



State of Wisconsin
2007 - 2008 LEGISLATURE

D-NOTE

LRB-0892/12

JK&DAK&PJK:all: [initials]

SAYS

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 GO

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, as adjusted by DHFS, although DHFS may consider the hospital's MA reimbursement. 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 ^{LPS: PLS} ^{Chg Comp} SECTION 1. 20.435 (4) (bc) of the statutes is ~~amended to read:~~ ^{repealed.}

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.

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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

SECTION 2

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.

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.

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

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

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

20.435 (4) (xe) *Health care quality fund; administration.* From the health care
quality fund, as a continuing appropriation, the amounts in the schedule to provide
a portion of the state share of administrative contract costs for the Medical
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.

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

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

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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), or (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), or (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.

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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.

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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.

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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 that each hospital shall pay before December 1. The
16 assessments shall be deposited into the health care quality fund.

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

20 (3) Although the department may consider the revenue received by a hospital
21 for services or items provided as benefits under subch. IV of chapter 49, the
22 department's determination under sub. (2) shall be based on a rate not to exceed 1
23 percent of the hospital's gross revenue, as adjusted by the department.

24 (4) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
25 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under

1 subch. III of ch. 77, apply to the assessment under this section, except that the
2 amount of any assessment collected under sub. (1) shall be deposited in the health
3 care quality fund.

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

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

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

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

14 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
15 ~~38.5~~ 101 mills on each cigarette.

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

17 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ~~77~~ 202
18 mills on each cigarette.

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

20 139.315 (1) **INVENTORY TAX IMPOSED.** On the effective date of any increase in the
21 sum of the rates under s. 139.31 (1) (a) and (c) or in the sum of the rates under s.
22 139.31 (1) (b) and (d), an inventory tax is imposed upon cigarettes held in inventory
23 for sale or resale on which the cigarette tax has been paid at the prior rate and upon
24 unaffixed stamps in the possession of distributors. Any person who is in possession
25 of any such cigarettes or unaffixed stamps shall pay the tax imposed under this

1 section. Any person liable for this tax shall determine the number of cigarettes and
2 unaffixed stamps in the person's possession on the effective date of the increase, and
3 by the ~~15th~~ 30th day after the effective date of the increase the person shall file a
4 return and shall by that date pay the tax due.

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

6 139.32 (5) Manufacturers, bonded direct marketers, and distributors who are
7 authorized by the department to purchase tax stamps shall receive a discount of ~~1.6%~~
8 0.7 percent of the tax paid on stamp purchases.

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

10 **139.455 Revenue distribution.** From the taxes collected under this
11 subchapter, in fiscal year 2007-08, the department shall deposit no more than
12 \$304,000,000 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 \$305,000,000 into the general fund and the remainder into the health care quality
16 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%~~ 65.6 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%~~ 65.6 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%~~ 65.6 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).

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

12 **139.865 Revenue distribution.** From the taxes collected under this
13 subchapter, in fiscal year 2007-08, the department shall deposit no more than
14 \$18,400,000 into the general fund and the remainder into the health care quality
15 fund. From the taxes collected under this subchapter, in fiscal year 2008-09, and in
16 each subsequent fiscal year thereafter, the department shall deposit no more than
17 \$19,300,000 into the general fund and the remainder into the health care quality
18 fund.

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

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

21 255.15 (3) (b) (intro.) From the appropriation accounts under s. 20.435 (5) (fm)
22 and (r), the department may distribute grants for any of the following:

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

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/12ins
JK&DAK&PJK:all:pg

INSERT 3-4

***NOTE: This is reconciled s. 20.435 (4) (bc). This SECTION has been affected by drafts with the following LRB numbers: ~~1521/7~~ and ~~0905/4~~.

INSERT 4-5

***NOTE: This is reconciled s. 20.435 (4) (bm). This SECTION has been affected by drafts with the following LRB numbers: ~~1521/7~~ and ~~0905/4~~.

