



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0892/08/10

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D-NOTE

Stays

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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 \$2.02 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 65.6 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. 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 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

3rd parties

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

⑤. **** This is reconciled s. 20.435(4)(bmb) This section has been affected by drafts with the following LRB #s: ① -0892/9, ② -0248/2, and -0905/1 ②

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) (r) of the statutes is created to read:

15 20.435 (5) (r) *Health care quality fund; tobacco use control.* From the health
16 care quality fund, as a continuing appropriation, the amounts in the schedule for aids
17 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.** 25.17 (1) (gd) of the statutes is created to read:

19 25.17 (1) (gd) Health care quality fund (s. 25.772);

20 **SECTION 11.** 25.69 of the statutes is amended to read:

1 **25.69 Permanent endowment fund.** There is established a separate
2 nonlapsible trust fund designated as the permanent endowment fund, consisting of
3 all of the proceeds from the sale of the state's right to receive payments under the
4 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
5 and all investment earnings on the proceeds. There is transferred from the
6 permanent endowment fund to the health care quality fund \$50,000,000 in each
7 fiscal year.

8 **SECTION 12.** 25.772 of the statutes is created to read:

9 **25.772 Health care quality fund.** There is established a separate
10 nonlapsible trust fund designated as the health care quality fund, to consist of all of
11 the following:

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

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

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

16 (4) All moneys transferred under 2007 Wisconsin Act (this act), section 9225

17 (1).

18 **SECTION 13.** 46.27 (9) (a) of the statutes is amended to read:

19 46.27 (9) (a) The department may select up to 5 counties that volunteer to
20 participate in a pilot project under which they will receive certain funds allocated for
21 long-term care. The department shall allocate a level of funds to these counties
22 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~,
23 or (xd) to nursing homes for providing care because of increased utilization of nursing
24 home services, as estimated by the department. In estimating these levels, the
25 department shall exclude any increased utilization of services provided by state

1 centers for the developmentally disabled. The department shall calculate these
2 amounts on a calendar year basis under sub. (10).

3 **SECTION 14.** 46.27 (10) (a) 1. of the statutes is amended to read:

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

10 **SECTION 15.** 46.275 (5) (a) of the statutes is amended to read:

11 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
12 department under sub. (3r), provides under this program is available from the
13 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd). If 2 or more
14 counties jointly contract to provide services under this program and the department
15 approves the contract, Medical Assistance reimbursement is also available for
16 services provided jointly by these counties.

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

18 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and
19 (xd) to counties and to the department under sub. (3r) for services provided under
20 this section may not exceed the amount approved by the federal department of health
21 and human services. A county may use funds received under this section only to
22 provide services to persons who meet the requirements under sub. (4) and may not
23 use unexpended funds received under this section to serve other developmentally
24 disabled persons residing in the county.

25 **SECTION 17.** 46.278 (6) (d) of the statutes is amended to read:

1 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
2 share of service costs under a waiver received under sub. (3), the department may,
3 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
4 that the county provides under this section to persons who are in addition to those
5 who may be served under this section with funds from the appropriation account
6 under s. 20.435 (4) (b) ~~or~~, (w), or (xd).

7 **SECTION 18.** 46.2785 (5) (a) of the statutes is amended to read:

8 46.2785 (5) (a) Medical assistance reimbursement for services a county or
9 private agency contracts for or provides under the waiver program shall be made
10 from the appropriation accounts under s. 20.435 (4) (b) ~~and~~, (o), and (xd).

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

12 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
13 (bm), ~~(gp)~~, (pa), ~~and~~ (w), and (xd) and (7) (b), (bd), and (md), the department may
14 contract with organizations that meet standards under sub. (3) for performance of
15 the duties under sub. (4) and shall distribute funds for services provided by resource
16 centers.

17 **SECTION 20.** 46.284 (5) (a) of the statutes is amended to read:

18 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
19 (im), (o), ~~and~~ (w), and (xd) and (7) (b) and (bd), the department shall provide funding
20 on a capitated payment basis for the provision of services under this section.
21 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
22 under contract with the department may expend the funds, consistent with this
23 section, including providing payment, on a capitated basis, to providers of services
24 under the family care benefit.

25 **SECTION 21.** 46.485 (2g) (intro.) of the statutes is amended to read:

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

7 **SECTION 22.** 49.45 (2) (a) 17. of the statutes is amended to read:

8 49.45 **(2)** (a) 17. Notify the governor, the joint committee on legislative
9 organization, the joint committee on finance and appropriate standing committees,
10 as determined by the presiding officer of each house, if the appropriation accounts
11 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
12 medical assistance.

