the home health agency's or nurse's usual and customary fee
13 per patient care visit, subject to a maximum allowable fee per patient care visit that
14 is established under par. (c).

15 **SECTION 32.** 49.45 (24m) (intro.) of the statutes is amended to read:

16 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
17 (~~gp~~), (o), and (w), and (xd), in order to test the feasibility of instituting a system of
18 reimbursement for providers of home health care and personal care services for
19 medical assistance recipients that is based on competitive bidding, the department
20 shall:

21 **SECTION 33.** 49.45 (52) of the statutes is amended to read:

22 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
23 department may, from the appropriation account under s. 20.435 (7) (b), make
24 Medical Assistance payment adjustments to county departments under s. 46.215,
25 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01

1 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
2 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
3 adjustments under this subsection shall include the state share of the payments.
4 The total of any payment adjustments under this subsection and Medical Assistance
5 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
6 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
7 (30) (A).

8 **SECTION 34.** 49.472 (6) (a) of the statutes is amended to read:

9 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
10 under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department shall, on the part of an
11 individual who is eligible for medical assistance under sub. (3), pay premiums for or
12 purchase individual coverage offered by the individual's employer if the department
13 determines that paying the premiums for or purchasing the coverage will not be more
14 costly than providing medical assistance.

15 **SECTION 35.** 49.472 (6) (b) of the statutes is amended to read:

16 49.472 (6) (b) If federal financial participation is available, from the
17 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department may
18 pay medicare Part A and Part B premiums for individuals who are eligible for
19 medicare and for medical assistance under sub. (3).

20 **SECTION 36.** 49.473 (5) of the statutes is amended to read:

21 49.473 (5) The department shall audit and pay, from the appropriation
22 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd), allowable charges to a provider
23 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
24 who meets the requirements under sub. (2) for all benefits and services specified
25 under s. 49.46 (2).

1 **SECTION 37.** 49.665 (4) (at) 1. a. of the statutes is amended to read:

2 49.665 (4) (at) 1. a. Except as provided in subd. 1. b., the department shall
3 establish a lower maximum income level for the initial eligibility determination if
4 funding under s. 20.435 (4) (bc), (jz), (p), and (x), and (xd) is insufficient to
5 accommodate the projected enrollment levels for the health care program under this
6 section. The adjustment may not be greater than necessary to ensure sufficient
7 funding.

8 **SECTION 38.** 49.665 (4) (at) 1. cm. of the statutes is amended to read:

9 49.665 (4) (at) 1. cm. Notwithstanding s. 20.001 (3) (b), if, after reviewing the
10 plan submitted under subd. 1. b., the joint committee on finance determines that the
11 amounts appropriated under s. 20.435 (4) (bc), (jz), (p), and (x), and (xd) are
12 insufficient to accommodate the projected enrollment levels, the committee may
13 transfer appropriated moneys from the general purpose revenue appropriation
14 account of any state agency, as defined in s. 20.001 (1), other than a sum sufficient
15 appropriation account, to the appropriation account under s. 20.435 (4) (bc) to
16 supplement the health care program under this section if the committee finds that
17 the transfer will eliminate unnecessary duplication of functions, result in more
18 efficient and effective methods for performing programs, or more effectively carry out
19 legislative intent, and that legislative intent will not be changed by the transfer.

20 **SECTION 39.** 49.665 (4) (at) 2. of the statutes is amended to read:

21 49.665 (4) (at) 2. If, after the department has established a lower maximum
22 income level under subd. 1., projections indicate that funding under s. 20.435 (4) (bc),
23 (jz), (p), and (x), and (xd) is sufficient to raise the level, the department shall, by state
24 plan amendment, raise the maximum income level for initial eligibility, but not to
25 exceed 185% of the poverty line.

1 **SECTION 40.** 49.688 (7) (a) of the statutes is amended to read:

2 49.688 (7) (a) Except as provided in par. (b), from the appropriation accounts
3 under s. 20.435 (4) (bv), (j), and (pg), and (xh), beginning on September 1, 2002, the
4 department shall, under a schedule that is identical to that used by the department
5 for payment of pharmacy provider claims under medical assistance, provide to
6 pharmacies and pharmacists payments for prescription drugs sold by the
7 pharmacies or pharmacists to persons eligible under sub. (2) who have paid the
8 deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not
9 required to pay a deductible. The payment for each prescription drug under this
10 paragraph shall be at the program payment rate, minus any copayment paid by the
11 person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that are
12 similar to those provided under s. 49.45 (8v). The department shall devise and
13 distribute a claim form for use by pharmacies and pharmacists under this paragraph
14 and may limit payment under this paragraph to those prescription drugs for which
15 payment claims are submitted by pharmacists or pharmacies directly to the
16 department. The department may apply to the program under this section the same
17 utilization and cost control procedures that apply under rules promulgated by the
18 department to medical assistance under subch. IV of ch. 49.

19 **SECTION 41.** 49.688 (7) (b) of the statutes is amended to read:

20 49.688 (7) (b) During any period in which funding under s. 20.435 (4) (bv) and,
21 (pg), and (xh) is completely expended for the payments specified in par. (a), the
22 requirements of par. (a) and subs. (3) (c), (5), and (6) (a) and (b) do not apply to drugs
23 purchased during that period, but the department shall continue to accept
24 applications and determine eligibility under sub. (4) and shall indicate to applicants
25 that the eligibility of program participants to purchase prescription drugs as

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1 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
2 availability of funding under s. 20.435 (4) (bv) and, (pg), and (xh).

