OFFICE OF STATE EMPLOYMENT RELATIONS

1. COLLECTIVE BARGAINING PROCESS FOR UNIVERSITY OF WISCONSIN SYSTEM FACULTY AND ACADEMIC STAFF

Senate: Restore the Governor's provision, with some modficiations, to create Subchapter VI of Chapter 111 [Employment Relations] and provide faculty and academic staff of the University of Wisconsin System (UW System) with the right to collectively bargain over wages, hours, and conditions of employment. The provisions under Subchapter VI would be similar, but not identical to, those of the State Employment Labor Relations Act (SELRA) under current law [Subchapter V of Chapter 111].

The proposal differs from the Governor's provisions in SB 40 in four ways: (a) faculty supervisors and management employees would be included in faculty collective bargaining units (SB 40 would not have permitted this); (b) academic staff would be authorized, under the proposal, to organize up to 15 collective bargaining units with the option of combining units (SB 40 would have allowed one collective bargaining unit for academic staff with no option to combine with a faculty collective bargaining unit); (c) a management right to manage, hire, promote, transfer, assign, or retain employees and, in that regard, to establish reasonable work rules is not provided under the proposal (this right is provided in SB 40 and under current SELRA law); and (d) the proposal would provide that either party, in a dispute may petition the WERC, in writing, to initiative fact-finding (under SB 40, a petition to initiate fact finding must be made jointly by the parties).

Board of Regents

Provide that the Board of Regents would negotiate and administer collective bargaining agreements for UW faculty and academic staff. Require the Board of Regents to establish a collective bargaining capacity and represent the state in its responsibility as an employer, and to coordinate its actions with the Director of the Office of State Employment Relations (OSER). To coordinate the employer position in the negotiation of agreements, require the Board of Regents to maintain close liaison with the Legislature and OSER relative to the negotiation of agreements and the fiscal ramifications of those agreements. The legislative branch would be required to act upon those portions of tentative agreements negotiated by the Board of Regents that require legislative action. With respect to labor proposals, require the Board of Regents to notify and consult with the Joint Committee on Employment Relations (JCOER), in such form and detail as JCOER requests, regarding substantial changes in wages, employee benefits, personnel management, and program policy contract provisions to be included in any contract proposal to be offered to any labor organization by the state, or to be agreed to by the state, before such proposal is actually offered or accepted.

Faculty and Academic Staff

Under current law, "faculty" in the UW System is defined in statue as persons who hold the rank of professor, associate professor, assistant professor or instructor in an academic department or its functional equivalent in an institution, and such academic staff as may be designated by the chancellor and faculty of the institution. "Academic staff" are defined as professional and administrative personnel with duties, and subject to types of appointments, that are primarily associated with higher education institutions or their administration, but does not include faculty, or Board of Regents staff. Under current law, faculty and academic staff of the UW System are unclassified civil service employees who do not have collective bargaining rights.

Under the amendment, for the purpose of collective bargaining rights, faculty would have the meaning under current law and would include faculty who are supervisors or management employees. Faculty holding limited appointments would be excluded. For the purpose of collective bargaining rights, academic staff would have its meaning under current law, except that supervisors, management employees, individuals who are privy to confidential matters affecting the employer-employee relationship, or professional librarians who are also classified as faculty would be excluded. Faculty and academic staff meeting these definitions would be deemed employees with the right of self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees would also have the right to refrain from any such activities.

Although academic staff supervisors would not be considered employees under the provisions of the amendment, the Wisconsin Employment Relations Commission (WERC) would be authorized to consider a petition for a statewide collective bargaining unit consisting of academic staff supervisors, but the representative of the academic staff supervisors may not be affiliated with any labor organization representing employees. Affiliation would not include membership in a national, state, county, or municipal federation of national or international labor organizations. Under the amendment, the certified representative of the academic staff supervisors would not be authorized to bargain collectively with respect to any matter other than wages and fringe benefits.

Collective Bargaining Units

Provide that collective bargaining units for faculty in the unclassified service of the state would be structured with 15 separate collective bargaining units: (a) 13 collective bargaining units for faculty at each UW System campus (Madison, Milwaukee, Eau Claire, Green Bay, La Crosse, Oshkosh, Parkside, Platteville, River Falls, Stevens Point, Stout, Superior, and Whitewater); (b) one collective bargaining unit for faculty of UW Extension; and (c) one collective bargaining unit for faculty of UW Colleges.

Similarly, provide that collective bargaining units for academic staff in the unclassified service of the state would be structured with 15 separate collective bargaining units: (a) 13 collective bargaining units for faculty at each UW System campus (Madison, Milwaukee, Eau

Claire, Green Bay, La Crosse, Oshkosh, Parkside, Platteville, River Falls, Stevens Point, Stout, Superior, and Whitewater); (b) one collective bargaining unit for faculty of UW Extension; and (c) one collective bargaining unit for faculty of UW Colleges.

Provide that two or more faculty or academic staff collective bargaining units may be combined into a single unit. If two or more collective bargaining units seek to combine into a single collective bargaining unit, WERC would be required, upon the petition of at least 30 percent of the employees in each unit, to hold an election to determine whether a majority of those employees voting in each unit desire to combine into a single unit. A combined collective bargaining unit would be formed and would include all employees from each of those units in which a majority of the employees voting in the election approve a combined unit. The combined collective bargaining unit would be formed immediately, if there is no existing collective bargaining agreement in force in any of the units to be combined. If there is a collective bargaining agreement in force at the time of the election in any of the collective bargaining units to be combined, the combined unit would be formed upon expiration of the last agreement for the units concerned.

If two or more collective bargaining units have combined, WERC would also be required, upon petition of at least 30 percent of the employees in any of the original units, to hold an election of the employees in the original unit to determine whether the employees in that unit desire to withdraw from the combined collective bargaining unit. If a majority of the employees voting desire to withdraw from the combined collective bargaining unit, separate units consisting of the unit in which the election was held and a unit composed of the remainder of the combined would be formed. The new collective bargaining units would be formed immediately if there is no collective bargaining agreement in force for the combined unit. If there is a collective bargaining agreement in force for the combined collective bargaining unit, the new units would be formed upon the expiration of the agreement. While there is a collective bargaining agreement in force for the combined collective bargaining unit, a petition for an election could be filed only during October in the calendar year prior to the expiration of the agreement.

Provide that any labor organization may petition for recognition as the exclusive representative of a collective bargaining unit for UW faculty and academic staff in accordance with the election procedures under the amendment, if the petition is accompanied by a 30 percent showing of interest in the form of signed authorization cards. Any additional labor organization seeking to appear on the ballot would be required to file a petition within 60 days of the date of filing of the original petition and prove, through signed authorization cards, that at least 10 percent of the employees in the collective bargaining unit want it to be their representative.

Provide that WERC would be required to assign UW faculty and academic staff employees to the appropriate collective bargaining unit.

Representatives and Elections

Provide that a representative chosen for the purposes of collective bargaining by a

majority of the employees voting in a collective bargaining unit would be the exclusive representative of all of the employees in a unit for the purposes of collective bargaining. Any individual employee, or any minority group of employees in any collective bargaining unit, would be permitted to present any grievance to the employer in person, or through representatives of their own choosing. Require that the employer confer with the individual employee or group of employees with respect to the grievance if the majority representative has been afforded the opportunity to be present at the conference. Any adjustment resulting from such a conference may not be inconsistent with the conditions of employment established by the majority representative and the employer.

Provide that, whenever a question arises concerning the representation of employees in a collective bargaining unit, WERC would be required to determine the representation by taking a secret ballot of the employees and certifying in writing the results to the interested parties and to the Board of Regents. Any ballot for the election of representatives must include the names of all labor organizations having an interest in representing the employees participating in the election as indicated in petitions filed with WERC. The name of any existing representative must be included on the ballot without the necessity of filing a petition. WERC would be authorized to exclude from the ballot one who, at the time of the election, stands deprived of his or her rights under state employment relations law by reason of a prior adjudication of his or her having engaged in an unfair labor practice. Provide that the ballot permit a vote against representation by anyone named on the ballot.

Provide that, for elections in a collective bargaining unit, whenever more than one representative qualifies to appear on the ballot, the ballot must be prepared to provide separate votes on two questions. The first question would be: "Shall the employees of the (name of collective bargaining unit) participate in collective bargaining?". The second question would be: "If the employees of the (name of collective bargaining unit) elect to participate in collective bargaining, which labor organization do you favor to act as representative of the employees?" The second question must not include a choice for no representative. All employees in the collective bargaining unit would be permitted to vote on both questions. Unless a majority of those employees voting in the election vote to participate in collective bargaining, no votes for a particular representative would be counted. If a majority of those employees voting in the election vote to participate in collective bargaining, the ballots for representatives would be counted. Provide that WERC's certification of the results of any election would be conclusive as to the findings included therein, unless reviewed by a court under administrative procedure and review law.