13 **SECTION 23.** 49.45 (5m) (am) of the statutes is amended to read:

14 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
15 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
16 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
17 hospitals that, as determined by the department, have high utilization of inpatient
18 services by patients whose care is provided from governmental sources, and to
19 provide supplemental funds to critical access hospitals, except that the department
20 may not distribute funds to a rural hospital or to a critical access hospital to the
21 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

22 **SECTION 24.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

23 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
24 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
25 provided in pars. (bg), (bm), and (br), be determined according to a prospective

1 payment system updated annually by the department. The payment system shall
2 implement standards that are necessary and proper for providing patient care and
3 that meet quality and safety standards established under subch. II of ch. 50 and ch.
4 150. The payment system shall reflect all of the following:

5 **SECTION 25.** 49.45 (6v) (b) of the statutes is amended to read:

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

12 **SECTION 26.** 49.45 (6x) (a) of the statutes is amended to read:

13 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
14 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
15 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
16 hospital, except that the department may not allocate funds to an essential access
17 city hospital to the extent that the allocation would exceed any limitation under 42
18 USC 1396b (i) (3).

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

20 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
21 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department ~~shall~~ distribute
22 funding in each fiscal year to provide supplemental payment to hospitals that enter
23 into a contract under s. 49.02 (2) to provide health care services funded by a relief
24 block grant, as determined by the department, for hospital services that are not in
25 excess of the hospitals' customary charges for the services, as limited under 42 USC

1 1396b (i) (3). If no relief block grant is awarded under this chapter or if the allocation
2 of funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3),
3 the department may distribute funds to hospitals that have not entered into a
4 contract under s. 49.02 (2).

**** NOTE: This is reconciled s. 49.45 (6y) (a). This section has been affected by drafts with the following LRB #s: 0892/9 and 1521/15*

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

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

13 **SECTION 29.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

14 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
15 accounts under s. 20.435 (4) (b), (gp), (o), and (w), and (xd), the department shall
16 distribute funding in each fiscal year to supplement payment for services to hospitals
17 that enter into a contract under s. 49.02 (2) to provide health care services funded
18 by a relief block grant under this chapter, if the department determines that the
19 hospitals serve a disproportionate number of low-income patients with special
20 needs. If no medical relief block grant under this chapter is awarded or if the
21 allocation of funds to such hospitals would exceed any limitation under 42 USC
22 1396b (i) (3), the department may distribute funds to hospitals that have not entered
23 into a contract under s. 49.02 (2). The department may not distribute funds under
24 this subsection to the extent that the distribution would do any of the following:

*-0892/1
-0994/1
-1521/15*

25 **SECTION 30.** 49.45 (8) (b) of the statutes is amended to read:

SECTION 30

1 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd)
2 for home health services provided by a certified home health agency or independent
3 nurse shall be made at the home health agency's or nurse's usual and customary fee
4 per patient care visit, subject to a maximum allowable fee per patient care visit that
5 is established under par. (c).

6 **SECTION 31.** 49.45 (24m) (intro.) of the statutes is amended to read:

7 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
8 ~~(gp)~~, (o), and (w), and (xd), in order to test the feasibility of instituting a system of
9 reimbursement for providers of home health care and personal care services for
10 medical assistance recipients that is based on competitive bidding, the department
11 shall:

12 **SECTION 32.** 49.45 (52) of the statutes is amended to read:

13 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
14 department may, from the appropriation account under s. 20.435 (7) (b), make
15 Medical Assistance payment adjustments to county departments under s. 46.215,
16 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
17 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
18 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
19 adjustments under this subsection shall include the state share of the payments.
20 The total of any payment adjustments under this subsection and Medical Assistance
21 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
22 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
23 (30) (A).

24 **SECTION 33.** 49.472 (6) (a) of the statutes is amended to read:

1 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
2 under s. 20.435 (4) (b), ~~(gp), or (w),~~ or (xd), the department shall, on the part of an
3 individual who is eligible for medical assistance under sub. (3), pay premiums for or
4 purchase individual coverage offered by the individual's employer if the department
5 determines that paying the premiums for or purchasing the coverage will not be more
6 costly than providing medical assistance.

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

8 49.472 (6) (b) If federal financial participation is available, from the
9 appropriation account under s. 20.435 (4) (b), ~~(gp), or (w),~~ or (xd), the department may
10 pay medicare Part A and Part B premiums for individuals who are eligible for
11 medicare and for medical assistance under sub. (3).

12 **SECTION 35.** 49.473 (5) of the statutes is amended to read:

13 49.473 (5) The department shall audit and pay, from the appropriation
14 accounts under s. 20.435 (4) (b), ~~(gp), and (o),~~ and (xd), allowable charges to a provider
15 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
16 who meets the requirements under sub. (2) for all benefits and services specified
17 under s. 49.46 (2).