INSERT 13-15

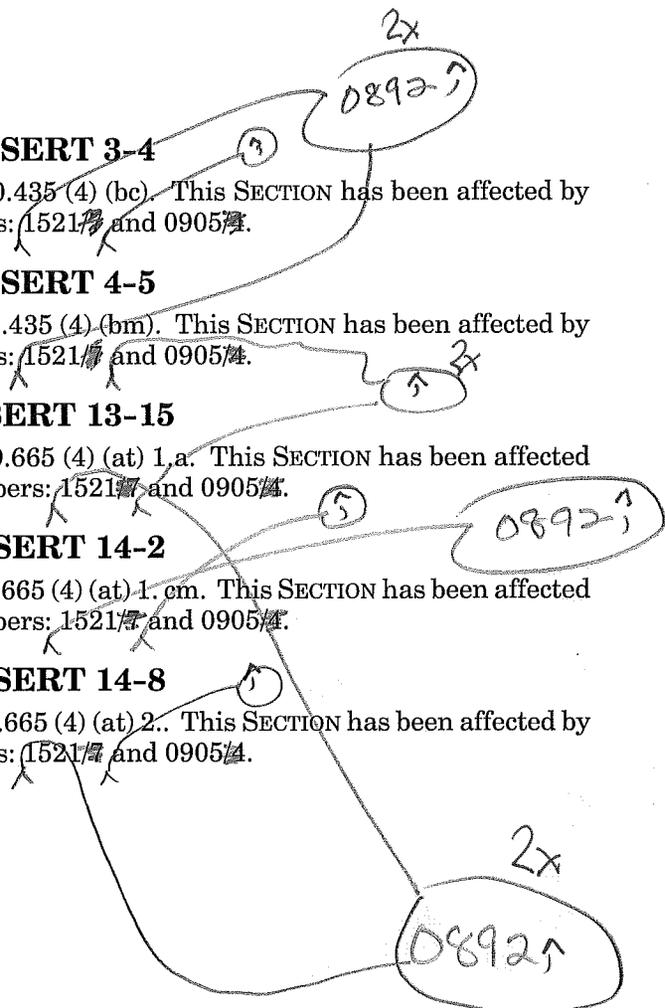
***NOTE: This is reconciled s. 49.665 (4) (at) 1. a. This SECTION has been affected by drafts with the following LRB numbers: ~~1521/7~~ and ~~0905/4~~.

INSERT 14-2

***NOTE: This is reconciled s. 49.665 (4) (at) 1. cm. This SECTION has been affected by drafts with the following LRB numbers: ~~1521/7~~ and ~~0905/4~~.

INSERT 14-8

***NOTE: This is reconciled s. 49.665 (4) (at) 2.. This SECTION has been affected by drafts with the following LRB numbers: ~~1521/7~~ and ~~0905/4~~.



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

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

lmk

~~January 31, 2007~~

and LRB-1521/7

To Darren Easton, Jim Johnston, and Michelle Pink:

LRB-0905/4

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.

#2. The draft repeals s. 20.435(4)(bc) and Section 20.435(4)(b) will be correspondingly amended under LRB-1521/0

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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
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0892/12dn
DAK:lmk:rs

February 6, 2007

To Darren Easton, Jim Johnston, and Michelle Pink:

1. This draft reconciles LRB-0248/2, LRB-0892/9, LRB-0905/1, LRB-0905/4, LRB-0994/P1, LRB-1521/5, and LRB-1521/7. LRB-0248, LRB-0892, LRB-0905, LRB-0994, and LRB-1521 should all continue to appear in the compiled bill.
2. The draft repeals s. 20.435 (4) (bc). Section 20.435 (4) (b) will be correspondingly amended under LRB-1521.

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0892/12
JK&DAK&PJK:all:rs

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

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, as adjusted by DHFS, although DHFS may consider the hospital's MA reimbursement. 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 repealed.

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

 ***NOTE: This is reconciled s. 20.435 (4) (bc). This SECTION has been affected by drafts with the following LRB numbers: 0892, 1521, and 0905.

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

3 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*
4 *administration; contract costs, insurer reports, and resource centers.* Biennially, the
5 amounts in the schedule to provide a portion of the state share of administrative
6 contract costs for the Medical Assistance program under s. 49.45, the food stamp
7 program under s. 49.79, and the Badger Care health care program under s. 49.665
8 and to provide the state share of administrative contract costs for the food stamp
9 program under s. 49.79, other than payments to counties and tribal governing bodies
10 under s. 49.78 (8), to develop and implement a registry of recipient immunizations,
11 to reimburse insurers 3rd parties for their costs under s. 49.475, for costs associated
12 with outreach activities, and for services of resource centers under s. 46.283. No
13 state positions may be funded in the department of health and family services from
14 this appropriation, except positions for the performance of duties under a contract
15 in effect before January 1, 1987, related to the administration of the Medical
16 Assistance program between the subunit of the department primarily responsible for

1 administering the Medical Assistance program and another subunit of the
2 department. Total administrative funding authorized for the program under s.
3 49.665 may not exceed 10% of the amounts budgeted under pars. ~~(be)~~, (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.

****NOTE: This is reconciled s. 20.435 (4) (bm). This SECTION has been affected by drafts with the following LRB numbers: 0892, 1521, and 0905.

4 **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.

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

6 20.435 (4) (xd) *Health care quality fund; Medical Assistance and Badger Care*
7 *benefits.* From the health care quality fund, as a continuing appropriation, the
8 amounts in the schedule to provide a portion of the state share of Medical Assistance
9 program benefits administered under s. 49.45 and to provide a portion of the costs
10 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.