3 **SECTION 42.** 50.375 of the statutes is created to read:

4 **50.375 Assessment.** (1) Beginning in 2007, for the privilege of doing business
5 in this state, there is imposed on each hospital an annual assessment, based on the
6 hospital's gross revenue, other than revenue received as reimbursement for services
7 or items provided as benefits under subch. IV of ch. 49, that each hospital shall pay
8 before December 1. The assessments shall be deposited into the health care quality
9 fund.

10 (2) The department shall verify the amount of each hospital's gross revenue
11 and determine the amount of each hospital's assessment, based on claims
12 information that shall be provided to the department under s. 153.46 (5).

13 (3) The department's determination under sub. (2) shall be based on a rate not
14 to exceed 1 percent of a hospital's gross revenue, other than revenue received as
15 reimbursement for services or items provided as benefits under subch. IV of ch. 49,
16 as adjusted by the department. ~~Total annual assessments imposed may not exceed~~

17 ~~\$30,000,000~~

18 (4) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
19 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
20 subch. III of ch. 77, apply to the assessment under this section, except that the
21 amount of any assessment collected under sub. (1) shall be deposited in the health
22 care quality fund.

23 (5) The department shall levy, enforce, and collect the assessment under this
24 section and shall develop and distribute forms necessary for levying and collection.

1 (6) An affected hospital may contest an action by the department of health and
2 family services under this section by submitting a written request for a hearing to
3 the division of hearings and appeals in the department of administration within 30
4 days after the date of the department's action.

5 (7) Any order or determination made by the division of hearings and appeals
6 in the department of administration under a hearing as specified in sub. (6) is subject
7 to judicial review as prescribed under ch. 227.

8 **SECTION 43.** 139.31 (1) (a) of the statutes is amended to read:

9 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
10 ~~38.5~~ 88.5 mills on each cigarette.

11 **SECTION 44.** 139.31 (1) (b) of the statutes is amended to read:

12 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ~~77~~ 177
13 mills on each cigarette.

14 **SECTION 45.** 139.455 of the statutes is created to read:

15 **139.455 Revenue distribution.** From the taxes collected under this
16 subchapter, the department shall deposit an amount equal to 50 mills on cigarettes
17 weighing not more than 3 pounds per thousand and 100 mills on cigarettes weighing
18 more than 3 pounds per thousand into the health care quality fund.

19 **SECTION 46.** 139.76 (1) of the statutes is amended to read:

20 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
21 possession with intent to sell or removal for consumption or sale or other disposition
22 for any purpose of tobacco products by any person engaged as a distributor of them
23 at the rate of ~~25%~~ 57.5 percent of the manufacturer's established list price to
24 distributors without diminution by volume or other discounts on domestic products.
25 On products imported from another country the rate of tax is ~~25%~~ 57.5 percent of the

1 amount obtained by adding the manufacturer's list price to the federal tax, duties
2 and transportation costs to the United States. The tax attaches at the time the
3 tobacco products are received by the distributor in this state. The tax shall be passed
4 on to the ultimate consumer of the tobacco products. All tobacco products received
5 in this state for sale or distribution within this state, except tobacco products actually
6 sold as provided in sub. (2), shall be subject to such tax.

7 **SECTION 47.** 139.78 (1) of the statutes is amended to read:

8 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
9 products in this state at the rate of ~~25%~~ 57.5 percent of the cost of the tobacco
10 products. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco
11 products has been paid or if the tobacco products are exempt from the tobacco
12 products tax under s. 139.76 (2).

13 **SECTION 48.** 139.865 of the statutes is created to read:

14 **139.865 Revenue distribution.** The department shall deposit 56.5 percent
15 of the amount of the taxes collected under this subchapter into the health care
16 quality fund.

17 **SECTION 49.** 146.99 of the statutes is repealed.

18 **SECTION 50.** 255.15 (3) (b) (intro.) of the statutes is amended to read:

19 255.15 (3) (b) (intro.) From the appropriation accounts under s. 20.435 (5) (fm),
20 (q), and (r), the department may distribute grants for any of the following:

21 **SECTION 9225. Fiscal changes; Insurance.**

22 (1) HEALTH CARE QUALITY FUND. Notwithstanding section 655.27 (6) of the
23 statutes, there is transferred from the injured patients and families compensation
24 fund to the health care quality fund \$175,000,000 in fiscal year 2007-08.

25 **SECTION 9441. Effective dates; Revenue.**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/6dn
JK&DAK&PJK:wlj&jld:sh

date

To Jim Johnston:

This redraft deletes the \$50,000,000[✓] limitation on hospital assessments under s. 50.375 (3).

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

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

LRB-0892/6dn
DAK:wlj&jld:rs

January 25, 2007

To Jim Johnston:

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Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

↑
stays

DOA:.....Easton, BB0175 - Increase excise tax rate on cigarette and tobacco products sales; health care quality trust fund

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

M 1-25-07
D-N

DO NOT GEN

1 AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill increases the rate of the excise tax imposed on the sale of cigarettes from 77 cents per pack to ~~\$1.77~~ per pack. The bill also increases the rate of the excise tax imposed on the sale of tobacco products from 25 percent of the manufacturer's list price to distributors to ~~57.5~~ percent of the manufacturer's list price to distributors.