18 **SECTION 36.** 49.665 (4) (at) 1. a. of the statutes is amended to read:

19 49.665 (4) (at) 1. a. Except as provided in subd. 1. b., the department shall
20 establish a lower maximum income level for the initial eligibility determination if
21 funding under s. 20.435 (4) (bc), (jz), (p), ~~and (x),~~ and (xd) is insufficient to
22 accommodate the projected enrollment levels for the health care program under this
23 section. The adjustment may not be greater than necessary to ensure sufficient
24 funding.

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

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

12 **SECTION 38.** 49.665 (4) (at) 2. of the statutes is amended to read:

13 49.665 (4) (at) 2. If, after the department has established a lower maximum
14 income level under subd. 1., projections indicate that funding under s. 20.435 (4) (bc),
15 (jz), (p), and (x), and (xd) is sufficient to raise the level, the department shall, by state
16 plan amendment, raise the maximum income level for initial eligibility, but not to
17 exceed 185% of the poverty line.

18 **SECTION 39.** 49.688 (7) (a) of the statutes is amended to read:

19 49.688 (7) (a) Except as provided in par. (b), from the appropriation accounts
20 under s. 20.435 (4) (bv), (j), and (pg), and (xh), beginning on September 1, 2002, the
21 department shall, under a schedule that is identical to that used by the department
22 for payment of pharmacy provider claims under medical assistance, provide to
23 pharmacies and pharmacists payments for prescription drugs sold by the
24 pharmacies or pharmacists to persons eligible under sub. (2) who have paid the
25 deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not

1 required to pay a deductible. The payment for each prescription drug under this
2 paragraph shall be at the program payment rate, minus any copayment paid by the
3 person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that are
4 similar to those provided under s. 49.45 (8v). The department shall devise and
5 distribute a claim form for use by pharmacies and pharmacists under this paragraph
6 and may limit payment under this paragraph to those prescription drugs for which
7 payment claims are submitted by pharmacists or pharmacies directly to the
8 department. The department may apply to the program under this section the same
9 utilization and cost control procedures that apply under rules promulgated by the
10 department to medical assistance under subch. IV of ch. 49.

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

12 49.688 (7) (b) During any period in which funding under s. 20.435 (4) (bv) and,
13 (pg), and (xh) is completely expended for the payments specified in par. (a), the
14 requirements of par. (a) and subs. (3) (c), (5), and (6) (a) and (b) do not apply to drugs
15 purchased during that period, but the department shall continue to accept
16 applications and determine eligibility under sub. (4) and shall indicate to applicants
17 that the eligibility of program participants to purchase prescription drugs as
18 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
19 availability of funding under s. 20.435 (4) (bv) and, (pg), and (xh).

20 **SECTION 41.** 50.375 of the statutes is created to read:

21 **50.375 Assessment.** (1) Beginning in 2007, for the privilege of doing business
22 in this state, there is imposed on each hospital an annual assessment, based on the
23 hospital's gross revenue, other than revenue received as reimbursement for services
24 or items provided as benefits under subch. IV of ch. 49, that each hospital shall pay

1 before December 1. The assessments shall be deposited into the health care quality
2 fund.

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

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

10 (4) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
11 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
12 subch. III of ch. 77, apply to the assessment under this section, except that the
13 amount of any assessment collected under sub. (1) shall be deposited in the health
14 care quality fund.

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

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

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

24 **SECTION 42.** 139.31 (1) (a) of the statutes is amended to read:

1 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
2 ~~38.5~~ 101 mills on each cigarette.

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

4 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ~~77~~ 202
5 mills on each cigarette.

6 **SECTION 44.** 139.315 (1) of the statutes is amended to read:

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

17 **SECTION 45.** 139.32 (5) of the statutes is amended to read:

18 139.32 (5) Manufacturers, bonded direct marketers, and distributors who are
19 authorized by the department to purchase tax stamps shall receive a discount of ~~1.6%~~
20 0.7 percent of the tax paid on stamp purchases.

21 **SECTION 46.** 139.455 of the statutes is created to read:

22 **139.455 Revenue distribution.** From the taxes collected under this
23 subchapter, the department shall deposit an amount equal to 62.5 mills on cigarettes
24 weighing not more than 3 pounds per thousand and 125 mills on cigarettes weighing
25 more than 3 pounds per thousand into the health care quality fund.

1 **SECTION 47.** 139.76 (1) of the statutes is amended to read:

2 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
3 possession with intent to sell or removal for consumption or sale or other disposition
4 for any purpose of tobacco products by any person engaged as a distributor of them
5 at the rate of ~~25%~~ 65.6 percent of the manufacturer's established list price to
6 distributors without diminution by volume or other discounts on domestic products.
7 On products imported from another country the rate of tax is ~~25%~~ 65.6 percent of the
8 amount obtained by adding the manufacturer's list price to the federal tax, duties
9 and transportation costs to the United States. The tax attaches at the time the
10 tobacco products are received by the distributor in this state. The tax shall be passed
11 on to the ultimate consumer of the tobacco products. All tobacco products received
12 in this state for sale or distribution within this state, except tobacco products actually
13 sold as provided in sub. (2), shall be subject to such tax.