Provide that, whenever an election has been conducted for the representation of employees in the collective bargaining unit in which a majority of the employees voting indicate a desire to participate in collective bargaining, but in which no named representative is favored by a majority of the employees voting, WERC would be authorized, if requested by a party to the proceeding within 30 days from the date of the certification of the results of the election, to conduct a runoff election. In that runoff election, WERC would be required to drop from the ballot the name of the representative who received the least number of votes at the original election.

Provide that while a collective bargaining agreement between a labor organization and an employer is in force, a petition for an election in the collective bargaining unit to which the agreement applies would be allowed only during October in the calendar year prior to the expiration of that agreement. An election held under that petition would be held only if the petition is supported by proof that at least 30 percent of the employees in the collective bargaining unit desire a change or discontinuance of existing representation. Within 60 days of the time that an original petition is filed, another petition may be filed supported by proof that at least 10 percent of the employees in the same collective bargaining unit desire a different representative. Provide that, if a majority of the employees in the collective bargaining unit vote for a change or discontinuance of representation by any named representative, the decision would take effect upon expiration of any existing collective bargaining agreement between the employer and the existing representative.

Unfair Labor Practices

Provide that it would be an unfair labor practice for an employer, individually or in concert with others, to do any of the following:

a. To interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under these provisions.

b. To initiate, create, dominate, or interfere with the formation or administration of any labor or employee organization or contribute financial support to it. [With limited exceptions, no change in any law affecting the Wisconsin Retirement System (WRS) and no action by the employer that is authorized by such a law would be a violation of this provision unless an applicable collective bargaining agreement specifically prohibited the change or action. Further, no such change or action would affect the continuing duty to bargain collectively regarding the WRS to the extent required under employment relations law. The amendment would also provide that it is not an unfair labor practice for the employer to reimburse an employee at his or her prevailing wage rate for the time spent during the employee's regularly scheduled hours conferring with the employer's officers or agents and for attendance at WERC or court hearings necessary for the administration of employment relations provisions.]

c. To encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment. [This provision would not apply to fair-share or maintenance of membership agreements described below.]

d. To refuse to bargain collectively on authorized matters with a representative of a majority of its employees in an appropriate collective bargaining unit. [Provide that, whenever the employer has a good faith doubt as to whether a labor organization claiming the support of a majority of its employees in an appropriate collective bargaining unit does in fact have that support, it may file a petition with WERC requesting an election as to that claim. The employer would not be considered to have refused to bargain until an election has been held and the results of the election are certified to the employer by WERC. Provide that a violation of this

provision would include the refusal to execute a collective bargaining agreement previously orally agreed upon.]

e. To violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours, and conditions of employment affecting the employees, including an agreement to arbitrate or to accept the terms of an arbitration award, when previously the parties have agreed to accept such award as final and binding upon them.

f. To deduct labor organization dues from an employee's earnings, unless the employer has been presented with an individual order, signed by the employee personally, and terminable by at least the end of any year of its life or earlier by the employee giving at least 30 but not more than 120 days written notice of such termination to the employer and to the representative labor organization. The employer would also be required to give notice to the labor organization of the receipt of a notice of termination. [The amendment would provide an exception to this provision if there is a fair-share or maintenance of membership agreement in effect (discussed below).]

Provide that it would not be an unfair labor practice for the Board of Regents to implement changes in salaries or conditions of employment for members of the faculty or academic staff at one institution, and not for other members of the faculty or academic staff at another institution. However, this would be permitted only if the differential treatment is based on comparisons with the compensation and working conditions of employees performing similar services for comparable higher education institutions or based upon other competitive factors.

Provide that it is an unfair practice for an employee individually or in concert with others to do any of the following:

a. To coerce or intimidate an employee in the enjoyment of the employee's legal rights, including those guaranteed under these provisions.

b. To coerce, intimidate, or induce any officer or agent of the employer to interfere with any of the employer's employees in the enjoyment of their legal rights including those guaranteed under these provisions, or to engage in any practice with regard to its employees which would constitute an unfair labor practice if undertaken by the officer or agent on the officer's or agent's own initiative.

c. To refuse to bargain collectively on authorized matters with the authorized officer or agent of the employer, provided it is the recognized or certified exclusive collective bargaining representative of employees in an appropriate collective bargaining unit. Provide that a refusal to bargain would include a refusal to execute a collective bargaining agreement previously orally agreed upon.

d. To violate the provisions of any written agreement with respect to terms and conditions of employment affecting employees, including an agreement to arbitrate or to accept the terms of an arbitration award, when previously the parties have agreed to accept such

awards as final and binding upon them.

e. To engage in, induce, or encourage any employees to engage in a strike or a concerted refusal to work or perform their usual duties as employees.

f. To coerce or intimidate a supervisory employee, officer, or agent of the employer, working at the same trade or profession as the employer's employees, to induce the person to become a member of, or act in concert with, the labor organization of which the employee is a member

Further, the amendment would provide that it is an unfair labor practice for any person to do or cause to be done on behalf of, or in the interest of, employers or employees, or in connection with, or to influence the outcome of, any controversy as to employment relations, any act prohibited by the unfair labor practices enumerated above.

Provide that any controversy concerning unfair labor practices may be submitted to WERC, which would be required to schedule a hearing on complaints involving alleged violations within three days after a complaint is filed. Notice would be given to each party interested by service on the party personally, or by telegram, advising the party of the nature of the complaint and of the date, time, and place of hearing. WERC would be authorized to appoint a substitute tribunal to hear unfair labor practice charges by either appointing a three-member panel or submitting a seven-member panel to the parties and allowing each to strike two names. Provide that any such panel would be required to report its finding to WERC for appropriate action.

Fair-Share and Maintenance of Membership Agreements

Authorize fair-share and maintenance of membership agreements under UW faculty and academic staff collective bargaining. A fair-share agreement is defined under the amendment as an agreement between the employer and a labor organization representing employees under which all of the employees in a collective bargaining unit would be required to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. A maintenance of membership agreement is defined under the amendment as an agreement between the employer and a labor organization representing employees that requires that all of the employees whose dues are being deducted from earnings at or after the time the agreement takes effect must continue to have dues deducted for the duration of the agreement and that dues must be deducted from the earnings of all employees who are hired on or after the effective date of the agreement.

Provide that no fair-share or maintenance of membership agreement may become effective unless authorized by a referendum. WERC would be required to order a referendum whenever it receives a petition supported by proof that at least 30 percent of the employees or supervisors in a collective bargaining unit desire that a fair-share or maintenance of membership agreement be entered into between the employer and a labor organization. Provide that a petition may specify that a referendum is requested on a maintenance of

membership agreement only, in which case the ballot would be limited to that question.

Provide that, for a fair-share agreement to be authorized, at least two-thirds of the eligible employees or supervisors voting in a referendum would have to vote in favor of the agreement. For a maintenance of membership agreement to be authorized, at least a majority of the eligible employees or supervisors voting in a referendum would have to vote in favor of the agreement. In a referendum on a fair-share agreement, if less than two-thirds but more than one-half of the eligible employees or supervisors vote in favor of the agreement, a maintenance of membership agreement would be authorized.

Provide that, if a fair-share or maintenance of membership agreement is authorized in a referendum, the employer would be required to enter into an agreement with the labor organization named on the ballot in the referendum. Under the amendment, each fair-share or maintenance of membership agreement would be required to contain a provision requiring the employer to deduct the amount of dues as certified by the labor organization from the earnings of the employees or supervisors affected by the agreement and to pay the amount so deducted to the labor organization. Unless the parties agree to an earlier date, the agreement would take effect 60 days after certification by WERC that the referendum vote authorized the agreement. Provide that the employer would be held harmless against any claims, demands, suits and other forms of liability made by employees or supervisors or local labor organizations which may arise for actions taken by the employer in compliance with these provisions. Provide that all lawful claims, demands, suits and other forms of liability are the responsibility of the labor organization entering into the agreement.

Provide that under each fair-share or maintenance of membership agreement, an employee or supervisor who has religious convictions against dues payments to a labor organization based on teachings or tenets of a church or religious body of which he or she is a member would be allowed, on request to the labor organization, to have his or her dues paid to a charity mutually agreed upon by the employee or supervisor and the labor organization. Provide that any dispute concerning this provision may be submitted to WERC for adjudication.