\$2002

6.5%

INSERT
A

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current federal and state law, Medical Assistance (MA) is a jointly funded, federal-state program that DHFS administers to provide health care services to eligible individuals with very low incomes and few assets; the state share of MA is paid from a combination of general purpose revenues, program revenues from hospital assessments, and segregated funds under the MA trust fund. Under a waiver of federal Medicaid laws from the federal Department of Health and Human Services, DHFS also administers under MA the Badger Care Health Care Program (BadgerCare). BadgerCare provides health care coverage to certain low-income families and to certain low-income children who do not reside with a parent. This bill establishes a trust fund designated as the health care quality fund, from moneys

obtained from an increase in cigarette and other tobacco products taxes and from certain other sources. Under the bill, moneys from the health care quality fund are used as another source of funding for MA and for BadgerCare.

Under current law, DHFS annually assesses hospitals a total of \$1,500,000, in proportion to each hospital's respective gross private-pay patient revenues during the hospital's most recent fiscal year. Moneys from the assessments are credited to a program revenue appropriation account, from which is paid a portion of MA program benefits, certain long-term care pilot projects under the Long-term Support Community Options Program (COP), and services under the Family Care Program. The bill eliminates the current hospital assessment and, instead, authorizes DHFS to levy, enforce, and collect an annual assessment on hospitals, based on claims information collected by an entity from hospitals under the laws relating to health care information. Under the bill, the assessments are due before December 1 and are based on a rate not to exceed 1 percent of a hospital's gross revenues, other than MA reimbursement, as adjusted by DHFS. The assessments must be deposited into the health care quality fund, as created in the bill, and are first due before December 1, 2007.

PUBLIC ASSISTANCE

Currently, DHFS reimburses pharmacists and pharmacies for prescription drugs purchased by elderly persons who are enrolled in a program of prescription drug assistance (Senior Care). Senior Care provides payments under the program from general purpose revenues, rebate payments made by prescription drug manufacturers, and federal funds.

This bill establishes a trust fund designated as the health care quality fund, from moneys obtained from an increase in cigarette and other tobacco products taxes and from certain other sources. Under the bill, moneys from the health care quality fund are used as another source of funding for payments made under Senior Care.

OTHER HEALTH AND HUMAN SERVICES

Currently, DHFS administers a grant program for statewide tobacco use control that funds programs to prevent, reduce, or cease tobacco use. Also under current law, a trust fund designated as the permanent endowment fund exists that consists of proceeds from the sale of the state's right to receive payments under a master tobacco settlement agreement and investment earnings on the proceeds.

This bill establishes a trust fund designated as the health care quality fund, from moneys obtained by increasing cigarette and other tobacco products taxes, by transferring funds from the permanent endowment fund, and from certain other sources. Under the bill, moneys from the health care quality fund are appropriated in part for aids and local assistance for the statewide grant program for tobacco use control and for health care quality and patient safety information.

INSURANCE

Under current law, certain health care providers are required to carry health care liability insurance with liability limits of at least \$1,000,000 for each occurrence and at least \$3,000,000 for all occurrences in a policy year. Any portion of a medical malpractice claim against a health care provider subject to the health care liability insurance requirements that exceeds the policy limits of the health care provider's

health care liability insurance is paid by the injured patients and families compensation fund. Moneys for the fund come from annual assessments paid by the health care providers who are subject to the health care liability insurance requirements. This bill transfers \$175,000,000 in fiscal year 2007–08 from the injured patients and families compensation fund to the health care quality fund, as created in the bill.

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

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

1 **SECTION 1.** 20.435 (4) (bc) of the statutes is amended to read:

2 20.435 (4) (bc) *Badger Care health care program; general purpose revenue.* As
3 a continuing appropriation, the amounts in the schedule for a portion of the Badger
4 Care health care program under s. 49.665.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 2.** 20.435 (4) (bm) of the statutes is amended to read:

6 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*
7 *administration; contract costs, insurer reports, and resource centers.* Biennially, the
8 amounts in the schedule to provide a portion of the state share of administrative
9 contract costs for the Medical Assistance program under s. 49.45, ~~the food stamp~~
10 ~~program under s. 49.79~~, and the Badger Care health care program under s. 49.665
11 and to provide the state share of administrative contract costs for the food stamp
12 program under s. 49.79, other than payments to counties and tribal governing bodies
13 under s. 49.78 (8), to develop and implement a registry of recipient immunizations,
14 to reimburse insurers for their costs under s. 49.475, for costs associated with
15 outreach activities, and for services of resource centers under s. 46.283. No state
16 positions may be funded in the department of health and family services from this
17 appropriation, except positions for the performance of duties under a contract in

1 effect before January 1, 1987, related to the administration of the Medical
2 Assistance program between the subunit of the department primarily responsible for
3 administering the Medical Assistance program and another subunit of the
4 department. Total administrative funding authorized for the program under s.
5 49.665 may not exceed 10% of the amounts budgeted under pars. (bc), (p), and (x).