14 **SECTION 48.** 139.78 (1) of the statutes is amended to read:

15 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
16 products in this state at the rate of ~~25%~~ 65.6 percent of the cost of the tobacco
17 products. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco
18 products has been paid or if the tobacco products are exempt from the tobacco
19 products tax under s. 139.76 (2).

20 **SECTION 49.** 139.865 of the statutes is created to read:

21 **139.865 Revenue distribution.** The department shall deposit 63.8 percent
22 of the amount of the taxes collected under this subchapter into the health care
23 quality fund.

24 **SECTION 50.** 146.99 of the statutes is repealed.

25 **SECTION 51.** 255.15 (3) (b) (intro.) of the statutes is amended to read:

D-NOTE

To Damen Easton and Jim Johnston (1)

(2) This draft reconciles LRB-0248/2^

LRB-0892/9^, LRB-0905/1^, LRB-0994/P1^

and LRB-1521/5 (1) LRB-0248^, LRB-0892^

LRB-0905^, LRB-0994^, and LRB-1521

should all continue to appear in the
compiled bill (1)

DAK

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

LRB-0892/10dn
DAK:wlj&jld&cjs:rs

January 31, 2007

To Darren Easton and Jim Johnston:

This draft reconciles LRB-0248/2, LRB-0892/9, LRB-0905/1, LRB-0994/P1, and LRB-1521/5. LRB-0248, LRB-0892, LRB-0905, LRB-0994, and LRB-1521 should all continue to appear in the compiled bill.

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

Kennedy, Debora

From: Kahler, Pam
Sent: Wednesday, January 31, 2007 10:58 AM
To: Kennedy, Debora
Subject: FW: LRB Draft: 07-0892/9 Increase excise tax rate on cigarette and tobacco products sales; health care quality fund
Importance: High
Attachments: 07-0892/9

Debora:

I think this e-mail is for you or Joe?

Pam

From: Pink, Michelle C - DOA
Sent: Wednesday, January 31, 2007 10:31 AM
To: Kahler, Pam
Cc: Johnston, James - DOA; Easton, Darren - DOA
Subject: FW: LRB Draft: 07-0892/9 Increase excise tax rate on cigarette and tobacco products sales; health care quality fund
Importance: High

Pam,

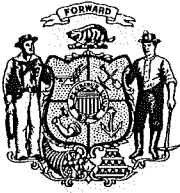
Please amend section 41 of this draft so that the upper limit of the annual assessment imposed on each hospital does not exceed 1 percent of gross revenue by removing the exclusion of Medicaid revenue. Although DHFS may take into account the level of Medicaid revenue received by each hospital when determining the amount of each hospital's assessment, it should not decrease the 1 percent limit on total collection.

Please let me know if you have any questions. Thank you.

Michelle

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.wisconsin.gov]
Sent: Monday, January 29, 2007 10:52 AM
To: Easton, Darren - DOA
Cc: Koskinen, John - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0892/9 Increase excise tax rate on cigarette and tobacco products sales; health care quality fund

Following is the PDF version of draft 07-0892/9.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0892/11

JK&DAK&PJK: wj&nd&cs/srs

ID-NOTE

all

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

m 1-31-07

Don't 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 \$2.02 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 65.6 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. 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 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 3rd parties for their costs under s. 49.475, for costs associated
15 with outreach activities, and for services of resource centers under s. 46.283. No
16 state positions may be funded in the department of health and family services from
17 this appropriation, except positions for the performance of duties under a contract

1 in 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).

****NOTE: This is reconciled s. 20.435 (4) (bm). This SECTION has been affected by
drafts with the following LRB numbers: -0892/9, 0248/2, and 0905/1.

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) (r) of the statutes is created to read:

15 20.435 (5) (r) *Health care quality fund; tobacco use control.* From the health
16 care quality fund, as a continuing appropriation, the amounts in the schedule for aids
17 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.** 25.17 (1) (gd) of the statutes is created to read:

19 25.17 (1) (gd) Health care quality fund (s. 25.772);

20 **SECTION 11.** 25.69 of the statutes is amended to read:

1 **25.69 Permanent endowment fund.** There is established a separate
2 nonlapsible trust fund designated as the permanent endowment fund, consisting of
3 all of the proceeds from the sale of the state's right to receive payments under the
4 Attorneys General Master Tobacco Settlement Agreement of November 23, 1998,
5 and all investment earnings on the proceeds. There is transferred from the
6 permanent endowment fund to the health care quality fund \$50,000,000 in each
7 fiscal year.