Provide that a fair-share or maintenance of membership agreement, once authorized, would continue in effect, subject to the right of the employer or labor organization concerned to petition WERC to conduct a new referendum. Such a petition would need to be supported by proof that at least 30 percent of the employees or supervisors in the collective bargaining unit desire that the fair-share or maintenance of membership agreement be discontinued. Upon so finding, WERC would be required to conduct a new referendum. If the continuance of the fair-share or maintenance of membership agreement is approved in the referendum by at least the percentage of eligible voting employees or supervisors required for its initial authorization, it would be continued in effect, subject to the right of the employer or labor organization to later initiate a further vote following the procedure described above. If the continuation of the agreement is not supported in any referendum, it would be considered terminated at the termination of the collective bargaining agreement, or one year from the date of the certification of the result of the referendum, whichever is earlier.

The amendment would also provide that WERC must declare any fair-share or maintenance of membership agreement suspended, upon such conditions and for such time as WERC decides, whenever it finds that the labor organization involved has refused on the basis of race, color, sexual orientation, or creed to receive as a member any employee or supervisor in the collective bargaining unit involved, and the agreement would be made subject to the findings and orders of WERC. Provide that any of the parties to the agreement, or any employee or supervisor covered under the agreement, may come before WERC, and petition WERC to make such a finding.

Provide that a stipulation for a referendum executed by an employer and a labor organization may not be filed until after the representation election has been held and the results certified. Provide that WERC may, under rules adopted for that purpose, appoint as its agent an official of a state agency whose employees are entitled to vote in a referendum to conduct a referendum.

Grievance Arbitration

Provide that parties to the dispute pertaining to the interpretation of a collective bargaining agreement may agree in writing to have WERC or any other appointing state agency serve as arbitrator or may designate any other competent, impartial, and disinterested persons to serve. Such arbitration proceedings would be governed by state arbitration law. Provide that the Board of Regents must charge an institution for the employer's share of the cost related to grievance arbitration for any arbitration that involves one or more employees of the institution. Each institution so charged would be required to pay the amount that the Board of Regents charges from the appropriation account or accounts used to pay the salary of the grievant. Funds received would be credited to an OSER appropriation account for collective bargaining grievance arbitrations.

Mediation

Provide that WERC may appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either upon its own initiative or upon the request of one of the parties to the dispute. It would be the function of a mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor WERC would have any power of compulsion in mediation proceedings.

Fact-Finding

Provide that, if a dispute has not been settled after a reasonable period of negotiation and after the settlement procedures, if any, established by the parties have been exhausted, the employee representative and the employer (or its officers, and agents), after a reasonable period of negotiation, are deadlocked with respect to any dispute between them arising in the collective bargaining process, either party may petition WERC, in writing, to initiate fact-finding procedures and to make recommendations to resolve the deadlock.

The amendment would authorize WERC, upon receipt of a petition to initiate fact-finding, to make an investigation with or without a formal hearing, to determine whether a deadlock in fact exists. WERC would be required to certify the results of the investigation. If WERC decides that fact-finding should be initiated, it must appoint a qualified, disinterested person or, when jointly requested by the parties, a three-member panel to function as a fact finder. The fact finder would be authorized to establish dates and place of hearings and must conduct the hearings under rules established by WERC. Upon request, WERC would be required to issue subpoenas for hearings conducted by the fact finder. The amendment would authorize the fact finder to administer oaths.

Upon completion of the hearing, the fact finder would be required to make written findings of fact and recommendations for solution of the dispute and must cause the written findings to be served on the parties and WERC. In making findings and recommendations, the fact finder would be required to take into consideration, among other pertinent factors, the principles vital to the public interest in efficient and economical governmental administration. Upon the request of either party, the fact finder is authorized to orally present the recommendations in advance of service of the written findings and recommendations.

Provide that the cost of fact-finding proceedings would be divided equally between the parties. At the time the fact finder submits a statement of his or her costs to the parties, the fact finder would be required to submit a copy WERC at its Madison office. A fact finder would be authorized to mediate a dispute at any time prior to the issuance of the fact finder's recommendations. Provide that within 30 days of the receipt of the fact finder's recommendations, or within a time period mutually agreed upon by the parties, each party must advise the other, in writing, as to the party's acceptance or rejection, in whole or in part, of the fact finder's recommendations and, at the same time, send a copy of the notification to WERC at its Madison office. Provide that failure to comply with this provision, by the employer or employee representative, would be a violation of the legal requirement to bargain collectively in good faith.

Strikes Prohibited

The amendment would require the employer, upon establishing that a strike is in progress, to either seek an injunction or file an unfair labor practice charge with WERC, or both. Provide that, it would be the responsibility of the Board of Regents to decide whether to seek an injunction or file an unfair labor practice charge. Provide that the existence of an administrative remedy does not constitute grounds for denial of injunctive relief.

Provide that the occurrence of a strike and the participation in the strike by an employee do not affect the rights of the employer, in law or in equity, to deal with the strike, including all of the following: (a) the right to impose discipline, including discharge, or suspension without pay, of any employee participating in the strike; (b) the right to cancel the reinstatement eligibility of any employee engaging in the strike; and (c) the right of the employer to request the imposition of fines, either against the labor organization or the employee engaging in the strike, or to sue for damages because of such strike activity.

Management Rights

Provide that nothing in these employment relations provisions would interfere with the right of the Board of Regents, in accordance employment relations law, to do any of the following: (a) carry out the statutory mandate and goals assigned to the Board of Regents by the most appropriate and efficient methods and means and utilize personnel in the most appropriate and efficient manner possible; or (b) suspend, demote, discharge, or take other appropriate disciplinary action against the employee, or to lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive.

Subjects and Prohibited Subjects of Bargaining

The amendment would provide that matters subject to collective bargaining to the point of impasse are salaries, fringe benefits consistent with certain limitations described below, and hours and conditions of employment, except that:

a. The Board of Regents would not be required to bargain on management rights described above, except that procedures for the adjustment or settlement of grievances or disputes arising out of any type of disciplinary action would be a subject of bargaining.

b. With certain exceptions, all laws governing the WRS and all actions of the Board of Regents that are authorized under any such law which apply to nonrepresented individuals employed by the state would apply to similarly situated employees, unless otherwise specifically provided in a collective bargaining agreement that applies to those employees. The exceptions would include certain requirements of the WRS concerning earnings relating to military service, collectively bargained limitations on an employer's right to require retirement of an employee after the employee's has attained his or her normal retirement date, benefit adjustment contributions, and employee rights under intrastate retirement reciprocity law.

c. Demands relating to retirement and group insurance must be submitted to the Board of Regents at least one year prior to commencement of negotiations.

d. The Board of Regents would not be required to bargain on matters related to employee occupancy of houses or other lodging provided by the state.

The amendment would prohibit the Board of Regents from bargaining on the following:

a. The mission and goals of the Board of Regents as set forth in state statutes, the diminution of the right of tenure provided the faculty, certain rights granted faculty and academic staff under state law, the rights of appointment provided academic staff under state law; or academic freedom.

b. Amendments to state employment relations law.

c. Family leave and medical leave rights below the minimum afforded under state law. (However, the Board of Regents would not be prohibited from bargaining on rights to

family leave or medical leave which are more generous to the employee than the rights provided under state law.)

d. An increase in benefit adjustment contribution rates under the WRS.

e. The rights of employees to have retirement benefits computed under intrastate retirement reciprocity law.

f. Honesty testing requirements that provide fewer rights and remedies to employees than are provided under state law.

g. WRS purchase of creditable service limitations relating to creditable service used to establish certain benefits with other federal, state, or local government entities;

h. Compliance with the health benefit plan requirements under state law.

i. Compliance with insurance practice requirements relating to domestic abuse.

j. The definition of earnings for WRS purposes.

k. The maximum WRS benefit limitations under state law.

l. The limitations on WRS contributions under state law and the Internal Revenue Code.

m. The provision to employees of mandatory health insurance coverage required under state law.

n. The requirements related to coverage of and prior authorization for treatment of an emergency medical condition under state law.

o. Certain requirements related to coverage of prescription drugs and devices under state law.

p. The requirements related to experimental treatment under state law.

q. The requirements related to offering a point-of-service option health insurance coverage plan.

r. The requirements related to internal grievance procedures and independent review of certain health benefit plan determinations under disability insurance law.