6 **SECTION 3.** 20.435 (4) (gp) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

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

8 20.435 (4) (xd) *Health care quality fund; Medical Assistance and Badger Care*
9 *benefits.* From the health care quality fund, as a continuing appropriation, the
10 amounts in the schedule to provide a portion of the state share of Medical Assistance
11 program benefits administered under s. 49.45 and to provide a portion of the costs
12 of benefits under the Badger Care health care program under s. 49.665.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13 **SECTION 5.** 20.435 (4) (xe) of the statutes is created to read:

14 20.435 (4) (xe) *Health care quality fund; administration.* From the health care
15 quality fund, as a continuing appropriation, the amounts in the schedule to provide
16 a portion of the state share of administrative contract costs for the Medical
17 Assistance program under s. 49.45.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 6.** 20.435 (4) (xh) of the statutes is created to read:

19 20.435 (4) (xh) *Health care quality fund; prescription drug assistance; benefits.*
20 From the health care quality fund, as a continuing appropriation, the amounts in the

1 schedule for payment to pharmacies and pharmacists under s. 49.688 (7) for
2 prescription drug assistance for elderly persons.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 7.** 20.435 (4) (xi) of the statutes is created to read:

4 20.435 (4) (xi) *Health care quality fund; prescription drug assistance;*
5 *administration.* From the health care quality fund, as a continuing appropriation,
6 the amounts in the schedule for administration of the program for prescription drug
7 assistance for elderly persons under s. 49.688 (7).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 8.** 20.435 (4) (xk) of the statutes is created to read:

9 20.435 (4) (xk) *Health care quality fund; quality and patient safety information*
10 *technology.* From the health care quality fund, as a continuing appropriation, the
11 amounts in the schedule for promoting the adoption of health care quality and
12 patient safety information technology and developing exchanges of health
13 information.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14 **SECTION 9.** 20.435 (5) (q) of the statutes is created to read:

15 20.435 (5) (q) *Health care quality fund; tobacco prevention and education.*
16 From the health care quality fund, as a continuing appropriation, the amounts in the
17 schedule for local assistance under the grants under s. 255.15 (3).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 10.** 20.435 (5) (r) of the statutes is created to read:

1 20.435 (5) (r) *Health care quality fund; tobacco use control.* From the health
2 care quality fund, as a continuing appropriation, the amounts in the schedule for aids
3 under the grants under s. 255.15 (3).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 11.** 25.17 (1) (gd) of the statutes is created to read:

5 25.17 (1) (gd) Health care quality fund (s. 25.772);

6 **SECTION 12.** 25.69 of the statutes is amended to read:

7 **25.69 Permanent endowment fund.** There is established a separate
8 nonlapsible trust fund designated as the permanent endowment fund, consisting of
9 all of the proceeds from the sale of the state's right to receive payments under the
10 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
11 and all investment earnings on the proceeds. There is transferred from the
12 permanent endowment fund to the health care quality fund \$50,000,000 in each
13 fiscal year.

14 **SECTION 13.** 25.772 of the statutes is created to read:

15 **25.772 Health care quality fund.** There is established a separate
16 nonlapsible trust fund designated as the health care quality fund, to consist of all of
17 the following:

18 (1) The amount of the taxes collected under subchs. II and III of ch. 139 as
19 determined under ss. 139.455 and 139.865.

20 (2) All moneys received under s. 50.375 from assessments on hospitals.

21 (3) All moneys transferred from the permanent endowment fund.

22 **SECTION 14.** 46.27 (9) (a) of the statutes is amended to read:

1 46.27 (9) (a) The department may select up to 5 counties that volunteer to
2 participate in a pilot project under which they will receive certain funds allocated for
3 long-term care. The department shall allocate a level of funds to these counties
4 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, ~~or~~ (w),
5 or (xd) to nursing homes for providing care because of increased utilization of nursing
6 home services, as estimated by the department. In estimating these levels, the
7 department shall exclude any increased utilization of services provided by state
8 centers for the developmentally disabled. The department shall calculate these
9 amounts on a calendar year basis under sub. (10).

10 **SECTION 15.** 46.27 (10) (a) 1. of the statutes is amended to read:

11 46.27 (10) (a) 1. The department shall determine for each county participating
12 in the pilot project under sub. (9) a funding level of state medical assistance
13 expenditures to be received by the county. This level shall equal the amount that the
14 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, ~~or~~ (w),
15 or (xd), or because of increased utilization of nursing home services, as estimated by
16 the department.

17 **SECTION 16.** 46.275 (5) (a) of the statutes is amended to read:

18 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
19 department under sub. (3r), provides under this program is available from the
20 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and~~ (w), and (xd). If 2 or more
21 counties jointly contract to provide services under this program and the department
22 approves the contract, Medical Assistance reimbursement is also available for
23 services provided jointly by these counties.

24 **SECTION 17.** 46.275 (5) (c) of the statutes is amended to read:

1 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and
2 (xd) to counties and to the department under sub. (3r) for services provided under
3 this section may not exceed the amount approved by the federal department of health
4 and human services. A county may use funds received under this section only to
5 provide services to persons who meet the requirements under sub. (4) and may not
6 use unexpended funds received under this section to serve other developmentally
7 disabled persons residing in the county.

8 **SECTION 18.** 46.278 (6) (d) of the statutes is amended to read:

9 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
10 share of service costs under a waiver received under sub. (3), the department may,
11 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
12 that the county provides under this section to persons who are in addition to those
13 who may be served under this section with funds from the appropriation account
14 under s. 20.435 (4) (b) ~~or~~, (w), or (xd).

15 **SECTION 19.** 46.2785 (5) (a) of the statutes is amended to read:

16 46.2785 (5) (a) Medical assistance reimbursement for services a county or
17 private agency contracts for or provides under the waiver program shall be made
18 from the appropriation accounts under s. 20.435 (4) (b) ~~and~~, (o), and (xd).