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

12 20.435 (4) (xe) *Health care quality fund; administration.* From the health care
13 quality fund, as a continuing appropriation, the amounts in the schedule to provide
14 a portion of the state share of administrative contract costs for the Medical
15 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.

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

17 20.435 (4) (xh) *Health care quality fund; prescription drug assistance; benefits.*
18 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:

SECTION 11

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:

SECTION 17

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

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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)~~, or (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)~~, or (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) ~~(be)~~, (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.

****NOTE: This is reconciled s. 49.665 (4) (at) 1.a. This SECTION has been affected
by drafts with the following LRB numbers: 0892, 1521, and 0905.

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) ~~(be)~~, (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

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1 supplement the health care program under this section if the committee finds that
2 the transfer will eliminate unnecessary duplication of functions, result in more
3 efficient and effective methods for performing programs, or more effectively carry out
4 legislative intent, and that legislative intent will not be changed by the transfer.

****NOTE: This is reconciled s. 49.665 (4) (at) 1. cm. This SECTION has been affected
by drafts with the following LRB numbers: 0892, 1521, and 0905.

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

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

****NOTE: This is reconciled s. 49.665 (4) (at) 2.. This SECTION has been affected by
drafts with the following LRB numbers: 0892, 1521, and 0905.

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

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

1 distribute a claim form for use by pharmacies and pharmacists under this paragraph
2 and may limit payment under this paragraph to those prescription drugs for which
3 payment claims are submitted by pharmacists or pharmacies directly to the
4 department. The department may apply to the program under this section the same
5 utilization and cost control procedures that apply under rules promulgated by the
6 department to medical assistance under subch. IV of ch. 49.

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

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

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

17 **50.375 Assessment.** (1) Beginning in 2007, for the privilege of doing business
18 in this state, there is imposed on each hospital an annual assessment, based on the
19 hospital's gross revenue that each hospital shall pay before December 1. The
20 assessments shall be deposited into the health care quality fund.

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

24 (3) Although the department may consider the revenue received by a hospital
25 for services or items provided as benefits under subch. IV of chapter 49, the

1 department's determination under sub. (2) shall be based on a rate not to exceed 1
2 percent of the hospital's gross revenue, as adjusted by the department.

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

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

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

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

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

18 139.31 (1) (a) On cigarettes weighing not more than 3 pounds per thousand,
19 ~~38.5~~ 101 mills on each cigarette.

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

21 139.31 (1) (b) On cigarettes weighing more than 3 pounds per thousand, ~~77~~ 202
22 mills on each cigarette.

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

24 139.315 (1) INVENTORY TAX IMPOSED. On the effective date of any increase in the
25 sum of the rates under s. 139.31 (1) (a) and (c) or in the sum of the rates under s.

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

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

10 139.32 (5) Manufacturers, bonded direct marketers, and distributors who are
11 authorized by the department to purchase tax stamps shall receive a discount of ~~1.6%~~
12 0.7 percent of the tax paid on stamp purchases.

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

14 **139.455 Revenue distribution.** From the taxes collected under this
15 subchapter, in fiscal year 2007-08, the department shall deposit no more than
16 \$304,000,000 into the general fund and the remainder into the health care quality
17 fund. From the taxes collected under this subchapter, in fiscal year 2008-09, and in
18 each subsequent fiscal year thereafter, the department shall deposit no more than
19 \$305,000,000 into the general fund and the remainder into the health care quality
20 fund.

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

22 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
23 possession with intent to sell or removal for consumption or sale or other disposition
24 for any purpose of tobacco products by any person engaged as a distributor of them
25 at the rate of ~~25%~~ 65.6 percent of the manufacturer's established list price to

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1 distributors without diminution by volume or other discounts on domestic products.
2 On products imported from another country the rate of tax is ~~25%~~ 65.6 percent of the
3 amount obtained by adding the manufacturer's list price to the federal tax, duties
4 and transportation costs to the United States. The tax attaches at the time the
5 tobacco products are received by the distributor in this state. The tax shall be passed
6 on to the ultimate consumer of the tobacco products. All tobacco products received
7 in this state for sale or distribution within this state, except tobacco products actually
8 sold as provided in sub. (2), shall be subject to such tax.

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

10 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
11 products in this state at the rate of ~~25%~~ 65.6 percent of the cost of the tobacco
12 products. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco
13 products has been paid or if the tobacco products are exempt from the tobacco
14 products tax under s. 139.76 (2).

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

16 **139.865 Revenue distribution.** From the taxes collected under this
17 subchapter, in fiscal year 2007-08, the department shall deposit no more than
18 \$18,400,000 into the general fund and the remainder into the health care quality
19 fund. From the taxes collected under this subchapter, in fiscal year 2008-09, and in
20 each subsequent fiscal year thereafter, the department shall deposit no more than
21 \$19,300,000 into the general fund and the remainder into the health care quality
22 fund.

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

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