Unless considered a prohibited subject of bargaining and except as provided in specific current law provisions that assure certain benefits or benefit procedures, all statutes and rules governing the salaries, fringe benefits, hours, and conditions of employment apply to each employee, unless otherwise provided in a collective bargaining agreement.

Agreements and Approval

Require that any tentative agreement reached between the Board of Regents, acting for the state, and any labor organization representing a collective bargaining unit, after official ratification by the labor organization, be submitted by the Board of Regents to JCOER. Require JCOER to hold a public hearing before determining its approval or disapproval of the tentative agreement. If JCOER approves the tentative agreement, it must introduce in a bill or companion bills, to be put on the calendar or referred to the appropriate scheduling committee of each house, that portion of the tentative agreement which requires legislative action for implementation, including salary and wage adjustments, changes in fringe benefits, and any proposed amendments, deletions, or additions to existing law.

The bill or companion bills would not be subject to certain current law requirements for referral of bills to the Joint Committee on Finance or the Joint Survey Committee on Retirement Systems, or requirements pertaining to bills with fiscal effects passing prior to passage of each biennial budget bill. JCOER would be authorized to submit suitable portions of the tentative agreement to appropriate legislative committees for advisory recommendations on the proposed terms. Require JCOER to accompany the introduction of the proposed legislation with a message that informs the Legislature of the Committee's concurrence with the matters under consideration and that recommends the passage of such legislation without change.

Provide that, if JCOER does not approve the tentative agreement, it must be returned to the parties for renegotiation. If the Legislature does not adopt without change that portion of the tentative agreement introduced by JCOER, the tentative agreement must be returned to the parties for renegotiation.

Provide that no portion of any tentative agreement may become effective separately. UW faculty and academic staff agreements would be required to coincide with the state fiscal year or biennium. Provide that the negotiation of collective bargaining agreements and their approval by the parties should coincide with the overall fiscal planning and processes of the state. Provide that all compensation adjustments for employees would be effective on the beginning date of the pay period nearest the statutory or administrative date.

WERC Rules, Transcripts, and Fees

Provide that WERC may adopt reasonable and proper rules relative to the exercise of its powers and authority and proper rules to govern its proceedings and to regulate the conduct of all elections and hearings under these provisions. WERC would be required, upon request, to provide a transcript of a proceeding to any party to the proceeding for a fee, established by rule, at a uniform rate per page. All transcript fees would be credited to a WERC appropriation account for fees, collective bargaining training, publications, and appeals.

WERC would be required to assess and collect a filing fee for: (a) filing a complaint alleging that an unfair labor practice has been committed under these provisions; (b) filing a request that WERC act as an arbitrator to resolve a dispute involving the interpretation or application of a collective bargaining agreement under these provisions; (c) filing a request that

WERC initiate fact-finding under these provisions; and (d) filing a request that WERC act as a mediator under these provisions.

Provide that, for the performance of actions relating to grievance arbitration, mediation, or fact-finding, WERC must require that the parties to the dispute equally share in the payment of the fee. For the performance of actions involving a complaint alleging that an unfair labor practice has been committed, WERC must require that the party filing the complaint pay the entire fee. Provide that, if any party has paid a filing fee requesting WERC to act as a mediator for a labor dispute and the parties do not enter into a voluntary settlement of the labor dispute, WERC would not be allowed to subsequently assess or collect a filing fee to initiate fact-finding to resolve the same labor dispute. If any request concerns issues arising as a result of more than one unrelated event or occurrence, each such separate event or occurrence would be treated as a separate request.

Require WERC to promulgate rules establishing a schedule of filing fees to be paid. Provide that required fees must be paid at the time of filing the complaint or the request for fact-finding, mediation, or arbitration and that a complaint or request for fact-finding, mediation, or arbitration is not filed until the date such fee or fees are paid. Require that fees collected be credited to a WERC appropriation for fees, collective bargaining training, publications, and appeals.

Appropriation Changes

Create a GPR sum sufficient program supplements appropriation to supplement, under the current law supplementation procedure for compensation and fringe benefits, the appropriations to the Board of Regents for the cost of compensation and related adjustments approved by the Legislature for UW System unclassified faculty and academic staff who are included within a collective bargaining unit.

Create a PR sum sufficient program supplements appropriation to supplement, under the current law supplementation procedure for compensation and fringe benefits, the appropriations to the Board of Regents for the cost of compensation and related adjustments approved by JCOER under the compensation plan for nonrepresented UW System unclassified faculty and academic staff who are included within a collective bargaining unit.

Create a SEG sum sufficient program supplements appropriation to supplement, under the current law supplementation procedure for compensation and fringe benefits, the appropriations to the Board of Regents for the cost of compensation and related adjustments approved by JCOER under the compensation plan for nonrepresented UW System unclassified faculty and academic staff who are included within a collective bargaining unit.

Finally, amend WERC and OSER general program operations appropriations to include work on UW System faculty and academic staff labor relations.

In summary, the provisions to provide faculty and academic staff of the UW System with the right to collectively bargain closely parallels current law provisions under SELRA. The

major differences between these provisions and SELRA include the following:

a. Under the amendment, the UW Board of Regents would negotiate and administer collective bargaining agreements for UW faculty and academic staff. Under current law, OSER negotiates and administers collective bargaining agreements pertaining to represented state employees under SELRA.

b. The amendment provides an exception with regard to unfair labor practices by an employer in that it would not be an unfair labor practice for the Board of Regents to implement changes in salaries or conditions of employment for members of the faculty or academic staff at one institution, and not for other members of the faculty or academic staff at another institution, if certain conditions (described above) are met. SELRA does not provide such an exception.

c. Under the amendment, the Board of Regents would be prohibited from bargaining on the mission and goals of the Board of Regents as set forth in state statutes, the diminution of the right of tenure provided the faculty, certain rights granted faculty and academic staff under state law, the rights of appointment provided academic staff under state law; or academic freedom. Under SELRA, the comparable provision prohibits the employer from bargaining on the mission and goals of state agencies as set forth in the statutes. Further, SELRA provisions relating to prohibited subjects of bargaining include certain items that pertain to the classified civil service. The provisions under the amendment, which would apply to unclassified civil service UW faculty and academic staff employees, do not include these SELRA provisions.

d. Under the amendment, two management rights are specified. The amendment would provide that nothing in these employment relations provisions would interfere with the right of the Board of Regents, in accordance employment relations law, to do any of the following: (a) carry out the statutory mandate and goals assigned to the Board of Regents by the most appropriate and efficient methods and means and utilize personnel in the most appropriate and efficient manner possible; or (b) suspend, demote, discharge, or take other appropriate disciplinary action against the employee, or to lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive. Under SELRA, a third management right is provided, as follows: with one limited exception pertaining to employee transfers at the UW Hospitals and Clinics Board, the state has the right to manage the employees of a state agency; hire, promote, transfer, assign or retain employees in positions within the agency; and in that regard establish reasonable work rules. [The Governor's SB 40 provisions for UW collective bargaining included a management right to manage, hire, promote, transfer, assign, or retain employees, and establish reasonable work rules; however, the Senate provision does not include this item.]

Assembly: No change to Joint Finance.

2. WEIGHTING OF FACTORS CONSIDERED IN ARBITRATION AWARDS

Senate: Restore the Governor's provisions in SB 40 modifying the weighting of the factors that must be considered by an arbitrator or arbitration panel in rendering arbitration awards involving non-protective municipal employees. Under SB 40, an arbitrator would be required to: (a) give "weight" rather than "greatest weight" as under current law to any state law or directive which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer; and (b) give "weight" rather than "greater weight" as under current law to economic conditions in the jurisdiction of the municipal employer. Under these modifications, all of the factors listed in statute that must be considered by arbitrators would be given the same weight, rather than specifying that certain factors be given greatest or greater weight. This item was deleted as policy under the Joint Finance Committee's version of the budget.

Assembly: No change to Joint Finance.

3. LABOR-MANAGEMENT COOPERATION PROGRAM

Senate: No change to Joint Finance.

Assembly: Delete the provisions that would have provided $55,400 in 2007-08 and $72,600 in 2008-09 and 1.0 four-year project position annually for a labor-management cooperation program and authorized OSER to receive revenue to reimburse the state's share of costs for training relating to grievance arbitrations, including the state's share of costs for training relating to the labor-management cooperation program.

	Change to JFC	
	Funding	Positions
PR	- $128,000	- 1.00

4. ASSIGNMENT OF CERTAIN EXECUTIVE POSITIONS TO NEW EXECUTIVE SALARY GROUP LEVELS

Senate: No change to Joint Finance.