19 **SECTION 20.** 46.283 (5) of the statutes is amended to read:

20 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
21 (bm), ~~(gp)~~, (pa), and (w), and (xd) and (7) (b), (bd), and (md), the department may
22 contract with organizations that meet standards under sub. (3) for performance of
23 the duties under sub. (4) and shall distribute funds for services provided by resource
24 centers.

25 **SECTION 21.** 46.284 (5) (a) of the statutes is amended to read:

1 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
2 (im), (o), ~~and (w)~~, and (xd) and (7) (b) and (bd), the department shall provide funding
3 on a capitated payment basis for the provision of services under this section.
4 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
5 under contract with the department may expend the funds, consistent with this
6 section, including providing payment, on a capitated basis, to providers of services
7 under the family care benefit.

8 **SECTION 22.** 46.485 (2g) (intro.) of the statutes is amended to read:

9 46.485 (2g) (intro.) From the appropriation ~~accounts~~ account under s. 20.435
10 (4) (b) ~~and (gp)~~, the department may in each fiscal year transfer funds to the
11 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
12 appropriation account under s. 20.435 (7) (mb) the department may not distribute
13 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
14 all of the following requirements, as determined by the department:

15 **SECTION 23.** 49.45 (2) (a) 17. of the statutes is amended to read:

16 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
17 organization, the joint committee on finance and appropriate standing committees,
18 as determined by the presiding officer of each house, if the appropriation accounts
19 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
20 medical assistance.

21 **SECTION 24.** 49.45 (5m) (am) of the statutes is amended to read:

22 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
23 under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, and (xd), the department shall distribute not
24 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
25 hospitals that, as determined by the department, have high utilization of inpatient

SECTION 24

1 services by patients whose care is provided from governmental sources, and to
2 provide supplemental funds to critical access hospitals, except that the department
3 may not distribute funds to a rural hospital or to a critical access hospital to the
4 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

5 **SECTION 25.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

6 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
7 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
8 provided in pars. (bg), (bm), and (br), be determined according to a prospective
9 payment system updated annually by the department. The payment system shall
10 implement standards that are necessary and proper for providing patient care and
11 that meet quality and safety standards established under subch. II of ch. 50 and ch.
12 150. The payment system shall reflect all of the following:

13 **SECTION 26.** 49.45 (6v) (b) of the statutes is amended to read:

14 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
15 on finance a report for the previous fiscal year, except for the 1997–98 fiscal year, that
16 provides information on the utilization of beds by recipients of medical assistance in
17 facilities and a discussion and detailed projection of the likely balances,
18 expenditures, encumbrances and carry over of currently appropriated amounts in
19 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd).

20 **SECTION 27.** 49.45 (6x) (a) of the statutes is amended to read:

21 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
22 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
23 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
24 hospital, except that the department may not allocate funds to an essential access

1 city hospital to the extent that the allocation would exceed any limitation under 42
2 USC 1396b (i) (3).

3 **SECTION 28.** 49.45 (6y) (a) of the statutes is amended to read:

4 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
5 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute
6 funding in each fiscal year to provide supplemental payment to hospitals that enter
7 into a contract under s. 49.02 (2) to provide health care services funded by a relief
8 block grant, as determined by the department, for hospital services that are not in
9 excess of the hospitals' customary charges for the services, as limited under 42 USC
10 1396b (i) (3). If no relief block grant is awarded under this chapter or if the allocation
11 of funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3),
12 the department may distribute funds to hospitals that have not entered into a
13 contract under s. 49.02 (2).

14 **SECTION 29.** 49.45 (6y) (am) of the statutes is amended to read:

15 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
16 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute
17 funding in each fiscal year to provide supplemental payments to hospitals that enter
18 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
19 to provide health care services funded by a relief block grant, as determined by the
20 department, for hospital services that are not in excess of the hospitals' customary
21 charges for the services, as limited under 42 USC 1396b (i) (3).

22 **SECTION 30.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

23 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
24 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall
25 distribute funding in each fiscal year to supplement payment for services to hospitals

1 that enter into a contract under s. 49.02 (2) to provide health care services funded
2 by a relief block grant under this chapter, if the department determines that the
3 hospitals serve a disproportionate number of low-income patients with special
4 needs. If no medical relief block grant under this chapter is awarded or if the
5 allocation of funds to such hospitals would exceed any limitation under 42 USC
6 1396b (i) (3), the department may distribute funds to hospitals that have not entered
7 into a contract under s. 49.02 (2). The department may not distribute funds under
8 this subsection to the extent that the distribution would do any of the following:

9 **SECTION 31.** 49.45 (8) (b) of the statutes is amended to read:

10 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd)
11 for home health services provided by a certified home health agency or independent
12 nurse shall be made at the home health agency's or nurse's usual and customary fee
13 per patient care visit, subject to a maximum allowable fee per patient care visit that
14 is established under par. (c).

15 **SECTION 32.** 49.45 (24m) (intro.) of the statutes is amended to read:

16 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
17 ~~(gp)~~, (o), and (w), and (xd), in order to test the feasibility of instituting a system of
18 reimbursement for providers of home health care and personal care services for
19 medical assistance recipients that is based on competitive bidding, the department
20 shall:

21 **SECTION 33.** 49.45 (52) of the statutes is amended to read:

22 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
23 department may, from the appropriation account under s. 20.435 (7) (b), make
24 Medical Assistance payment adjustments to county departments under s. 46.215,
25 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01

1 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
2 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
3 adjustments under this subsection shall include the state share of the payments.
4 The total of any payment adjustments under this subsection and Medical Assistance
5 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
6 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
7 (30) (A).