8 **SECTION 12.** 25.772 of the statutes is created to read:

9 **25.772 Health care quality fund.** There is established a separate
10 nonlapsible trust fund designated as the health care quality fund, to consist of all of
11 the following:

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

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

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

16 (4) All moneys transferred under 2007 Wisconsin Act (this act), section 9225

17 (1).

18 **SECTION 13.** 46.27 (9) (a) of the statutes is amended to read:

19 46.27 (9) (a) The department may select up to 5 counties that volunteer to
20 participate in a pilot project under which they will receive certain funds allocated for
21 long-term care. The department shall allocate a level of funds to these counties
22 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w),
23 or (xd) to nursing homes for providing care because of increased utilization of nursing
24 home services, as estimated by the department. In estimating these levels, the
25 department shall exclude any increased utilization of services provided by state

1 centers for the developmentally disabled. The department shall calculate these
2 amounts on a calendar year basis under sub. (10).

3 **SECTION 14.** 46.27 (10) (a) 1. of the statutes is amended to read:

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

10 **SECTION 15.** 46.275 (5) (a) of the statutes is amended to read:

11 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
12 department under sub. (3r), provides under this program is available from the
13 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd). If 2 or more
14 counties jointly contract to provide services under this program and the department
15 approves the contract, Medical Assistance reimbursement is also available for
16 services provided jointly by these counties.

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

18 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and
19 (xd) to counties and to the department under sub. (3r) for services provided under
20 this section may not exceed the amount approved by the federal department of health
21 and human services. A county may use funds received under this section only to
22 provide services to persons who meet the requirements under sub. (4) and may not
23 use unexpended funds received under this section to serve other developmentally
24 disabled persons residing in the county.

25 **SECTION 17.** 46.278 (6) (d) of the statutes is amended to read:

1 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
2 share of service costs under a waiver received under sub. (3), the department may,
3 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
4 that the county provides under this section to persons who are in addition to those
5 who may be served under this section with funds from the appropriation account
6 under s. 20.435 (4) (b) ~~or (w)~~, or (xd).

7 **SECTION 18.** 46.2785 (5) (a) of the statutes is amended to read:

8 46.2785 (5) (a) Medical assistance reimbursement for services a county or
9 private agency contracts for or provides under the waiver program shall be made
10 from the appropriation accounts under s. 20.435 (4) (b) ~~and (o)~~, and (xd).

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

12 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
13 (bm), ~~(gp)~~, (pa), ~~and (w)~~, and (xd) and (7) (b), (bd), and (md), the department may
14 contract with organizations that meet standards under sub. (3) for performance of
15 the duties under sub. (4) and shall distribute funds for services provided by resource
16 centers.

17 **SECTION 20.** 46.284 (5) (a) of the statutes is amended to read:

18 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
19 (im), (o), ~~and (w)~~, and (xd) and (7) (b) and (bd), the department shall provide funding
20 on a capitated payment basis for the provision of services under this section.
21 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
22 under contract with the department may expend the funds, consistent with this
23 section, including providing payment, on a capitated basis, to providers of services
24 under the family care benefit.

25 **SECTION 21.** 46.485 (2g) (intro.) of the statutes is amended to read:

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

7 **SECTION 22.** 49.45 (2) (a) 17. of the statutes is amended to read:

8 49.45 **(2)** (a) 17. Notify the governor, the joint committee on legislative
9 organization, the joint committee on finance and appropriate standing committees,
10 as determined by the presiding officer of each house, if the appropriation accounts
11 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
12 medical assistance.

13 **SECTION 23.** 49.45 (5m) (am) of the statutes is amended to read:

14 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
15 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
16 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
17 hospitals that, as determined by the department, have high utilization of inpatient
18 services by patients whose care is provided from governmental sources, and to
19 provide supplemental funds to critical access hospitals, except that the department
20 may not distribute funds to a rural hospital or to a critical access hospital to the
21 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

22 **SECTION 24.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

23 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
24 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or (w)~~, or (xd) shall, except as
25 provided in pars. (bg), (bm), and (br), be determined according to a prospective

1 payment system updated annually by the department. The payment system shall
2 implement standards that are necessary and proper for providing patient care and
3 that meet quality and safety standards established under subch. II of ch. 50 and ch.
4 150. The payment system shall reflect all of the following:

5 **SECTION 25.** 49.45 (6v) (b) of the statutes is amended to read:

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

12 **SECTION 26.** 49.45 (6x) (a) of the statutes is amended to read:

13 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
14 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
15 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
16 hospital, except that the department may not allocate funds to an essential access
17 city hospital to the extent that the allocation would exceed any limitation under 42
18 USC 1396b (i) (3).