Assembly: Delete the provision to reassign the executive salary group (ESG) classifications of: (a) the Secretaries of the Departments of Corrections, Health and Family Services, Regulation and Licensing, and Workforce Development; (b) the Governor's Chief of Staff; (c) the Adjutant General of the Department of Military Affairs; (d) the Insurance Commissioner; and (e) the Public Service Commissioners. The following table shows ESG assignments for these positions under current law and the proposed assignments.

	Current Law	Proposed
Departmental Secretaries		
Corrections	ESG 6	ESG 8
Health and Family Services	ESG 9	ESG 8
Workforce Development	ESG 6	ESG 7
Regulation and Licensing	ESG 4	ESG 6
Other Positions		
Governor's Chief of Staff	ESG 4	ESG 6
Military Affairs Adjutant General	ESG 5	ESG 6
Insurance Commissioner	ESG 5	ESG 6
Public Service Commissioners	ESG 5	ESG 6

Further, delete the provision specifying that the salaries for the unclassified division administrators and bureau directors in the Department of Regulation and Licensing may not exceed the maximum of the salary range for ESG 3. Under current law, the salary maximum for these positions may not exceed the salary range for ESG 1.

Under current law, state agency executive positions are assigned to one of 10 executive salary groupings. Under the state's biennial compensation plan, approved by the Joint Committee on Employment Relations, a minimum and maximum salary amount is established for each ESG level. The following table shows the annual salary ranges in effect through March 31, 2007, and the ranges for the period April 1, 2007 to June 23, 2007. Pay ranges after June 23, 2007, have not yet been established.

Executive Salary Group Annual Pay Ranges

	June 25, 2005, to March 31, 2007		April 1, 2007, to June 23, 2007	
	Minimum	Maximum	Minimum	Maximum
ESG-1	$56,393	$87,410	$57,662	$89,377
ESG-2	60,905	94,403	62,277	96,530
ESG-3	65,778	101,957	67,261	104,256
ESG-4	71,042	110,117	72,644	112,600
ESG-5	76,726	118,926	78,457	121,609
ESG-6	82,864	128,441	84,733	131,337
ESG-7	89,494	138,716	91,513	141,846
ESG-8	96,654	149,814	98,835	153,197
ESG-9	104,387	161,801	106,743	165,453
ESG-10	112,739	174,747	115,283	178,689

5. REDUCE SICK LEAVE BENEFIT FOR NEW NON-PROTECTIVE STATUS STATE EMPLOYEES

Senate: No change to Joint Finance.

Assembly: Except for protective occupations, provide six days of annual sick leave to all state employees who begin employment after the effective date of the provision. Under current law, all employees, except legislators, receive 16.25 days of sick leave annually (legislators receive 10.56 days). Provide that the provision of sick leave would be a prohibited subject of collective bargaining.

PUBLIC DEFENDER

1. REPRESENTATION OF ADULTS SUBJECT TO INVOLUNTARY CIVIL COMMITMENT, PROTECTIVE PLACEMENT, OR INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION

NONE

RLR RPN

Senate: No change to Joint Finance.

Assembly: Delete $182,100 in 2008-09, and delete the provision permitting the Office of the State Public Defender (SPD) to represent adults subject to involuntary civil commitment, protective placement, or involuntary administration of psychotropic medication, without making a finding of indigency, first effective with case appointments on July 1, 2008.

	Chg. to JFC
GPR	- $182,100

The SPD is constitutionally and statutorily required to provide representation to indigent criminal defendants facing a sentence that includes incarceration, certain children involved in proceedings under the Children's and Juvenile Justice Codes (Chapters 48 and 938), indigent persons facing involuntary civil commitment or protective placement, and certain appellants.

The SPD determines indigency based on an analysis of the applicant's income, assets, family size and essential expenses. If a person's assets, less "reasonable and necessary living expenses" (both factors as determined by Wisconsin statutes and administrative rules), are not sufficient to cover the anticipated cost of effective representation when the likely length and complexity of the proceedings are taken into account, the person is determined to be indigent. "Reasonable and necessary living expenses" under the current SPD financial eligibility standard are linked to a 1987 Aid to Families with Dependent Children cost of living table, plus other specified, emergency or essential costs. If an individual does not meet the statutory indigency standard, but is nonetheless determined by a circuit court to have a constitutional right to counsel, the court may appoint an attorney at county, rather than state, expense.

REGULATION AND LICENSING

1. METHODOLOGY FOR ESTABLISHING INITIAL AND RENEWAL FEES

	Chg. to JFC
GPR-REV	- $1,847,500

Senate: Allow the Department (R&L) to set initial and renewal credential fees administratively, rather than by statute. Specify that these rules would not be subject to administrative rule procedures. Delete statutorily specified fee levels. Require R&L to determine the fee level of each initial credential for which no examination is required, for reciprocal credentials, and for all credential renewals, based on the administrative costs of the Department that are attributable to the regulation of each occupation or business regulated by the Department. Specify that R&L would recalculate these costs by January 31, of each odd-numbered year, for the succeeding fiscal biennium, beginning with the 2009-11 biennium.

Require the Department to send a report to the Co-chairpersons of Joint Committee on Finance, within 14 days of completing the proposed fee adjustments. Specify that the Committee would have 14 working days after the submission of the report to notify the Secretary that the Committee has scheduled a meeting for review the proposed adjustments. Specify that if notification is not provided by the Committee within 14 days of receiving the report, the proposed fee adjustments would be considered approved. Once the fees are approved, require the Department to post the fee adjustments on the R&L internet web site and in credential renewal notices sent to affected credential holders.

Require the Department to lapse $2,920,600 in 2007-08 and $982,100 in 2008-09 from its general program operations appropriation and $355,900 in 2007-08 for examinations operations appropriation. Reestimate the amount of GPR-Earned by -$912,400 in 2007-08 and -$935,100 in 2008-09 related to deleting the Joint Finance provisions that would have specified a one-time $5 credential fee assessment.

	Chg. to JFC
GPR-REV	- $1,847,500

Assembly: Delete the Joint Finance provision that would have specified a one-time $5 credential fee assessment. Reestimate the amount of GPR-Earned by -$912,400 in 2007-08 and -$935,100 in 2008-09 for the deletion of this assessment.

2. WHOLESALE DRUG DISTRIBUTORS

	Chg. to JFC
GPR-REV	- $22,000
PR-REV	- 200,600
PR	- $200,600

Senate: Delete Joint Finance action that would have provided $128,000 PR in 2007-08 and $72,600 PR in 2008-09 under R&L's general program operations for the regulation of wholesale drug distributors. The provision would have specified a $350 biennial initial and renewal

fee for wholesale drug distributors for June 1, 2008, through May 31, 2010, and specified an initial fee of $53, and a renewal fee of $300, beginning on June 1, 2010.

Repealed Sections. Delete the Joint Finance provision that would have repealed current statutory language that specifies the following: (a) no person may engage in the sale or distribution at wholesale of a prescription drug or device in this state without first obtaining a distributor's license from the Pharmacy Examining Board and (b) no manufacturer or distributor may sell or distribute a prescription drug or device at wholesale to any person other than: (1) pharmacists; (2) practitioners; (3) persons who procure prescription drugs or devices for the purpose of lawful research, teaching or testing and not for resale; (4) hospitals and other institutions which procure prescription drugs or devices for administration to patients; (5) officers or employees of the federal government who are authorized to receive prescription drugs or devices in the performance of their official duties; and (6) distributors.

Wholesale Drug Distributor Licensing Requirement. Delete the Joint Finance provision that would have required every wholesale distributor who engages in the wholesale distribution of prescription drugs to be licensed by the state licensing authority in the state in which it resides. Delete the provision that would have required all non-resident wholesale distributors to be licensed in Wisconsin if they ship prescription drugs into the state, before engaging in wholesale distributions of wholesale prescription drugs. Delete the provision that would have required the Pharmacy Examining Board to exempt manufacturers distributing their own FDA-approved drugs and devices from any licensing and other requirements to the extent not required by federal law or regulation, unless particular requirements are deemed necessary and appropriate following rulemaking.