8 **SECTION 34.** 49.472 (6) (a) of the statutes is amended to read:

9 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
10 under s. 20.435 (4) (b), ~~(gp)~~, or (w), or (xd), the department shall, on the part of an
11 individual who is eligible for medical assistance under sub. (3), pay premiums for or
12 purchase individual coverage offered by the individual's employer if the department
13 determines that paying the premiums for or purchasing the coverage will not be more
14 costly than providing medical assistance.

15 **SECTION 35.** 49.472 (6) (b) of the statutes is amended to read:

16 49.472 (6) (b) If federal financial participation is available, from the
17 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), or (xd), the department may
18 pay medicare Part A and Part B premiums for individuals who are eligible for
19 medicare and for medical assistance under sub. (3).

20 **SECTION 36.** 49.473 (5) of the statutes is amended to read:

21 49.473 (5) The department shall audit and pay, from the appropriation
22 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd), allowable charges to a provider
23 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
24 who meets the requirements under sub. (2) for all benefits and services specified
25 under s. 49.46 (2).

1 **SECTION 37.** 49.665 (4) (at) 1. a. of the statutes is amended to read:

2 49.665 (4) (at) 1. a. Except as provided in subd. 1. b., the department shall
3 establish a lower maximum income level for the initial eligibility determination if
4 funding under s. 20.435 (4) (bc), (jz), (p), and (x), and (xd) is insufficient to
5 accommodate the projected enrollment levels for the health care program under this
6 section. The adjustment may not be greater than necessary to ensure sufficient
7 funding.

8 **SECTION 38.** 49.665 (4) (at) 1. cm. of the statutes is amended to read:

9 49.665 (4) (at) 1. cm. Notwithstanding s. 20.001 (3) (b), if, after reviewing the
10 plan submitted under subd. 1. b., the joint committee on finance determines that the
11 amounts appropriated under s. 20.435 (4) (bc), (jz), (p), and (x), and (xd) are
12 insufficient to accommodate the projected enrollment levels, the committee may
13 transfer appropriated moneys from the general purpose revenue appropriation
14 account of any state agency, as defined in s. 20.001 (1), other than a sum sufficient
15 appropriation account, to the appropriation account under s. 20.435 (4) (bc) to
16 supplement the health care program under this section if the committee finds that
17 the transfer will eliminate unnecessary duplication of functions, result in more
18 efficient and effective methods for performing programs, or more effectively carry out
19 legislative intent, and that legislative intent will not be changed by the transfer.

20 **SECTION 39.** 49.665 (4) (at) 2. of the statutes is amended to read:

21 49.665 (4) (at) 2. If, after the department has established a lower maximum
22 income level under subd. 1., projections indicate that funding under s. 20.435 (4) (bc),
23 (jz), (p), and (x), and (xd) is sufficient to raise the level, the department shall, by state
24 plan amendment, raise the maximum income level for initial eligibility, but not to
25 exceed 185% of the poverty line.

1 **SECTION 40.** 49.688 (7) (a) of the statutes is amended to read:

2 49.688 (7) (a) Except as provided in par. (b), from the appropriation accounts
3 under s. 20.435 (4) (bv), (j), ~~and (pg)~~, and (xh), beginning on September 1, 2002, the
4 department shall, under a schedule that is identical to that used by the department
5 for payment of pharmacy provider claims under medical assistance, provide to
6 pharmacies and pharmacists payments for prescription drugs sold by the
7 pharmacies or pharmacists to persons eligible under sub. (2) who have paid the
8 deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not
9 required to pay a deductible. The payment for each prescription drug under this
10 paragraph shall be at the program payment rate, minus any copayment paid by the
11 person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that are
12 similar to those provided under s. 49.45 (8v). The department shall devise and
13 distribute a claim form for use by pharmacies and pharmacists under this paragraph
14 and may limit payment under this paragraph to those prescription drugs for which
15 payment claims are submitted by pharmacists or pharmacies directly to the
16 department. The department may apply to the program under this section the same
17 utilization and cost control procedures that apply under rules promulgated by the
18 department to medical assistance under subch. IV of ch. 49.

19 **SECTION 41.** 49.688 (7) (b) of the statutes is amended to read:

20 49.688 (7) (b) During any period in which funding under s. 20.435 (4) (bv) ~~and~~,
21 (pg), and (xh) is completely expended for the payments specified in par. (a), the
22 requirements of par. (a) and subs. (3) (c), (5), and (6) (a) and (b) do not apply to drugs
23 purchased during that period, but the department shall continue to accept
24 applications and determine eligibility under sub. (4) and shall indicate to applicants
25 that the eligibility of program participants to purchase prescription drugs as

1 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
2 availability of funding under s. 20.435 (4) (bv) ~~and~~, (pg), and (xh).

3 **SECTION 42.** 50.375 of the statutes is created to read:

4 **50.375 Assessment.** (1) Beginning in 2007, for the privilege of doing business
5 in this state, there is imposed on each hospital an annual assessment, based on the
6 hospital's gross revenue, other than revenue received as reimbursement for services
7 or items provided as benefits under subch. IV of ch. 49, that each hospital shall pay
8 before December 1. The assessments shall be deposited into the health care quality
9 fund.