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

20 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
21 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department ~~shall~~ may
22 distribute funding in each fiscal year to provide supplemental payment to hospitals
23 that enter into a contract under s. 49.02 (2) to provide health care services funded
24 by a relief block grant, as determined by the department, for hospital services that
25 are not in excess of the hospitals' customary charges for the services, as limited under

1 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
2 allocation of funds to such hospitals would exceed any limitation under 42 USC
3 1396b (i) (3), the department may distribute funds to hospitals that have not entered
4 into a contract under s. 49.02 (2).

****NOTE: This is reconciled s. 49.45 (6y) (a). This SECTION has been affected by
drafts with the following LRB numbers: -0892/9 and -1521/5.

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

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

13 **SECTION 29.** 49.45 (8) (b) of the statutes is amended to read:

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

19 **SECTION 30.** 49.45 (24m) (intro.) of the statutes is amended to read:

20 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
21 ~~(gp)~~, (o), ~~and (w)~~, and (xd), in order to test the feasibility of instituting a system of
22 reimbursement for providers of home health care and personal care services for

1 medical assistance recipients that is based on competitive bidding, the department
2 shall:

3 **SECTION 31.** 49.45 (52) of the statutes is amended to read:

4 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
5 department may, from the appropriation account under s. 20.435 (7) (b), make
6 Medical Assistance payment adjustments to county departments under s. 46.215,
7 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
8 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
9 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
10 adjustments under this subsection shall include the state share of the payments.
11 The total of any payment adjustments under this subsection and Medical Assistance
12 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
13 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
14 (30) (A).

15 **SECTION 32.** 49.472 (6) (a) of the statutes is amended to read:

16 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
17 under s. 20.435 (4) (b), ~~(gp)~~, or (w), (xd), the department shall, on the part of an
18 individual who is eligible for medical assistance under sub. (3), pay premiums for or
19 purchase individual coverage offered by the individual's employer if the department
20 determines that paying the premiums for or purchasing the coverage will not be more
21 costly than providing medical assistance.

22 **SECTION 33.** 49.472 (6) (b) of the statutes is amended to read:

23 49.472 (6) (b) If federal financial participation is available, from the
24 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), (xd), the department may

1 pay medicare Part A and Part B premiums for individuals who are eligible for
2 medicare and for medical assistance under sub. (3).

3 **SECTION 34.** 49.473 (5) of the statutes is amended to read:

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

9 **SECTION 35.** 49.665 (4) (at) 1. a. of the statutes is amended to read:

10 49.665 (4) (at) 1. a. Except as provided in subd. 1. b., the department shall
11 establish a lower maximum income level for the initial eligibility determination if
12 funding under s. 20.435 (4) (bc), (jz), (p), ~~and (x)~~, and (xd) is insufficient to
13 accommodate the projected enrollment levels for the health care program under this
14 section. The adjustment may not be greater than necessary to ensure sufficient
15 funding.

16 **SECTION 36.** 49.665 (4) (at) 1. cm. of the statutes is amended to read:

17 49.665 (4) (at) 1. cm. Notwithstanding s. 20.001 (3) (b), if, after reviewing the
18 plan submitted under subd. 1. b., the joint committee on finance determines that the
19 amounts appropriated under s. 20.435 (4) (bc), (jz), (p), ~~and (x)~~, and (xd) are
20 insufficient to accommodate the projected enrollment levels, the committee may
21 transfer appropriated moneys from the general purpose revenue appropriation
22 account of any state agency, as defined in s. 20.001 (1), other than a sum sufficient
23 appropriation account, to the appropriation account under s. 20.435 (4) (bc) to
24 supplement the health care program under this section if the committee finds that
25 the transfer will eliminate unnecessary duplication of functions, result in more

1 efficient and effective methods for performing programs, or more effectively carry out
2 legislative intent, and that legislative intent will not be changed by the transfer.

3 **SECTION 37.** 49.665 (4) (at) 2. of the statutes is amended to read:

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

9 **SECTION 38.** 49.688 (7) (a) of the statutes is amended to read:

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

1 utilization and cost control procedures that apply under rules promulgated by the
2 department to medical assistance under subch. IV of ch. 49.