Delete the Joint Finance provision that would have required anyone seeking a wholesale distributor license to provide the following minimum information under oath: (a) the name, full business address, and telephone number of the applicant; (b) all trade or business names used by the applicant; (c) addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling, and distribution of prescription drugs; (d) the type of ownership or operation, including whether the ownership is a partnership, corporation, or sole proprietorship; (e) if the applicant's wholesale distribution business is a partnership, the name of each partner and the name of the partnership; (f) if the wholesale distribution is a corporation, the name of each corporate officer and director, the name of the corporation, and the state of incorporation; (g) if the applicant's wholesale distribution business is a sole proprietorship, the name of the sole proprietor and the name of the business entity; (h) a list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs; (i) the name of the applicant's designated representative for the facility, together with the personal information statement and fingerprints, required pursuant to the personal information statement for such person; (j) a personal information statement that includes fingerprints and the following information: (1) the person's place of residence for the past seven years; (2) the person's date and place of birth; (3) the person's occupations, positions of employment, and offices held during the past seven years; (4) the principal business and address of any business, corporation, or other organization in which each such office of the person was held or in which each such occupation or position of

employment was carried on; (5) a statement on whether the person has been, during the past seven years, the subject of any proceeding for the revocation of any professional or business license and, if so, the nature of the proceeding and the disposition of the proceeding; (6) a statement on whether, during the past seven years, the person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any such event; (7) a description of any involvement by the person with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past seven years, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products and any lawsuits in which such businesses were named as a party; (8) a description of any misdemeanor or felony criminal offense of which the person, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the person pled guilty or no contest; and (9) a photograph of the person taken within the previous year; and (k) a statement that each facility used by the applicant for the wholesale distribution of prescription drugs has been inspected in the three-year period immediately preceding the date of the application by the Board, a pharmacy examining board of another state, the National Association of Boards of Pharmacy, or other third-party accrediting body recognized by the Pharmacy Examining Board with the date of each inspection. Delete a requirement that would have specified that the Board may provide a license to an out-of-state wholesale drug distributor if that distributor is domiciled within and licensed by a state whose wholesale drug distributor license is deemed by the Board to be at least as stringent as Wisconsin's. Delete the provision that would have required the Board to establish rules that require drug manufacturers to maintain and update a list of their authorized distributors at least once per month.

Delete the provision requiring the Pharmacy Examining Board to grant a license to the applicant if the inspections satisfy the requirements adopted by the Board for wholesale distribution facilities, and if all the following apply to the applicant: (a) is at least 21 years of age; (b) has been employed full time for at least three years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs; (c) is employed by the applicant full time in a managerial level position; (d) is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized, including but not limited to, sick leave and vacation leave; (e) is actively involved in, and aware of, the actual daily operation of the wholesale distributor; (f) is serving in the capacity of a designated representative for only one applicant at a time, except where more than one licensed wholesale distributor is co-located in the same facility and such wholesale distributors are members of an affiliated group, as defined in Section 1504 of the Internal Revenue Code; (g) does not have any convictions under any federal, state, or local laws relating to wholesale or retail prescription drug distribution nor distribution of controlled substances; (h) does not have any felony convictions under federal, state or local laws; (i) the person submits two fingerprint cards, each bearing a complete set of the applicants fingerprints, unless the applicant is accredited by the National Association of Boards of Pharmacy's under its Verified-Accredited Wholesale

Distributor program in which case fingerprints would not have to be submitted; and (j) pays all initial, renewal, and examination fees required by statute. Delete the Joint Finance provision requiring the Department of Justice to submit the fingerprints provided under a wholesale distributor license application for a statewide criminal record check and for forwarding to the Federal Bureau of Investigation for a national criminal record check of the person. Delete the provision specifying that the Board may set, by rule, continuing education requirement for the designated representative of a wholesale distributor.

Delete the Joint Finance provision that would have required every wholesale distributor applying for a license to submit a bond not to exceed $100,000, or other equivalent means of security acceptable to the Board. Delete a provision that would have specified that a single bond may suffice to cover all facilities operated by the applicant or members of its affiliated group. Delete the provision specifying that the affiliated group would include a group so defined in Section 1504 of the Internal Revenue Code. Delete the provision exempting chain pharmacy warehouses that are engaged only in intracompany transfers from the bond requirement. Delete the provision that would have specified that the purpose of the bond is to secure payment of any fines or penalties imposed by the state and any fees and costs incurred by the state regarding that license, which are authorized under state law and which the licensee fails to pay 30 days after the fines, penalties, or costs become final. Delete a provision that would have allowed the state to make a claim against such a bond or security until one year after the licensee's license ceases to be valid. Delete a new segregated fund within the Department of Regulation and Licensing for deposits from these bonds or securities and an appropriation from which to make any fines or penalties.

Delete the Joint Finance provision that would have required a wholesale distributor that distributes prescription drugs from more than one facility, to obtain a license for each facility.

Delete the Joint Finance provision requiring the Pharmacy Examining Board, in accordance with each licensure renewal, to send to each wholesale distributor licensed under this provision, a form setting forth the information that the wholesale distributor provided to the Board. Within 30 days of receiving such form, the wholesale distributor would have been required to identify and state, under oath, to the Board all changes or corrections to the information. Delete the provision that would have required changes or corrections to be submitted to the Board as required by the Board. The Board would have been allowed to suspend or revoke the license of a wholesale distributor license.

Delete the Joint Finance provision that would have prohibited information provided by a wholesale distributor from being disclosed to any person or entity other than the Pharmacy Examining Board or any state or federal agency that needs such information for licensing or monitoring purposes.

Restrictions on Transactions. Delete the Joint Finance provision requiring wholesale distributors to receive prescription drug returns or exchanges from a pharmacy, any other person authorized to administer or dispense drugs, or a pharmacy's intracompany warehouse

pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy. Delete the provision that would have specified that returns of expired, damaged, recalled, or otherwise non-saleable pharmaceutical products must be distributed by the receiving wholesale distributor only to either the original manufacturer or a third party returns processor. The returns or exchanges of prescription drugs, including any redistribution by a receiving wholesaler, would not have been subject to the pedigree requirements, so long as they were exempt from the pedigree requirement of the FDA's currently applicable Prescription Drug Marketing Act guidance. Wholesale distributors, pharmacies, and any other person authorized to administer and dispense drugs by the Board would have been accountable for administering the returns process and ensuring that the aspects of this operation were secure and did not permit the entry of adulterated or counterfeit product.

Delete the Joint Finance provision that would have prohibited manufacturers and wholesale distributors from furnishing prescription drugs to any person that is not licensed by the appropriate Pharmacy Examining Board. Before furnishing prescription drugs to a person not known to the manufacturer or wholesale distributor, the program would have specified that the manufacturer or wholesale distributor must affirmatively verify that the person is legally authorized to receive the prescription drugs by contacting the appropriate Pharmacy Examining Board.

Delete the Joint Finance provision specifying that prescription drugs furnished by a manufacturer or wholesale distributor may be delivered only to the premises listed on the license or authorization, except that a manufacturer or wholesale distributor may distribute prescription drugs to an authorized agent of that person at the premises of the manufacturer or wholesale distributor if: (a) the manufacturer or wholesale distributor documents the authorized agent's name and address; and (b) the distribution to an authorized agent is necessary to promote the immediate health or safety of the authorized agent patient.

Delete the Joint Finance provision that would have allowed prescription drugs to be furnished to a hospital pharmacy receiving area provided that an authorized pharmacist signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug so received. If there was a discrepancy between the type and quantity of prescription drugs indicated on the receipt and the type and quantity of the prescription drugs received at the hospital pharmacy receiving area, the distributor would have been required to report the discrepancy to the manufacturer or wholesale distributor that distributed the prescription drugs no later than the day immediately following the date on which the prescription drugs were distributed.

Delete the Joint Finance provision that would have prohibited a manufacturer or wholesale distributor from accepting payment for, or allowing the use of, a person or entity's credit to establish an account for the purchase of prescription drugs from any person other than the owner(s) of record, the chief executive officer, or the chief financial officer listed on the license of a person or entity legally authorized to receive prescription drugs. Delete the

provision requiring that any account established for the purchase of prescription drugs must bear the name of the licensee.

Pedigree. Delete the Joint Finance provision that would have specified that wholesale distributors must establish and maintain a pedigree for each prescription drug that leaves, or has ever left, the normal distribution channel. Delete the provision that would have required a wholesale distributor to provide a copy of the pedigree to the person receiving the drug before a prescription drug left a normal distribution channel. This would not have applied to a retail pharmacy or a pharmacy intracompany warehouse unless the pharmacy or pharmacy intracompany warehouse engaged in the wholesale distribution of drugs.

Delete the Joint Finance provision that would have required the pedigree to include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer or the manufacturer's third party logistics provider/co-licenses product partner/manufacturer's exclusive distributor through acquisition and sale by any wholesale distributor or repackager, until final sale to a pharmacy or other person dispensing or administering the drug. Delete the provision that would have specified at a minimum, the necessary chain of distribution information must include: (a) the name, address, telephone number, and if available, the e-mail address, of each recipient or distributor of the prescription drug in the chain of distribution; (b) the name and address of each location from which the product was shipped, if different form the owner's; (c) the transaction dates; (d) certification that each recipient has authenticated the pedigree; and (e) the name, dosage strength, size and number of containers, lot number, and name of the manufacturer for each prescription drug.