10 (2) The department shall verify the amount of each hospital's gross revenue
11 and determine the amount of each hospital's assessment, based on claims
12 information that shall be provided to the department under s. 153.46 (5).

13 (3) The department's determination under sub. (2) shall be based on a rate not
14 to exceed 1 percent of a hospital's gross revenue, other than revenue received as
15 reimbursement for services or items provided as benefits under subch. IV of ch. 49,
16 as adjusted by the department.

17 (4) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
18 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
19 subch. III of ch. 77, apply to the assessment under this section, except that the
20 amount of any assessment collected under sub. (1) shall be deposited in the health
21 care quality fund.

22 (5) The department shall levy, enforce, and collect the assessment under this
23 section and shall develop and distribute forms necessary for levying and collection.

24 (6) An affected hospital may contest an action by the department of health and
25 family services under this section by submitting a written request for a hearing to

1 the division of hearings and appeals in the department of administration within 30
2 days after the date of the department's action.

3 (7) Any order or determination made by the division of hearings and appeals
4 in the department of administration under a hearing as specified in sub. (6) is subject
5 to judicial review as prescribed under ch. 227.

6 SECTION 43. 139.31 (1) (a) of the statutes is amended to read:

7 ¹⁰¹ 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
8 38.5 ~~38.5~~ mills on each cigarette.

9 SECTION 44. 139.31 (1) (b) of the statutes is amended to read:

10 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ²⁰² ~~77~~
11 mills on each cigarette.

12 SECTION 45. 139.455 of the statutes is created to read:

13 **139.455 Revenue distribution.** From the taxes collected under this
14 subchapter, the department shall deposit an amount equal to ^{620.5} ~~50~~ mills on cigarettes
15 weighing not more than 3 pounds per thousand and ¹²⁵ ~~100~~ mills on cigarettes weighing
16 more than 3 pounds per thousand into the health care quality fund.

17 SECTION 46. 139.76 (1) of the statutes is amended to read:

18 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
19 possession with intent to sell or removal for consumption or sale or other disposition
20 for any purpose of tobacco products by any person engaged as a distributor of them
21 at the rate of 25% ⁶⁵⁰⁶ ~~50/100~~ percent of the manufacturer's established list price to
22 distributors without diminution by volume or other discounts on domestic products.
23 On products imported from another country the rate of tax is 25% ⁶⁵⁰⁶ ~~37/100~~ percent of the
24 amount obtained by adding the manufacturer's list price to the federal tax, duties
25 and transportation costs to the United States. The tax attaches at the time the

1 tobacco products are received by the distributor in this state. The tax shall be passed
2 on to the ultimate consumer of the tobacco products. All tobacco products received
3 in this state for sale or distribution within this state, except tobacco products actually
4 sold as provided in sub. (2), shall be subject to such tax.

5 SECTION 47. 139.78 (1) of the statutes is amended to read:

6 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
7 products in this state at the rate of 25% ~~511/100~~ ^{6.50%} percent of the cost of the tobacco
8 products. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco
9 products has been paid or if the tobacco products are exempt from the tobacco
10 products tax under s. 139.76 (2).

INSERT
18-10

11 SECTION 48. 139.865 of the statutes is created to read:

12 **139.865 Revenue distribution.** The department shall deposit ~~50.5~~ ^{63.8} percent
13 of the amount of the taxes collected under this subchapter into the health care
14 quality fund.

15 SECTION 49. 146.99 of the statutes is repealed.

16 SECTION 50. 255.15 (3) (b) (intro.) of the statutes is amended to read:

17 255.15 (3) (b) (intro.) From the appropriation accounts under s. 20.435 (5) (fm),
18 (q), and (r), the department may distribute grants for any of the following:

19 SECTION 9225. **Fiscal changes; Insurance.**

20 (1) HEALTH CARE QUALITY FUND. Notwithstanding section 655.27 (6) of the
21 statutes, there is transferred from the injured patients and families compensation
22 fund to the health care quality fund \$175,000,000 in fiscal year 2007-08.

23 SECTION 9441. **Effective dates; Revenue.**

139.315(1), 139.32(5), 139.323(intro),
139.325,

139.803(intro),
139.805,

1 (1) CIGARETTE AND TOBACCO PRODUCTS TAX RATES. The treatment of sections
2 139.31 (1) (a) and (b), 139.455, 139.76 (1), 139.78 (1), and 139.865 of the statutes
3 takes effect on ~~May~~ 1, 2007, or on the day after publication, whichever is later.

4

September

(END)

of the 3rd month beginning
first
the first day of the month that begins
60 days after

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/7ins
JK&DAK&PJK:wlj&jld:rs

Insert A

Under current law, generally, American Indian tribes located in this state receive a refund of all cigarette and tobacco products taxes collected by the state on the sale of cigarettes and tobacco products on tribal land; except that DOR may enter into agreements with American Indian tribes to refund 70 percent of the cigarette taxes, and 50 percent of the tobacco products taxes, collected by the tribes and sold to persons who are not tribal members and who do not reside on tribal land. Under the bill, an American Indian tribe may receive as a refund no more than 40 percent of the cigarette and tobacco products taxes collected by the state on the sale of cigarettes and tobacco products on tribal land, regardless of whether the purchaser is a tribal member or resides on tribal land.