3 **SECTION 39.** 49.688 (7) (b) of the statutes is amended to read:

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

12 **SECTION 40.** 50.375 of the statutes is created to read:

13 **50.375 Assessment.** (1) Beginning in 2007, for the privilege of doing business
14 in this state, there is imposed on each hospital an annual assessment, based on the
15 hospital's gross revenue, ~~other than revenue received as reimbursement for services~~
16 ~~or items provided as benefits under subch. IV of ch. 49,~~ that each hospital shall pay
17 before December 1. The assessments shall be deposited into the health care quality
18 fund. *Although the department may consider the revenue as*
received by a hospital for services or items provided as
benefits under

19 (2) The department shall verify the amount of each hospital's gross revenue *subch.*
20 and determine the amount of each hospital's assessment, based on claims *IV of*
21 information that shall be provided to the department under s. 153.46 (5). *ch.*
49,

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

1 (4) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
2 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
3 subch. III of ch. 77, apply to the assessment under this section, except that the
4 amount of any assessment collected under sub. (1) shall be deposited in the health
5 care quality fund.

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

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

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

15 **SECTION 41.** 139.31 (1) (a) of the statutes is amended to read:

16 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
17 ~~38.5~~ 101 mills on each cigarette.

18 **SECTION 42.** 139.31 (1) (b) of the statutes is amended to read:

19 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ~~77~~ 202
20 mills on each cigarette.

21 **SECTION 43.** 139.315 (1) of the statutes is amended to read:

22 139.315 (1) INVENTORY TAX IMPOSED. On the effective date of any increase in the
23 sum of the rates under s. 139.31 (1) (a) and (c) or in the sum of the rates under s.
24 139.31 (1) (b) and (d), an inventory tax is imposed upon cigarettes held in inventory
25 for sale or resale on which the cigarette tax has been paid at the prior rate and upon

1 unaffixed stamps in the possession of distributors. Any person who is in possession
2 of any such cigarettes or unaffixed stamps shall pay the tax imposed under this
3 section. Any person liable for this tax shall determine the number of cigarettes and
4 unaffixed stamps in the person's possession on the effective date of the increase, and
5 by the 15th 30th day after the effective date of the increase the person shall file a
6 return and shall by that date pay the tax due.

7 **SECTION 44.** 139.32 (5) of the statutes is amended to read:

8 139.32 (5) Manufacturers, bonded direct marketers, and distributors who are
9 authorized by the department to purchase tax stamps shall receive a discount of ~~1.6%~~
10 0.7 percent of the tax paid on stamp purchases.

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

12 **139.455 Revenue distribution.** From the taxes collected under this
13 subchapter, the department shall deposit an amount equal to 62.5 mills on cigarettes
14 weighing not more than 3 pounds per thousand and 125 mills on cigarettes weighing
15 more than 3 pounds per thousand into the health care quality fund.

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

17 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
18 possession with intent to sell or removal for consumption or sale or other disposition
19 for any purpose of tobacco products by any person engaged as a distributor of them
20 at the rate of ~~25%~~ 65.6 percent of the manufacturer's established list price to
21 distributors without diminution by volume or other discounts on domestic products.
22 On products imported from another country the rate of tax is ~~25%~~ 65.6 percent of the
23 amount obtained by adding the manufacturer's list price to the federal tax, duties
24 and transportation costs to the United States. The tax attaches at the time the
25 tobacco products are received by the distributor in this state. The tax shall be passed

INSERT
17-15

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

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

5 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
6 products in this state at the rate of ~~25%~~ 65.6 percent of the cost of the tobacco
7 products. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco
8 products has been paid or if the tobacco products are exempt from the tobacco
9 products tax under s. 139.76 (2).

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

11 **139.865 Revenue distribution.** The department shall deposit 63.8 percent
12 of the amount of the taxes collected under this subchapter into the health care
13 quality fund.

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

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

16 255.15 (3) (b) (intro.) From the appropriation accounts under s. 20.435 (5) (fm)
17 and (r), the department may distribute grants for any of the following:

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

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

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

23 (1) CIGARETTE AND TOBACCO PRODUCTS TAX RATES. The treatment of sections
24 139.31 (1) (a) and (b), 139.315 (1), 139.32 (5), 139.455, 139.76 (1), 139.78 (1), and

IN JUNE
2013

1 139.865 of the statutes takes effect on September 1, 2007, or on the first day of the
2 3rd month beginning after publication, whichever is later.

3 (END)

D-NOTE

insert 17-15

1 ~~SECTION 1. 139.455 of the statutes is created to read:~~

2 **139.455 Revenue distribution.** From the taxes collected under this
3 subchapter, in fiscal year 2007-08, the department shall deposit no more than
4 \$304,000,000 into the general fund and the remainder into the health care quality
5 fund. From the taxes collected under this subchapter, in fiscal year 2008-09, and in
6 each subsequent fiscal year thereafter, the department shall deposit no more than
7 \$305,000,000 into the general fund and the remainder into the health care quality
8 fund

insert 18-13

9 **SECTION 2.** 139.865 of the statutes is created to read:

10 **139.865 Revenue distribution.** From the taxes collected under this
11 subchapter, in fiscal year 2007-08, the department shall deposit no more than
12 \$18,400,000 into the general fund and the remainder into the health care quality
13 fund. From the taxes collected under this subchapter, in fiscal year 2008-09, and in
14 each subsequent fiscal year thereafter, the department shall deposit no more than
15 \$19,300,000 into the general fund and the remainder into the health care quality
16 fund

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/10dn
DAK:wj&jld&cjs:ms

15f

January 31, 2007

To Darren Easton ~~and~~ Jim Johnston, and Michelle Pink

1. This draft reconciles LRB-0248/2, LRB-0892/9, LRB-0905/1, LRB-0994/P1, and LRB-1521/5. LRB-0248, LRB-0892, LRB-0905, LRB-0994, and LRB-1521 should all continue to appear in the compiled bill.

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

2. The draft permits DHFS to consider a hospital's MA reimbursement revenue in determining the hospital's assessment, but limits the assessment rate at 1 percent.

This draft also ^{incorporates} ~~incorporates~~ ^{changes} the ~~changes~~ to the revenue distribution language, ^{as} provided in John Koskinen's e-mail, dated January 31, 2007.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/11dn
DAK&JK:kjf:pg

January 31, 2007

To Darren Easton, Jim Johnston, and Michelle Pink:

1. This draft reconciles LRB-0248/2, LRB-0892/9, LRB-0905/1, LRB-0994/P1, and LRB-1521/5. LRB-0248, LRB-0892, LRB-0905, LRB-0994, and LRB-1521 should all continue to appear in the compiled bill.
2. The draft permits DHFS to consider a hospital's MA reimbursement revenue in determining the hospital's assessment, but limits the assessment rate at 1 percent.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
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This draft also incorporates the changes to the revenue distribution language, as provided in John Koskinen's e-mail dated January 31, 2007.

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

Kennedy, Debora

From: Pink, Michelle C - DOA
Sent: Monday, February 05, 2007 3:32 PM
To: Kennedy, Debora; Kahler, Pam
Cc: Kreye, Joseph
Subject: FW: Reconciliation of Chapter 20 Issues

Hi Pam and Deborah,

I hope you can help unsort this. This morning, we received a list of Chapter 20 issues and it was noted that there was an issue with 20.435(4)(bc) and draft LRB-0892 – the appropriation was not in the schedule.

The appropriation is not in the schedule because it was inactivated and the numeric appropriation was moved to 20.435(4)(b) in draft LRB-0905. As Darren requested in the bottom of this email string, the reference to 20.435(4)(bc) should be completely deleted in draft LRB-0892 since that reference is no longer necessary because of the appropriation changes in LRB-0905.

Please let me know when this has been resolved.

Thank you!

Michelle

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Monday, February 05, 2007 3:23 PM
To: Pink, Michelle C - DOA
Subject: RE: Reconciliation of Chapter 20 Issues

The appropriations referenced below in s. 20.835 are not in the budget bill. The draft itself is not in the "in-list" of bills to include in the compiled budget bill.

As for s. 20.435 (4) (bc) it is currently in LRB-892 and not LRB-905. The question is does it do what it is supposed to do? If not, you may want to speak with Debora Kennedy (concerning LRB-892) or Pam Kahler (concerning LRB-905).

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Pink, Michelle C - DOA
Sent: Monday, February 05, 2007 3:14 PM
To: Kreye, Joseph
Subject: RE: Reconciliation of Chapter 20 Issues

DOA has removed the appropriation from the schedule but it was still referenced in the statutory language draft.

02/05/2007

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Monday, February 05, 2007 3:09 PM
To: Easton, Darren - DOA
Cc: Pink, Michelle C - DOA
Subject: RE: Reconciliation of Chapter 20 Issues

Darren:

If these appropriations don't belong in the schedule, then DOA needs to remove them. We don't prepare the schedule, we just proof it for DOA. I assume the things you mention below are errors we found in the schedule. Or they're errors you found. Either way, DOA must make those corrections.

Joe

P.S. If you need further clarification, you may want to contact Cathlene.

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Easton, Darren - DOA
Sent: Monday, February 05, 2007 1:48 PM
To: Kreye, Joseph
Cc: Pink, Michelle C - DOA
Subject: Reconciliation of Chapter 20 Issues

Hello Joe,

LRB 1531 "Tribal Tax Sharing" is out. Therefore, 20.835(2)(eb), (2)(ec), and (2)(ed) do not need to be in the schedule.

LRB 0892 "Increasing the cigarette tax" needs appropriation 20.435(4)(bc) deleted. It is now in LRB 0905.

Let me know when these are taken care of. We need to have a paper trail here for auditing purposes.

Thanks,
Darren

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

02/05/2007