Delete the Joint Finance provision that would have required the Pharmacy Examining Board to determine by July 1, 2009, an implementation date for electronic track and trace pedigree technology and required the technology be implemented no sooner than July 1, 2010. The Board would have been allowed to extend the date of implementation in one year increments if it appeared technology was not universally available across the entire prescription pharmaceutical supply chain.

Delete the Joint Finance provision requiring each person engaged in the wholesale distribution of a prescription drug, including repackagers, but excluding the original manufacturer of the finished form of the prescription drug, who is provided a pedigree for a prescription drug and attempts to further distribute that prescription drug, to verify before any distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred before the drug is distributed.

Delete the Joint Finance provision that would have required each pedigree to be: (a) maintained by the purchaser and the wholesale distributor for not less than three years from the date of distribution; and (b) available for inspection or use upon request of an authorized officer of the law, within seven days of the officer's request.

Order to Cease Distribution of a Drug. Delete the Joint Finance provision that would have specified that the Board shall order a wholesale distributor of a drug to cease distribution in this state, if the Board finds that there is a reasonable probability that the prescription drug could cause death or serious adverse health consequences, if additional procedures would result in an unreasonable delay, and the distributor has done one of the following: (a) violated any provision required in obtaining a wholesale distributors license; (b) violated requirements for the transaction of drugs; (c) failed to adequately follow pedigree documentation requirements; or (d) falsified a pedigree or sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug intended for human use. Require the Board to provide an opportunity for an informal hearing not more than 10 days after the date on which the order is issued. If, after a hearing, the Board determines that the order was issued without sufficient grounds, the Board shall vacate the order.

Prohibited Acts. Delete the Joint Finance provision that would have specified that any person, who distributes wholesale drugs, knowingly does any of the following is guilty of a Class H felony (three years in prison and three years extended supervision): (a) fails to obtain a license required under this motion; (b) purchases or otherwise receives a prescription drug from a pharmacy in violation of this motion; (c) delivers drugs to an unauthorized person; (d) distributes drugs an incorrect premises; (e) accepts payment for, or allows the use of another person account for providing drugs; (f) does not properly maintain the pedigree requirements of this motion; (g) provides false or fraudulent records to, or makes a false or fraudulent statement to, the Board, a representative of the Board, or a federal official; (h) obtains or attempts to obtain a prescription drug by fraud, deceit, or misrepresentation, or engages in misrepresentation or fraud in the distribution of a prescription drug; (i) manufactures, repackages, sells, transfers, delivers, holds, or offers for sale a prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or otherwise unfit for distribution, except for wholesale distribution by a manufacturer of a prescription drug that has been delivered into commerce pursuant to an application approved by the FDA; (j) adulterates, misbrands, or counterfeits a prescription drug, except for wholesale distribution by a manufacturer of a prescription drug that has been delivered into commerce pursuant to an application approved by the FDA; (k) receives a prescription drug that has been adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeited, or suspected of being counterfeited, and delivers or proffers such a drug; and (l) alters, mutilates, destroys, obliterates, or removes any part of the labeling of a prescription drug or commits another act that results in the misbranding of a prescription drug.

Delete the Joint Finance provision that would have specified that these penalties would not apply to a prescription drug manufacturer or an agent of a prescription drug manufacturer, if the manufacturer or agent is obtaining or attempting to obtain a prescription drug for the sole purpose of testing the authenticity of the drug.

Delete the Joint Finance provision that would have prohibited a person to perform or cause the performance of, or aid and abet, any of the following acts in this state: (a) failure to obtain a license in accordance with this provision; (b) purchasing or receiving a prescription

drug from a pharmacy other than as specified under this provision; (c) the sale, distribution, or transfer of a prescription drug to a person that is not authorized under the law of the jurisdiction in which the person receives the prescription drug to receive the prescription drug; (d) failure to deliver prescription drugs to specified premises; (e) accepting payment or credit for the sale of prescription drugs; (f) failure to maintain or provide pedigrees; (g) failure to obtain, pass, or authenticate a pedigree; (h) providing the state or any of it representatives or any federal official with false or fraudulent records or making false or fraudulent statements; (i) obtaining or attempting to obtain a prescription drug by fraud, deceit, misrepresentation or engaging in misrepresentation or fraud in the distribution of a prescription drug; (j) except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the FDA, the manufacturer, repacking, sale, transfer, delivery, holding, or offering for sale any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or has otherwise been rendered unfit for distribution; (k) except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the FDA, the adulteration, misbranding, or counterfeiting of any prescription drug; (l) the receipt of any prescription drug that is adulterated misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and the delivery or proffered delivery of such drug for pay or otherwise; and (m) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded.

Delete the Joint Finance provision that would have specified that the prohibited acts do not apply to a prescription drug manufacturer, or agent of a prescription drug manufacturer, obtaining or attempting to obtain a prescription drug of the sole purpose of testing the prescription drug for authenticity.

Effective Date. Delete the effective date of Joint Finance wholesale licensing provisions (June 1, 2008). Delete the provision requiring the Department to set emergency rules regarding the regulation of wholesale drug distributors, allowing the Department to set emergency rules without showing that an emergency exists, and specifying that the initial rules must be completed by March 1, 2008.

Definitions. Delete the definition of the following terms:

"Affiliated group" as having the meaning given under Section 1504 of the Internal Revenue Code.

"Authentication" as affirmatively verifying before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

"Authorized distributor of record" as a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An

ongoing relationship would have existed between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, complied with the following: (a) the wholesale distributor, including any affiliated group of the wholesale distributor, had in effect a written agreement evidencing such ongoing relationship; and (b) the wholesale distributor, including any affiliated group of the wholesale distributor, was included in the manufacturer's current list of authorized distributors of record.

"Co-licensed partner or product" as an instance where two or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with the Food and Drug Administration's (FDA) implementation of the federal Prescription Drug Marketing Act.

"Drop shipment" as the sale of a prescription drug to a wholesale distributor by the manufacturer of the prescription drug, or that manufacturer's co-licensed product partner, that manufacturer's third party logistics provider, that manufacturer's exclusive distributor, or by an authorized distributor of record that purchased the product directly from the manufacturer or one of the entities whereby the wholesale distributor takes title but not physical possession of such prescription drugs and the wholesale distributor invoices the pharmacy or the person authorized by law to dispense or administer such drug, and the pharmacy or other authorized person receives delivery of the prescription drug directly from the manufacturer, the manufacturer's co-licensed partner, that manufacturer's third party logistics provider, that manufacturer's exclusive distributor, or from an authorized distributor of record that purchased the product directly from the manufacturer or one of these entities.

"Facility" as a location in which a wholesale distributor stores, handles, repackages, or offers for sale prescription drugs.

"Intracompany sales" as any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under common ownership and control of the corporate entity or any transaction or transfer between colicensees of a colicensed product.

"Manufacturer" as a person licensed or approved by the federal Food and Drug Administration to engage in the manufacture of drugs or devices, consistent with the Food and Drug Administration definition of "manufacturer" under the FDA's regulations and guidances implementing the Prescription Drug Marketing Act.

"Manufacturer's exclusive distributor" as anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. Delete the provision that would have specified that a manufacturer's exclusive distributor would be required to obtain a license as a wholesale distributor and must have been an authorized distributor of record, to be considered part of the "normal distribution channel."

"Normal distribution channel" as a chain of custody for a prescription drug that goes directly or by drop shipment from a manufacturer of the prescription drug or from that manufacturer to that manufacturer's co-licensed partner, or from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor to one of the following: (a) either a pharmacy or the designated persons authorized by law to dispense or administer such drug to a patient; (b) an authorized distributor or record, and then to either a pharmacy, or to such other designated persons authorized by law to dispense or administer such drug to a patient; or (c) an authorized distributor of record to one other authorized distributor of record to an office-based heath care practitioner authorized by law to dispense such drug to a patient. Delete the provision specifying that, for the purposes of "normal distribution channel" a distribution to a warehouse or other entity that distributes by intracompany sale to a pharmacy or other designated persons authorized to dispense or administer such drug, would be considered a distribution to such pharmacy or other designated person authorized by law to dispense or administer such drug.

"Pedigree" as a document or electronic file containing information that records each distribution or any given prescription drug.