Insert 17 - 11

1 **SECTION ~~X~~** 139.315 (1) of the statutes is amended to read:

2 139.315 (1) INVENTORY TAX IMPOSED. On the effective date of any increase in the
3 sum of the rates under s. 139.31 (1) (a) and (c) or in the sum of the rates under s.
4 139.31 (1) (b) and (d), an inventory tax is imposed upon cigarettes held in inventory
5 for sale or resale on which the cigarette tax has been paid at the prior rate and upon
6 unaffixed stamps in the possession of distributors. Any person who is in possession
7 of any such cigarettes or unaffixed stamps shall pay the tax imposed under this
8 section. Any person liable for this tax shall determine the number of cigarettes and
9 unaffixed stamps in the person's possession on the effective date of the increase, and
10 by the ~~15th~~ 30th day after the effective date of the increase the person shall file a
11 return and shall by that date pay the tax due.

History: 1981 c. 317; 1985 a. 29; 1987 a. 312 s. 17; 1991 a. 39; 1995 a. 233; 1997 a. 27, 237; 2005 a. 49.

12 **SECTION ~~X~~** 139.32 (5) of the statutes is amended to read:

13 139.32 (5) Manufacturers, bonded direct marketers, and distributors who are
14 authorized by the department to purchase tax stamps shall receive a discount of ~~1.6%~~
15 0.7 percent of the tax paid on stamp purchases.

History: 1971 c. 125; 1977 c. 29; 1983 a. 27; 1985 a. 29; 1987 a. 399; 1989 a. 31; 1993 a. 16, 482; 1997 a. 27; 2005 a. 25.

16 **SECTION ~~X~~** 139.323 (intro.) of the statutes is amended to read:

1 **139.323 Refunds to Indian tribes.** (intro.) The department shall refund ~~70%~~
2 40 percent of the taxes collected under s. 139.31 (1) in respect to sales on reservations
3 or trust lands of an Indian tribe to the tribal council of the tribe having jurisdiction
4 over the reservation or trust land on which the sale is made if all the following
5 conditions are fulfilled:

6 History: 1983 a. 27; 1985 a. 29, 302.

6 ~~SECTION 139.325~~ 139.325 of the statutes is amended to read:

7 **139.325 Agreements with Indian tribes.** The department may enter into
8 agreements with Indian tribes to provide for the refunding of the cigarette refund 40
9 percent of the tax imposed under s. 139.31 (1) on cigarettes sold on reservations to
10 enrolled members of the tribe residing on the tribal reservation.

History: 1983 a. 27.

Insert 18 - 10

11 ~~SECTION 139.803~~ 139.803 (intro.) of the statutes is amended to read:

12 **139.803 Refunds to Indian tribes.** (intro.) The department may refund 40
13 percent of the taxes collected under s. 139.76 (1) in respect to sales on reservations
14 or trust lands of an Indian tribe to the tribal council of the tribe having jurisdiction
15 over the reservation or trust land on which the sale is made only if all of the following
16 conditions are fulfilled:

17 History: 1999 a. 9.

17 ~~SECTION 139.805~~ 139.805 of the statutes is amended to read:

18 **139.805 Agreements with Indian tribes.** The department may enter into
19 agreements with Indian tribes to provide for the refunding of the tobacco products
20 tax imposed under s. 139.76 (1). If the department enters into an agreement with
21 an Indian tribe, the agreement may provide for refunding ~~100%~~ 40 percent of that
22 tax on tobacco products sold on the tribal reservation to enrolled members of the tribe

1 residing on the tribal reservation and may provide for refunding ~~50%~~ 40 percent of
2 that tax on tobacco products sold on the tribal reservation to persons who are not
3 enrolled members of the tribe residing on the tribal reservation.

History: 1999 a. 9.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/7dn
JK&DAK&PJK:wj&idw

STAY

Darren:

Please review this draft carefully to ensure that it is consistent with your intent. The draft amends ss. 139.323 (intro.) and 139.803 (intro.) so that DOR must refund 40 percent of the taxes collected for sales on tribal land, if the tribe files a claim and satisfies the other conditions enumerated in those sections. Consequently, rather than amend ss. 139.325 and 139.805, related to giving DOR authority to enter agreements to provide refunds of less than the full amount, I think those 2 sections should be eliminated because they are now superfluous. Let me know if I understand this correctly.

2
SP

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/7dn
JK:wlj&jld:rs

January 25, 2007

Darren:

Please review this draft carefully to ensure that it is consistent with your intent. The draft amends ss. 139.323 (intro.) and 139.803 (intro.) so that DOR must refund 40 percent of the taxes collected for sales on tribal land, if the tribe files a claim and satisfies the other conditions enumerated in those sections. Consequently, rather than amend ss. 139.325 and 139.805, related to giving DOR authority to enter agreements to provide refunds of less than the full amount, I think those two sections should be eliminated because they are now superfluous. Let me know if I understand this correctly.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Kreye, Joseph

From: Easton, Darren - DOA
Sent: Friday, January 26, 2007 4:57 PM
To: Kreye, Joseph
Subject: LRB Draft: 07-0892/7 Increase excise tax rate on cigarette and tobacco products sales; health care quality trust fund

Joe,

These are minor changes.

1. 139.323 – the 70% should be changed to 40%
2. There should be no changes made to 139.325 or 139.805.

Thanks,

Darren M. Easton
Executive Policy and Budget Analyst
608-266-7597

01/26/2007