"Repackage" as repackaging or otherwise changing the container, wrapper, or labeling of a prescription drug to further the distribution of a prescription drug excluding that completed by the pharmacists responsible for dispensing product to the patient. Delete the provision that would have specified that repackaging would not include a return for a patient or agent of a patient to deliver previously dispensed drugs or devices to a pharmacy for the purpose of repackaging and labeling of that previously dispensed drug or device, and subsequent return of the drugs or devices for the same patient's use.

"Repackager" as a person who repackages.

"Third party logistics provider" as anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. Delete the provision that would have specified that a third party logistics provider must be licensed as a wholesale distributor, be considered part of the normal distribution channel, and be an authorized distributor of record.

"Wholesale distribution" as the distribution of prescription drugs to persons other than a consumer or patient, not including: (a) intracompany sales of prescription drugs; (b) the sale, purchase, distribution, trade, or transfer of a prescription drug or offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons; (c) the distribution of prescription drug samples by manufacturers' and authorized distributors' representatives as authorized under 21 Code of Federal Regulations section 353(d); (d) drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with 21 Code of Federal Regulations section 203.23 or other drug returns that are authorized under state law, including returns to the chronic disease repository under s. 255.056 of the

statutes; (e) the sale of minimal quantities, as defined by the Pharmacy Examining Board under administrative rule, of prescription drugs by retail pharmacies to licensed practitioners for official use; (f) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription; (g) the sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets; (h) the sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply such prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel; (i) the delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, and such common carrier's usual course of business of transporting prescription drugs, and such common carrier does not store, warehouse, or take legal ownership of the prescription drug; and (j) other transactions excluded from for the definition of wholesale distribution under federal regulations, 21 Code of Federal Regulations 203.3(cc).

"Wholesale distributor" as anyone engaged in the wholesale distribution of prescription drugs, including, but not limited to, manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses; manufacturer's exclusive distributors; and authorized distributors of record; drug wholesalers or distributors; independent wholesale drug traders; third party logistics providers; and retail pharmacies that conduct wholesale distribution; and chain pharmacy warehouses that conduct wholesale distribution. To be considered part of the normal distribution channel such wholesale distributor would have been required to be the authorized distributor of record.

Assembly: No change to Joint Finance.

SUPREME COURT

1. STANDARDIZED COUNTY COURT COST REPORTING PROGRAM AND COURT AUDIT POSITION

Senate: No change to Joint Finance.

	Change to JFC	
	Funding	Positions
GPR	- $122,500	- 1.00

Assembly: Delete $49,500 in 2007-08 and $73,000 in 2008-09 for 1.0 auditor position (a two-year project position) associated with creation of a standardized program for the recording, reporting, and auditing of annual county reports of court costs and revenues submitted to the Director of State Courts Office. Further, delete provisions: (a) allowing the Director of State Courts to create a uniform chart of accounts that each county would be required to use for recording all financial transactions relating to the operations of circuit courts; (b) specifying that the Director of State Courts may audit information that is submitted by the counties; and (c) directing the Director of State Courts to consult with the Department of Revenue in developing a uniform chart of accounts. Remove the provision modifying current law to: (a) require counties to submit financial information to the Director of State Courts annually by May 15th (rather than July 1st) beginning in 2009; (b) specify that information submitted to the Director of State Courts follow the uniform chart of accounts; and (c) specify that financial information that is provided also include revenues collected or received by the court in the previous calendar year.

Maintain current law which specifies that: (a) no action is required and no condition may be imposed on a county to receive a payment under the circuit court support program, "including applying for, submitting information in connection with, entering into a memorandum of understanding concerning or making any other agreement regarding the payment;" and (b) except in cases where a county fails to report or in which a circuit court support payment exceeds actual reported costs, the Director of State Courts may not withhold county payments.

2. FEDERAL GRANT FOR CHILDREN'S COURT INITIATIVE PROJECT

Senate: No change to Joint Finance. NONE

	Change to JFC	
	Funding	Positions
GPR	- $116,000	- 1.00
FED	- 394,000	0.00
Total	- $510,000	- 1.00

Assembly: Delete $58,000 GPR and 1.0 GPR training coordinator position and $197,000 FED annually to support a new federal Court Improvement Program grant to the Director of State Courts Office. Funding was intended to support training of judges, attorneys, and other legal personnel in child welfare cases, and cross-training initiatives with child welfare agencies and agency contractors. The training coordinator would be responsible for facilitating training and education programs in the child welfare system.

Since 1995, the federal Court Improvement Program (CIP) has provided grants to enable state court systems to assess and improve their foster care and adoption systems. The Director of State Courts Office has received previous CIP grants, and was awarded the new CIP grant in September, 2006. The total grant amount is $262,600, with 75% in federal funds ($197,000), and a required 25% state match of $65,600. The $58,000 GPR and 1.0 GPR position was intended to go toward meeting the 25% match requirement funding.

3. JUSTICE INITIATIVES COORDINATOR

Senate: No change to Joint Finance.

Assembly: Delete $46,000 in 2007-08 and $58,500 in 2008-09 and 1.0 justice initiatives coordinator position. The coordinator was intended to work with counties, circuit courts, and other justice system participants to implement initiatives related to assistance for self-represented litigants, alternatives to incarceration, and alcohol and drug abuse programming.

	Change to JFC Funding	Positions
GPR	- $104,500	- 1.00

Biennially, the Supreme Court's Planning and Policy Advisory Committee develops a plan identifying critical issues involving the court system. For 2007-09, the Committee identified the following four issues: (a) self-representing litigants; (b) alcohol and drug dependency; (c) alternatives to incarceration; and (d) courthouse security. The justice initiatives coordinator would focus on the first three of these issues.

4. COURTHOUSE SAFETY TRAINING PROGRAM

Senate: No change to Joint Finance.

Assembly: Delete $10,000 in 2007-08 to implement a courthouse safety training program. Funding was intended to be used to design a multimedia courthouse safety training program to be shared through the Internet with counties and courthouse employees.

	Chg. to JFC
GPR	- $10,000

5. CIRCUIT COURT AUTOMATED INFORMATION SYSTEMS FEE

Senate: No change to Joint Finance.

Assembly: Delete provision modifying statutory language to allow the Director of State Courts Office to establish and charge fees for use of electronic filing of court documents under the circuit court automated information systems.

VETERANS AFFAIRS

1. KOREAN WAR MEMORIAL REFURBISHMENT

	Chg. to JFC
GPR	$165,000

Senate: Provide $165,000 in 2007-08 for a matching grant for the refurbishment of the Korean War Memorial in Plover. Create an annual GPR appropriation for the program and sunset the appropriation on June 30, 2008. Require veterans groups to demonstrate that they have raised at least $165,000 for the refurbishment before funding is released by the Department of Veterans Affairs.

Assembly: No change to Joint Finance.

2. FEASIBILITY STUDIES FOR CEMETERY

Senate: No change to Joint Finance.

	Chg. to JFC
SEG	$35,000

Assembly: Provide $35,000 in 2007-08 for a study of a new state veterans cemetery in Outagamie County.

3. BURIAL OF NON-RESIDENT SERVICE MEMBERS

Senate: No change to Joint Finance.

Assembly: Specify that non-resident service members that are killed in action may be buried in a state veteran's cemetery. Specify that interment costs not covered by the federal government must be provided by the estate of the decedent. If the decedent's estate is insufficient, then the family member requesting the burial must pay all remaining costs.

4. GOLD STAR LICENSE PLATE ELIGIBILITY

Senate: No change to Joint Finance.

Assembly: Include the provisions of 2007 Assembly Bill 80 which would expand the group of individuals eligible for the "gold star" license plate to include widows, parents, and next of kin of members of the armed forces who: (a) lost their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958; (b) lost their lives after June 30, 1958 while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an

armed conflict in which the United States is not a belligerent party against an opposing armed force; or (c) lost their lives after March 28, 1973, as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the Secretary of Defense or military operations while serving outside the United States as part of a peacekeeping force. Under current law, the license plate may be provided to immediate family members of persons who die in combat.

5. COUNCIL ON VETERANS PROGRAM MEMBERSHIP

Senate: No change to Joint Finance.

Assembly: Include the provisions of 2007 Assembly Bill 270 which would modify the membership of the Council on Veterans Programs to include the following: (a) a representative from the Wisconsin Council of the Military Officers Association of America; and (b) a representative of the Retired Enlisted Association. Specify that these members would replace the following: (a) a representative of the Veterans of World War I of the U.S.A., Incorporated; and (b) the Federation of Minority Veterans.